

Connect

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From the editor

Welcome to Issue 06 of Connect, our periodic newsletter, where we cover a number of topics, some of importance and others that we hope you will find of interest. Below you will find a list of the topics in this edition, including OTAP's technology evolution, when can you take benefit from an International Pension Scheme and whether Non-Habitual Residency in Portugal is a Fad or the Future.

We would like to take this opportunity to thank all our clients for their custom, patience and understanding as we navigate the Coronavirus (COVID-19) pandemic. We hope for a more settled year ahead, where our focus remains on the development and delivery of products and services designed to protect and preserve the wealth of our clients.

We hope you enjoy this edition and always welcome your feedback.

Natali Iverson,
Marketing Officer

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News and updates

TECHNOLOGY EVOLUTION

The impact of Coronavirus (COVID-19) and policy decisions by governments have affected our lives, communities and economies in ways that are simply immeasurable.

As a business, we navigated our way through the pandemic to date by adopting various technologies ensuring continuity of our services and support to customers and advisers.

Below are some of the enhancements we have brought into the business that enabled us to deal with the consequences of the pandemic and have resulted in an enhancement to our services and operations as a whole.

The enhancements we have made thus far:

DocuSign: Lockdown regulations caused havoc to logistics and impacted the movement of important documents that required signatures which threatened to cease up the running of client's pensions. Our early adoption of DocuSign addressed the physical movement of documentation replacing it with a highly secure environment to facilitate necessary signatures in an electronic format without the constraints of physical logistics.

Behind the scenes, we lobbied the counterparties with whom we work including banks, custodians, investments firms and life companies to work with us on an electronic basis and our success in this resulted in a seamless continuation of service for both existing and new clients.

Video Verification Process: International regulatory requirements mandate us to verify all client's identities and addresses. However, the process of doing this has been manual and usually involves a third party such as a lawyer, commissioner of oaths, notary or other professional to certify copies of identity documents which are then submitted to us physically. COVID-19 regulations meant that many of these professionals could not be dealt with face to face with the movement of such documents was being prejudiced given other challenges in logistic supply chains as noted above.

To address this issue, we introduced a reliable and effective way of digitally certifying a client's Proof of Identification and Address through direct video verification between us and the client. This has reduced the administrative burden faced by clients to have

documentation certified as it is done online. It has also resulted in significant time savings for clients and the elimination of costs of such verification services and courier costs.

All clients now have the option to certify documents directly with us in the comfort of their home or office at a convenient time, all of which is facilitated by an appointment system and takes around five minutes.

Fillable PDF's: We have transformed our New Business Application Form, Customer Due Diligence Form and Additional Contribution Form into a Fillable PDF, which now enables clients and Advisers to complete these documents digitally. As a result, clients no longer have to continuously print, complete and scan documents back to us. (These documents can be signed using DocuSign through OTAP).

Online Services: We will be improving our online services as a whole this year. You will see our website evolve to incorporate the same characteristics of ease of use, clear messaging, and simple logic in respect of navigation to reflect our brand evolution. It will also deliver an improved user interface and user experience for our clients and their Financial Advisers with a new website launch in Q4.

We will continue to invest in technology that will allow us to better serve Clients and Advisers. Behind the scenes, we are also investing in system integration and enhances to the security of client data to keep this part of our business at the leading edge.

We hope that the positive transformation thus far will reflect our ongoing commitment to Clients and Advisers and demonstrates our ability to innovate, not just in the products we create, but in how we deal with challenges that come our way.



THE VALUE OF ADVICE

It is important to review your investment performance on a regular basis irrespective of the product you have with us, be it a Trust, Retirement, Pension or Savings Plan.

We encourage all our clients to meet with their Financial Adviser or Investment Manager appointed to their Plan at least once a year. This will help ensure that their portfolio is managed in a way that is relevant to their individual objectives, attitudes and circumstances.

If you no longer have a Financial Adviser appointed to your Plan, or if you have lost contact with them, please contact us as a matter of urgency, as this means that your investments do not have independent oversight from a regulated investment professional.

Our full contact details are in the Get in Touch section on page 11.



