

## AFRICAN RAINBOW CAPITAL INVESTMENTS LIMITED

(Incorporated in the Republic of Mauritius)

(Company number: C148430)

JSE and A2X share code: AIL

ISIN: MU0553S00000

("ARC Investments")

### ANNOUNCEMENT REGARDING THE PROPOSED AMENDMENTS TO THE PARTNERSHIP AGREEMENT, CONSTITUTING A RELATED PARTY TRANSACTIONS BETWEEN ARC INVESTMENTS AND UBI GENERAL PARTNER PROPRIETARY LIMITED AND CAUTIONARY ANNOUNCEMENT

#### 1. Introduction

Shareholders are advised that ARC Investments has, on 29 September 2022, entered into an addendum amending certain provisions ("**Addendum**") of the partnership agreement establishing the ARC Fund ("**Partnership Agreement**"). The Partnership Agreement was initially concluded on 22 August 2017 between ARC Investments and UBI General Partner Proprietary Limited in its capacity as General Partner of the ARC Fund ("**General Partner**").

The Addendum revises the provisions of the Partnership Agreement related to the half yearly management fees ("**Management Fees**") charged by the General Partner and is part of several proposed changes to the fees charged for the overall management of the ARC Fund.

#### 2. Background to the Addendum and other proposed amendments to the fee structures charged to the ARC Fund ("**Proposed Amendments**")

##### 2.1 Current Management Fee structure

In terms of the Partnership Agreement, the General Partner charges the ARC Fund a Management Fee, half yearly in arrears in respect of the periods ending on 30 June and 31 December each year ("**Half Year**") based on the value of the investments reflected at the beginning of the relevant Half Year ("**Opening Invested NAV**"). The fee scale is as follows:

- 2.1.1 if the Opening Invested NAV is below R10 billion, then 1.75% per annum on the average of the Opening Invested NAV and the net asset value on the last business day of the relevant Half Year ("**Closing Invested NAV**") of that Half Year;
- 2.1.2 if Opening Invested NAV is between R10 billion and R15 billion, the higher of the amount determined in paragraph 2.1.1 above and 1.5% of the average of the Opening Invested NAV and the Closing Invested NAV of that Half Year;
- 2.1.3 if the Opening Invested NAV is above R15 billion, 1.25% on the average of the Opening Invested NAV and Closing Invested NAV of that Half Year; plus
- 2.1.4 a cash management fee of 0.25% per annum on average of the opening and closing balance of the Cash Management Investments of that Half Year,

reduced by any Creditable Fees (as defined in the Partnership Agreement) for the previous Half Year, in each case determined as at the beginning and end of the relevant Half Year, provided that in no event shall the fee payable to the General Partner be less than zero.

##### 2.2 Current Investment Services Fee

In terms of the investment services agreement ("**Investment Services Agreement**") concluded between UBI and African Rainbow Capital Proprietary Limited ("**ARC**"), ARC charges the General Partner an investment services fee of 95% of the Management Fee ("**Services Fee**") for the administration and investment services functions it performs on behalf of the General Partner.

## 2.3 Current Performance Participation

The constitution of ARC Investments ("**Constitution**") provides for a performance participation fee to be paid to the holder of the C shares in ARC Investments ("**C Shares**") at the end of each financial year of ARC Investments ("**Performance Participation**"). The terms of the C Shares contain the current Performance Participation arrangement.

As set out in the terms of the C Shares, the Performance Participation is currently calculated on an annual basis on the growth in the net asset value of the ARC Fund's investments ("**Invested NAV**"), subject to such growth exceeding 10% per annum, compounded annually, as follows:

$$\text{Performance Participation} = [ \text{Growth in Invested NAV} ] \times 16\%$$

provided that in no event shall:

- the Performance Participation be less than zero; and
- the Performance Participation result in the "Adjusted Growth in Invested NAV%" (as defined in the terms of the C Shares)" decreasing below the Performance Hurdle. If the Performance Participation does result in the Adjusted Growth in Invested NAV% decreasing below the Performance Hurdle, then the Performance Participation will be reduced to such amount as will result in the Adjusted Growth in Invested NAV% being equal to the Performance Hurdle.