MANAGING YOUR PENSIONS ASSETS — INVESTMENT DIRECTION



The rules and regulations on how and who can manage the assets in your pension will vary depending on the rules of the particular scheme you have joined and the appointment of an Adviser in accordance with regulations. Irrespective of this the critical point is that the monies in your pension are managed responsibly and takes into account your circumstances.

In this article, we look at how Guernsey law facilitates the management of pension assets, which is referred to as Investment Direction, and some points worthy of consideration.

What is Investment Direction

Guernsey law defines Investment Direction as the party that directs the investments. In other words, the party deciding on what investments to buy and what investments sell. Furthermore, Guernsey law identifies this party as being legally responsible and accountable for all such decisions and this includes the outcome and consequences of such decisions.

IT IS IMPORTANT TO UNDERSTAND THAT THE TAX TREATMENT OF A FOREIGN PENSION, IN YOUR COUNTRY OF RESIDENCE, CAN CHANGE DEPENDING ON WHO MANAGES THE ASSETS, AND ONE SHOULD NOT LOSE SIGHT OF THIS POINT.

Third-Party Directed Investments

This is by far the most commonly adopted approach, as it sees the member of the pension, which would be you as the client, appointing a financial adviser to manage the investments within their Pension Plan.

The benefits of financial advice cannot be overlooked as its application is much broader than the management of the pension assets and considers the suitability of the pension and many other aspects of financial planning such as taking benefits, cash flow in retirement and succession planning to name a few.

Under a Third-Party Directed approach, your appointed financial adviser has responsibility for making the investment decisions concerning the pension's assets and for explaining the investments to you, the reasoning behind investment decisions, the implications of such decisions, cost of different investment choices, performance, liquidity, and any limitations in respect of investment.

Financial advisers tend to build lifelong relationships with their clients which means they are best placed to make decisions regarding pension investment given their intimate knowledge of what's important to their client dealing with matters in the event of the members passing.

Member Directed

A member can take over the responsibility of the investment decisions themselves. However, this is not straightforward, and a member must be able to demonstrate their knowledge and experience in making investment decisions.

As such, the member would need to apply for approval from us as Trustees to be considered for Member Direction. However, such permission is not granted easily, and members should seek tax advice in advance of contacting us, as a Member Directed approach may change the tax treatment of the pension in certain countries leading to a higher tax burden for the member and the risk of undermining some of the features of the pension.

Licensee Directed

In certain instances, the trustees will take on the responsibility for the direction of the investments within the pension. This typically happens when contact with the member is lost or the appointed party ceases to fulfil their role with the investment direction defaulting to the trustees in the absence of an adviser.

Whilst offering this option is a regulatory requirement to ensure that pension assets are always managed, our preference is that members opt for the services of a financial adviser given the much greater scope of the service they offer to clients.

As mentioned at the start of this article, the critical takeaway is that the investments in your pension are prudently taken care of at all times.

Tax

It is also important to understand that the tax treatment of a foreign pension, in your country of residence, can change depending on who manages the assets and you should seek advice on this point if unclear.



WHAT IS THE DIFFERENCE BETWEEN SOW AND SOF?

Discover what these widely used acronyms mean for you

There has been a steady increase in criminal activity in respect of cybercrime and money laundering which has resulted in financial institutions being required to put in place more stringent measures to assist in combating crime.

This means that we must pay specific attention to understand and know clients better in order to protect our business of possibly being tainted by the illicit deeds of criminals. Part of our legal obligation is understanding our clients in determining their Source of Wealth (SOW) and Source of Funds (SOF).

These concepts are often misunderstood, and we aim to distinguish between the two in this article. This may prove helpful to you if you are looking to make an additional contribution to your pension or settlement to a trust.

What is Source of Wealth

SOW is explained in the terms of 'how did the client generate their wealth over their life to date?'. It is essentially a high-level synopsis that includes employment and/or specific wealth creation events like inheritance, the sale of a business and/or realization of an investment, to name a few.

In certain instances, we may be required to validate what you have told us. For example, if the wealth was generated through the receipt of an inheritance, to support this, we could ask for a certified copy of the will showing the beneficial undertaking.

What is Source of Funds

SOF is explained in the terms of 'the activity which generates the funds you are placing with us'. These funds would form part of your actual overall wealth. For example, they could be savings from disposable income from your monthly salary or a portion of inheritance as per the above example.

Again, we may require evidence to support this, which

could be a copy of your salary advice or remuneration statement or copy of the will.

What you will pick up from the above is that we need to be able to evidence to our regulators that we understand our clients' financial backgrounds and by doing this we are helping to reduce the risk of our firm unwittingly facilitating funds from criminal activity which undermines society as a whole.

YOU WOULD HAVE BY NOW HEARD THE ACRONYMS SOW (SOURCE OF WEALTH) AND SOF (SOURCE OF FUNDS) BRANDED ABOUT QUITE WIDELY, BUT DO YOU KNOW WHAT ARE THEY AND WHAT THEY MEAN FOR YOU?

Periodic Reviews

We have a legal obligation to ensure we hold valid information on file that confirms your address and identity. We undertake these reviews periodically, which for some clients may be more frequent than others, given factors such as the country in which you live or the industry you work in.

When responding to our request for this information you now have the option of using video verification (as noted in the Technology Evolution article) which will reduce time and cost for you and can be done at a convenient time. However, you are welcome to use more traditional methods and provide hard copies if that is your preference.

If you receive a request for updated information, we ask that you please assist us as we have a regulatory obligation to maintain up to date and documentary evidence on file for all our client relationships. If we are unable to achieve this, we may be obliged to freeze the assets of a pension plan. This is something we wish to avoid at all costs as it can directly impact the value of your pension and your ability to access benefits from the pension.

FROM THE OTAP BLOG

LIFTING OF THE PROHIBITION ON LOOPS – OPPORTUNITY OR NOT?

On the 4th of January 2021, the South African Reserve Bank (SARB) wasted no time by following up on their statements in the 2020 Medium Term Budget speech, pertaining to the abolition on the prohibition of 'Loop Structures'.

[READ THE ARTICLE >](#)

<https://www.trustandpension.com/lifting-of-the-prohibition-on-loops-opportunity-or-not/>

NON-HABITUAL RESIDENCY IN PORTUGAL

Fad or the Future?



Portugal, a country with a wonderful climate and warm-hearted people, has become the hottest destination¹ for immigration in Europe since introducing its Non-Habitual Residency Regime (NHR).

NHR is a strategic part of Portugal's socio-economic policy developed to address the significant demographic and structural challenges of an ageing and declining population.

The purpose of NHR is to encourage people of financial means to relocate to Portugal bringing with them much needed direct investment and skills to stimulate the rebirth of the Portuguese economy.

A Resounding Success

During an interview in November 2020, the Minister of Internal Administration¹, Eduardo Cabrita, stated that for the first time, skilled and wealthy foreign residents in Portugal exceeded 500,000 people i.e., just over 5% of the population. The European Commission also confirmed that Portugal was the second-fastest-growing territory in the EU² through immigration. However, unlike the first placed territory, Portugal's population growth is fueled by skilled professionals, entrepreneurs and people of a higher net wealth as opposed to economic and political refugees.

Furthermore, direct investment from foreign nationals now resident in Portugal exceeds €4.5 billion of direct investment into Portugal as of 2020³.

These statistics support the success of well thought out initiatives with positive economic and social outcomes for Portugal. The question that remains is what makes NHR so attractive?

▲ Portugal: one of the hottest destinations for immigration

Tax and EU Residency

The incentive behind NHR is a low tax environment³ for those that qualify. Whilst the details need consideration, the tax principles behind NHR are zero tax of foreign earnings and investment income not remitted to Portugal and a 10% tax on the remittance of foreign pensions income into Portugal. Furthermore, these incentives last for a decade meaning they will have a meaningful impact on the wealth of the NHR over that time with NHR being linked to Portugal's Golden Visa programme. The latter giving NHRs the ability to get residency in Portugal and with it the freedom is open to all residents of the European Union.

However, the use of taxation to incentivise migration has been cited as highly detrimental to the country from which the individual moves and that such practices fall under the OECD's definition of harmful tax practices⁴.

Sovereignty and Law

Portugal has been criticized by other high tax territories in the EU that their NHR programme is unfair and unlawful.

However, the European Court of Justice has ruled that each Member State has the sovereign right to develop a legal system that meets its needs, including social security, labour, and tax laws⁵. This position on tax sovereignty is also confirmed in Article 65 Treaty of the Functioning of the European Union⁶ and the legal interpretation of this right is affirmed by settled European case law⁷.