## 2.4 Proposed Amendments

### 2.4.1 *Partnership Agreement: Management Fee*

It is proposed that the Management Fee charged by the General Partner to the ARC Fund will be amended to an amount which is expected to be significantly lower than the current Management Fee, and which can never be higher than the current Management Fee. The amended Management Fee will be calculated as the lower of:

- 2.4.1.1 the fee that would have applied had the current method of calculating the Management Fee as set out in paragraph 3.1 continued to be applied; and
- 2.4.1.2 the actual cost of managing the ARC Fund, including the Services Fee charged by ARC and other direct costs incurred by the General Partner, plus a 5% mark-up thereon (excluding VAT),

in either such case reduced by any Creditable Fees received by the General Partner or any of its associates (including ARC) during the relevant Half Year; provided that in no event shall the amended Management Fee be less than zero.

### 2.4.2 *Investment Services Agreement: Service Fee*

It is proposed that the new Service Fee will be a proportionate share of the actual costs incurred by Ubuntu-Botho Investments Proprietary Limited ("**UBI**") and its direct and indirectly held entities that relate to the management and administration of the UBI Entities (as defined below) including the ARC Fund). The costs of managing and administering the ARC Fund (in relation to the costs of managing and administering the UBI group as whole) will be determined on the following basis:

- Costs directly attributable to the limited partnership between ARC Investments and the General Partner ("**Partnership**"), the General Partner, African Rainbow Capital Financial Services Holdings Proprietary Limited and ARC Financial Services Investments Proprietary Limited (collectively, the "**UBI Entities**") will be allocated to the Partnership or such other UBI Entity, as applicable.

- Costs relating to more than one UBI Entity will be attributable to those UBI Entities in proportions determined with regard to time spent by relevant UBI Group personnel on work relating to the UBI Entities concerned, and other relevant criteria.
- In the case of costs relating to African Rainbow Capital Financial Services Holdings Proprietary Limited and ARC Financial Services Investments Proprietary Limited and their direct and indirect subsidiaries, only that proportion of those costs which equals the proportionate direct or indirect, as the case may be, interest of the Partnership in the relevant UBI Entity will be allocated to the Partnership.
- After the end of each Half Year, ARC shall calculate and submit to the General Partner for its approval the costs attributable to the Partnership for that Half Year (and consequently its calculation of the amount of the Service Fee for that Half Year), and shall, following receipt of written approval thereof from the General Partner, issue an invoice for the Service Fee to the General Partner.
- At the same time as ARC submits to the General Partner its calculation of the amount of the Service Fee for a Half Year, ARC shall also calculate and submit to the General Partner for its approval the Creditable Fees (as defined in the Partnership Agreement) in respect of that Half Year to enable the General Partner to calculate the Management Fee for that Half Year, in accordance with clause 6 of the Partnership Agreement.

#### 2.4.3 *C Shares: Performance Participation*

The main proposed amendment to the Performance Participation is to calculate the Performance Participation on the outperformance of NAV growth (rather than growth in Invested NAV) above the Performance Hurdle, instead of on (all) the Growth in Invested NAV. This will result in the Performance Participation being calculated with reference to the return on investments of the ARC Fund based on the total NAV of the ARC Fund (not just the Invested NAV). The return will therefore be calculated on the total NAV, including cash balances and the Performance Participation will only apply to returns above the Performance Hurdle.

Full details of the Proposed Amendments will be set out in the Circular to be issued to Shareholders.

## 2.5 **Rationale for the proposed amendments**

The board of the General Partner has proposed to amend the current Management Fee and Service Fee arrangements and the terms of the Performance Participation for, *inter alia*, the following reasons:

- 2.5.1 the shares trade at a discount to the NAV per share of the underlying investments in the ARC Fund. The investment committee of the General Partner, based on discussions with Shareholders and other market participants, believes that one of the reasons for the discount is the current Management Fee and Performance Participation arrangements, which are considered to be out of line with respect to best practice for listed entities;
- 2.5.2 the actual costs incurred by ARC for the investment and administration services which it provides to the General Partner are less than the current Services Fee charged by ARC to the General Partner; and
- 2.5.3 the current calculation of the Performance Participation (on the Invested NAV rather than on NAV of the ARC Fund) excludes cash and debt balances and is silent on the treatment of other income earned by the ARC Fund, including dividends paid by the various investments, which should be included in determining the investment returns.