THE TAX PRINCIPLES BEHIND NHR ARE ZERO TAX OF FOREIGN EARNINGS AND INVESTMENT INCOME NOT REMITTED TO PORTUGAL AND A 10% TAX ON THE REMITTANCE OF FOREIGN PENSIONS INCOME INTO PORTUGAL.



Whilst Portugal's approach is supported by EU law, political pressure has resulted in some subtle changes to NHR, but these have not eroded the tax benefits in any meaningful way and NHR remains a highly compelling consideration for individuals.

The Future

Portugal's success with NHR has seen Italy⁸ and Greece⁹ introduce similar projects underpinned by preferential tax regimes for wealthy individuals supported by residency and visa programmes and it is expected that other EU territories will follow suit depending on the successes of these territories.

What is clear is that globalization and the ease at which people can relocate to a different country means governments need to look after their wealthy citizens. France is a case in point that lost 12 thousand millionaires post changing tax laws¹⁰, irrespective of strong economic growth in the country at that time.

So, governments stand to lose their wealth creators, entrepreneurs, skilled professionals and those that have track records in job creation and enhancing economic activity if they continue to pursue policies of high taxation of these people as they have a growing choice in respect of where they live and what level of tax they wish to pay.

All that is certain is that we are in a time of change but are these countries setting the direction to a new norm... we can only speculate but time will tell.

Note: OTAP offers a Personal Pension Plan specifically for individuals who are taking up NHR in Portugal. Speak to your financial adviser in respect of our services in this regard.

¹ Katherine Whittaker, '2019 Saw 500,000 Immigrants Make Portugal their New Home', South EU Summit, 2020

² Daisy Sampson, 'Portugal the country of choice for immigrants', The Portugal News, 2019

³ Belion Partners, 'Portugal's Non-Habitual Resident Regime A Guide', Belion Partners, Revised Edition 2017, pg. 4

⁴ OECD, 'Action 5 Harmful tax practices'

⁵ Case C-336/96 Gilly [1998] ECR I-2793 para 24 and 30, Case C-307/97 Saint-Gobain [1999] ECR I-6161 para 57

⁶ Consolidated Version of the Treaty on the Functioning of the European Union [2016] OJ C202/1, art 288

⁷ Case C-336/96 Gilly [1998] ECR I-2793 para 24 and 30, Case C-307/97 Saint-Gobain [1999] ECR I-6161 para 57

⁸ PWC, 'Italy Individual - Other Issues', PWC, 2021

⁹ EY, 'Greece Tax incentives for the transfer of tax residence of individuals to Greece (L.4758/2020)', EY, 2021

¹⁰ The Daily Mail, 'Now its Frexit', 1 March 2017



PRESERVING INTER-GENERATIONAL WEALTH THROUGH SUCCESSION PLANNING

An overview of International Pension Plans (IPP's)

One of the most important aspects of financial planning is ensuring the passing on of wealth to a spouse, family and future generations on one's demise.

However, this is one area of financial planning that can become very complex when the deceased person's assets or accounts are in different countries, and this is often overlooked or not provided for adequately.

Foreign Matters

All countries have their laws of succession, administrative processes dealing with the transfer of assets of the deceased and tax laws in respect of such assets. These issues are complicated but can be made more complex where no valid foreign will is held for such assets.

IPP'S PROVIDE SIGNIFICANT CERTAINTY AND PEACE OF MIND TO BOTH THE MEMBER AND THOSE THAT ARE INTENDED TO BENEFIT FROM THEM. FURTHERMORE, BENEFITS ARE PAID EXPEDITIOUSLY, UNLIKE AN ESTATE THAT TAKES MANY MONTHS TO WIND UP.

The implication can be significant and range from extensive time to transfer assets and associated administrative costs to unforeseen taxation and even the courts appointing recipients of such assets contrary to the expectations or intentions of the deceased. Such outcomes can be very traumatic and have a negative financial impact, which can be extreme, on people that were not expected.

However, IPP's mitigate the need for foreign wills, executors, and foreign laws of succession. In short, they deal very adequately with the otherwise costly and complex matters raised above. In addition, they offer significant flexibility as to whom can be appointed as a beneficiary which can range from an individual to a trust or second pension for a spouse or dependant.

Consolidating Foreign Assets

Given the many benefits of IPP's, it is of no surprise that many clients of OTAP have used their IPP's to consolidate their foreign assets to benefit from the advantages and simplicity their IPP provides at the time of their passing.

If you hold foreign investments, unit-linked life insurance policies or cash in a bank account, speak to your financial adviser about consolidating these under your existing IPP or establishing one as a way of improving financial certainty for you and those that rely on you.

Certainty and Peace of Mind

The above shows how IPP's provide significant certainty and peace of mind to both the member and those that are intended to benefit from them. Furthermore, the death benefits are paid expeditiously, unlike an estate that takes many months to wind up. This ensures no financial hardship due to administrative processes and gives some reprieve at a time when family members are dealing with the passing of a loved one.

In addition to the topic of succession, IPP's have many other benefits from asset protection to international portability. Speak to your financial adviser to establish how to get the most out of your IPP or how to establish an IPP, be it for you, your spouse or other persons.



INTERNATIONAL PENSION SCHEMES

When can you take benefit and what are your options



An important part of planning for your retirement is knowing when you can start to receive funds from your Plan to have the lifestyle you want during your golden years.

You can construct highly personalised retirement arrangements; however, this is all dependant on the nature of your Plan as well as the jurisdiction you choose to retire in. As the benefits payable may differ, we thought it would be useful to cover the main type of benefits available from International Pensions.

Benefit Age

Each International Pension Plan will have a chosen retirement age known as the 'mandatory retirement age'. This is the age before which no benefit can typically be taken. The minimum retirement age is generally between the ages of 50 years and 55 years of age. Pensions will normally also have a date on which benefits must commence known as a compulsory benefit age, this tends to be from 75 years of age but in some cases may be as much as 90 or may have no requirement.

Most International Pension Plans also make provision for early access to benefits where a serious illness or disability may occur or may even allow a member to borrow against their Plan if certain requirements are met.

Benefit Type

International pensions are generally money purchase arrangements, where the contributions are not Tax relieved and as such offers significant flexibility in terms of the types of retirement benefits available.

Lump-Sum Benefits

A Lump Sum benefit payment is exactly that. A single sum of money paid to you by your pension plan and can be extremely useful for a myriad of different scenarios, such as paying off a home loan or where you are accumulating funds for a very specific need post-retirement to simply getting access to a lump sum to fund retirement expenses.

Most International Pension Plans allow a single lump sum to be taken, however, they may have restrictions on the percentage that you can take.

Using ad hoc lump sums can prove very beneficial as these lump sums enable you to match your benefit payment with your exact financial need, which could be

equal to the full plan value. This flexibility is often seen as one of the main advantages of international pensions, as benefits are paid as required rather than regularly.

One must also consider the tax on lump-sum benefit payments and in certain jurisdictions, lump-sum benefits are received free of tax, while others may tax such payments.

Annuity Income Benefits

Annuities are regular income payments that will either be selected for life or a certain specified term, depending on the product option you hold. An annuity for life is calculated using actuarial means and takes into account life expectancy. Where an annuity is paid for life, the annuity is reviewed periodically, normally every 3 years or every year where you are above the age of 75 years and may be adjusted following an actuarial review process. This is to ensure that level of payment remains in line with these annuity calculations.

Annuities can also be short term in nature and are referred to as Temporary annuities. These are regular payments that can be made for a specified term being no less than 3 years and normally not longer than 10 years. These annuities are not calculated actuarially and rather set aside capital to support the annuity obligation.

As with lump sums, the taxation of an annuity will differ from country to country with some countries highly preferential tax treatment for annuities, where others do not.

In Summary

International pensions offer you complete flexibility to construct a highly personalised retirement solution to meet your ever-changing needs, however, it is important to know what benefit options apply to your Pension Plan which should include understanding the tax implications of your preferred benefit option. It is therefore always important to get financial advice before taking any benefits.



CHARITABLE WORKS

Organisations of all sizes and sectors are taking employee health and wellbeing more seriously these days – and COVID-19 has forced the topic even further into focus. While many managers have been less able to keep an eye on the day-to-day health of their staff over the past year, the pandemic has shifted the conversation about wellbeing at work, and people at every organisational level have started speaking more openly about physical and mental health issues.