## 2.6 **Effective Date**

Subject to the approval by Shareholders of the Addendum and the amendments to the terms of the C Shares, each of the Proposed Amendments will become effective retrospectively from 1 July 2022.

## 2.7 **Shareholder approval required**

In order for the Addendum to become effective and for the changes to the terms of the C Shares to take effect, shareholders will be required to approve the Addendum and the amendments to the C Shares at a general meeting of shareholders.

## 3. **Related party transaction implications of the proposed amendments and amendments to the Constitution**

Paragraph 10.1 of the JSE Listings Requirements provides that a "transaction" includes "any variation or novation of an existing agreement between an issuer ... and a related party".

The Proposed Amendments to the Management Fee will require amendments to the Partnership Agreement. As the General Partner is a related party of ARC Investments by virtue of the General Partner being an associate (as defined in the JSE Listings Requirements) of ARC Investments' ultimate controlling shareholder, UBI, and the Proposed Amendments will result in a "variation" of the existing Partnership Agreement, the Proposed Amendments constitute a related party transaction between ARC Investments and the General Partner.

The Performance Participation is contained in the terms of the C Shares and, accordingly, amendments to the terms of the C Shares constitute an amendment to the Constitution. The Proposed Amendments to the terms of the C Shares and the resultant amendments to the Constitution do not constitute a related party transaction and are therefore not subject to the requirements of section 10 of the JSE Listings Requirements.

Accordingly, a circular, including notice of a shareholders meeting, will be distributed to shareholders in order for shareholders to consider, and if deemed appropriate, approve:

- 3.1 the Proposed Amendments to the Partnership Agreement for purposes of section 10 of the JSE Listings Requirements; and
- 3.2 the amendments to the Constitution (as constituted by the amendments proposed to the Performance Participation contained in the terms of the C Shares) as required by articles 1.3.2 and 4.1.8 of the Constitution and sections 44(2) and 114 of the Mauritian Companies Act.

UBI, as the sole shareholder of the General Partner and its associates (as defined in the JSE Listings Requirements) will not vote any of their shares in respect of the resolution to be proposed regarding the amendments proposed to the Management Fee and the Partnership Agreement, as those amendments constitute a related party transaction. However, UBI will be taken into account for the purposes of determining the quorum for that resolution. UBI, as the sole holder of the C Shares, will vote in respect of the amendments which are proposed to the Performance Participation, which amendments constitute amendments to the terms of the C Shares contained in the Constitution, as those amendments do not constitute a related party transaction. UBI will also vote in respect of the separate class vote of the holder of the C Shares to approve the variation in the rights of the C Shares.

The amendments proposed to the Investment Services Agreement do not constitute a related party transaction as they do not involve ARC Investments and accordingly, no shareholder approval is required for these amendments from ARC Investments' shareholders.

## 4. **Circular to shareholders**

A circular, prepared in accordance with the requirements of section 10 of the JSE Listings Requirements, will be distributed to shareholders in due course. The circular will incorporate a notice of general meeting, including the resolutions to be put to shareholders at a general

meeting, expected to be held on 15 November 2022, immediately following the conclusion of the 5<sup>th</sup> annual general meeting of ARC Investments.

The circular will further contain a fairness opinion prepared by the independent expert, BDO Services South Africa Proprietary Limited, the *pro forma* financial effects of the amendments as well as the recommendation of the board of ARC Investments in respect of the Proposed Amendments.

**5. Cautionary**

Shareholders are advised to exercise caution when trading in their ARC Investment shares until the *pro forma* financial effects of the proposed amendments have been published.

By order of the Board

Ebène, Mauritius (with simultaneous circulation in Johannesburg)

30 September 2022

**Transaction sponsor**

Deloitte & Touche Sponsor Services Proprietary Limited

**Legal advisor as to South African law**

Webber Wentzel

**Independent reporting accountant**

PricewaterhouseCoopers Inc.

**Independent Expert**

BDO South Africa Services Proprietary Limited

**Legal advisor as to Mauritian law**

BLC Robert & Associates