To that end and with the Covid-19 restrictions removed, one way we like to lift spirits physically and mentally is to get involved with charitable events.

On the 24th of June, a few of us flexed our creative muscles and decorated cupcakes in aid of the Guernsey Alzheimer's Association to raise awareness of the impact of both Alzheimer's and Dementia. With many of us in the so-called "sandwich generation" taking care of both children and ageing parents at home, this is an organisation close to many hearts.

On the 26th of June, we worked off those cupcakes, as the ladies in the Guernsey office pulled on the pink shirts and participated in the Pink Ladies Sunset Coastal Walk. This organisation raises money to provide practical

and emotional support for breast cancer patients in Guernsey as well as supporting Cancer Research UK, Breast Cancer Care, Breakthrough Breast Cancer, Macmillan Cancer Research and Les Bourgs Hospice.

One of our favourite charities is Paws for Support. This is a unique charity that uses highly trained dogs as educational and therapeutic aids and assistants. These dogs are used in a variety of situations from schools with young people to the elderly in care homes and everywhere in between. We hold the occasional bake sale to raise money for this worthy charity but our favourite way to help is opening our office to the puppies for their "socialisation" visits. The team is happy to sacrifice a few minutes of their time to cuddle a puppy in training!

Our dealing team 1200-mile charity bike ride to Rome is back on the cards and they are very busy training and fundraising. It won't be until September 2022 when hopefully Europe will have recovered from COVID, but they have plenty of time to both raise money and get fit!

COVID-19 has slowed down some of our charitable events, but we are ready, willing and able to get back into the swing!



SAVING YOU TIME AND MONEY

We accept a wide range of requests, instructions and documents digitally i.e. a scanned copy of the original. The advantages to you as a client is that you no longer have to wait days or weeks for the original document to make its way to Guernsey before we can process it. This provides for a significant saving in time and money as many of our clients use secure couriers when sending important financial documents.

We have a number of other planned technology-driven enhancements, and these developments aim at improving security, enhancing efficiency and ensuring that we can continue to deliver value to our clients. We will keep you informed of the enhancements we make.

Below are the documents that can be signed and sent to us as a scanned copy:

- Change of Adviser Form
- Additional Contribution Form
- Benefit Application Form
- FATCA/CRS Declaration
- Nomination of Beneficiaries Form
- Investment Request Form



Get in touch

Points of contact

In order to deal with your enquiry efficiently, please use the appropriate email contact below. If you are unsure of which area you should be dealing with, please contact us on: **+44 (0) 1481 723030**

Overseas Trust and Pension, 2nd Floor, Elizabeth House,
Les Ruettes Brayes, St Peter Port, Guernsey, GY1 1EW.

In order to keep up to date with terms, conditions and charges, please visit our website at www.trustandpension.com

Private Clients

Enquiries

All enquiries or actions relating to existing individual plans or trusts need to be directed to our administration department using the details below.

- This includes upgrades, valuations, loans, updating client details, benefit payments, distributions, withdrawals etc.
- Any amendments or change of appointed advisor are also dealt with in this area.

[@ enquiries@trustandpension.com](mailto:enquiries@trustandpension.com)

Investment Requests

All requests relating to investments, including in-specie transfers, switches, purchases and sales need to be sent to the dealing area using the details below.

[@ dealing@trustandpension.com](mailto:dealing@trustandpension.com)

For more information regarding investment requests, please refer to our Private Client Investment Request Policy on our website.

Applications and Additional Contributions

All new applications, and top-ups should be submitted to our new business department using the details below:

[@ applications@trustandpension.com](mailto:applications@trustandpension.com)

Corporate Clients

All enquiries

All enquiries or actions relating to international Company Pensions, Local Company Pensions and Share Option Schemes should be sent to the email below:

[@ operations@trustandpension.com](mailto:operations@trustandpension.com)



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We strongly recommend that clients take regulated financial and investment advice relevant to their individual circumstances. It is the responsibility of clients and their advisers to review the advice and investments at least annually. The product terms, risks and charges (including: initial, annual and exit) should be considered, understood and agreed with your Financial/ Investment Adviser.

Past performance is not a reliable indicator of future results. Investment values and the income from them can go down as well as up and may be affected by changes in rates of exchange. An investor may not receive back the amount initially invested.

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