



26<sup>th</sup> May 2021

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Copied to the Directors of Third Point Investors Limited

Dear Sirs,

### **Third Point Offshore Independent Voting Company Limited ("VoteCo")**

#### **Introduction and background**

Asset Value Investors Limited ("**we**" or "**AVI**"), on behalf of institutional clients, holds 3,412,359 redeemable ordinary shares of no par value in Third Point Investors Limited (respectively, the "**Ordinary Shares**" and "**TPIL**") representing 10.1 per cent. of the issued ordinary share capital of TPIL. The Ordinary Shares are distinct from the class B shares of no par value in TPIL ("**Class B Shares**") held by VoteCo which, notwithstanding that the Class B Shares carry only a de minimis economic interest in TPIL, entitle their holder to exercise 40 per cent. of the aggregate voting rights in TPIL.

As you are aware, the Class B Share were issued to VoteCo at the time of TPIL's initial public offering in 2007. The ostensible justification for the creation of the Class B Shares was to address "*jurisdictional regulatory issues in the US*" (as explained in the prospectus published by TPIL at the time (the "**Prospectus**")). The Prospectus stated that the board of directors of VoteCo (the "**VoteCo Board**") had no affiliation with Third Point LLC (TPIL's investment manager ("**Third Point**" or the "**Investment Manager**") or Third Point Offshore Fund Ltd., (the "**Master Fund**")). Furthermore, the VoteCo Board was selected "*to provide both financial market experience and a strong understanding of fiduciary responsibility*". In addition, the objects of VoteCo as set out in its memorandum of incorporation include: (i) to hold Class B Shares as custodian on behalf of all the holders of Ordinary Shares; and (ii) to exercise the voting rights attached to the Class B Shares in the best interest of the holders of Ordinary Shares as a whole.

Under The Companies (Guernsey) Law, 2008, as amended, (the "**Companies Law**") the directors of a company are required to call a general meeting of a company once the company has received requests to do so from members who hold more than 10 per cent. of such of the capital of the company as carries the right of voting at general meetings of the company. Furthermore, the Articles of Incorporation of TPIL (the "**Articles**") include a similar provision entitling one or more members holding not less than one-tenth of the issued share capital of TPIL to requisition the board of directors of TPIL (the "**TPIL Board**") to convene a general meeting.

Absent the Class B Shares we would, by virtue of holding 10 per cent. of the Ordinary Shares, have been entitled, pursuant to the Companies Law and the Articles, to request the TPIL Board to convene an extraordinary general meeting of TPIL to consider resolutions to be proposed by us.

However, a presumably unintended consequence of the existence of the Class B Shares (and the fact that, in aggregate, they represent 40 per cent. of the voting rights and issued share capital of TPIL), is that for the holders of the true equity in the Company (the Ordinary Shares) the voting percentage threshold to require the TPIL Board to convene an extraordinary general meeting has (arithmetically) been raised artificially to 16.67 per cent. of the Ordinary Shares.

Whilst we presume that the above situation was not an intentional contrivance, we observe that it was unfortunate that this scenario was not addressed at the time of the launch of TPIL or upon TPIL's admission to the Premium Official List Segment 2018.

We, and we believe other shareholders ("**Shareholders**") in TPIL, have significant concerns with the performance of TPIL in terms of the persistent discount at which the Ordinary Shares have traded, and continue to trade, to their underlying Net Asset Value ("**NAV**"). We also believe the recommendations of the strategic review announced by TPIL on 1 April 2021 ("**Strategic Review**") fall woefully short of the structural changes that we believe are necessary to cure TPIL's continuing trading discount to NAV problem. In the second part of this letter, we give further background to the action we now wish to take and provide our substantive critique of the Strategic Review.

We believe the best way in which to address the persistent discount to NAV is to take more drastic action in terms of a change to TPIL's investment policy. We propose that the investment policy of TPIL be changed such that - to the extent required by Shareholders wishing to realise part or all their investments in TPIL - TPIL should seek to redeem its Class E and Class N Shares in the Master Fund (subject to the quarterly investor level redemption gate) and utilise the proceeds in offering Shareholders who wish to realise their investments in TPIL periodic opportunities to do so at the discretion of the TPIL Board (by way of tender offer, share buy-back or otherwise) at a price as near as possible to NAV (less related costs).

**To be clear, the proposed new investment policy would place no obligation on any Shareholder to redeem any of its investment in TPIL – simply an ability to do so, at a price close to NAV.**

In terms of how we envisage this working in practice, we would support the TPIL Board exercising its discretion and allowing Shareholders to submit redemption requests at NAV less costs on a quarterly basis. Aggregate redemptions would be capped at 25 per cent. of the Ordinary Shares in issue at the time of the redemption; redemption requests in excess of 25 per cent. of an individual Shareholders' holding would be scaled back pro-rata. Simultaneously, Shareholders (whether existing Shareholders or not) would be allowed to submit subscription requests at the same price at which redemptions are made. Any excess of redemptions over applications would result in those excess Ordinary Shares being redeemed by TPIL; any excess of applications over redemptions would result in those excess Ordinary Shares being issued by TPIL.

With the above in mind, we wish to requisition the TPIL Board to convene an extraordinary general meeting of TPIL to consider and if thought fit pass a resolution to change its investment policy as outlined above (the "**Proposed Resolution**"). The precise text of the proposed change to the investment policy is set out in the requisition that is attached to this letter (the "**Requisition**").

As already mentioned, the existence of the Class B Shares means that we cannot alone requisition the TPIL Board to convene an extraordinary general meeting of TPIL to consider our Proposed Resolution (notwithstanding the fact that we own 10 per cent. of the true economic equity which would, but for the Class B Shares, allow us to requisition). Accordingly, we are today writing to you (the Board of VoteCo), requesting that you sign our proposed Requisition in respect of 2,218,297 Class B Shares held by VoteCo thereby replicating a position (in terms of requisitioning an extraordinary general meeting of TPIL) whereby the Class B Shares do not exist. In considering our request we believe the VoteCo Board should take the following into consideration:

- 1 the Class B Shares were put in place solely to address jurisdictional regulatory issues in the US rather than to obstruct or make more difficult the legitimate exercise of Shareholder rights *i.e.* any continued reliance on this unexpected ramification would be an improper exercise or reliance on constitutional rights;
- 2 we believe facilitating the wishes of Shareholders who hold the true (value) equity is not only good corporate governance but consistent with the expressed selection criteria for the VoteCo Board, specifically a strong understanding of fiduciary responsibility and the objects of VoteCo to hold Class B Shares as custodian on behalf of the holders of Ordinary Shares;
- 3 we are not asking VoteCo to condone or express any view on the change of investment policy we are proposing. We are simply asking VoteCo to facilitate the opportunity for holders of the true equity to have an opportunity to do so consistent with the provisions of the Companies Law and the Articles; and
- 4 we genuinely question whether it is appropriate for TPIL to be admitted to the Premium Official List Segment if the Class B Shares can effectively "block" the ability of the holders of the Ordinary Shares to exercise rights which would otherwise be capable of exercise by them.

In the light of the above we request that VoteCo sign the Requisition in respect of 2,218,297 Class B Shares by no later than 4 June 2021. We will then submit the Requisition to the Company.

#### **The performance of TPIL and the Strategic Review**

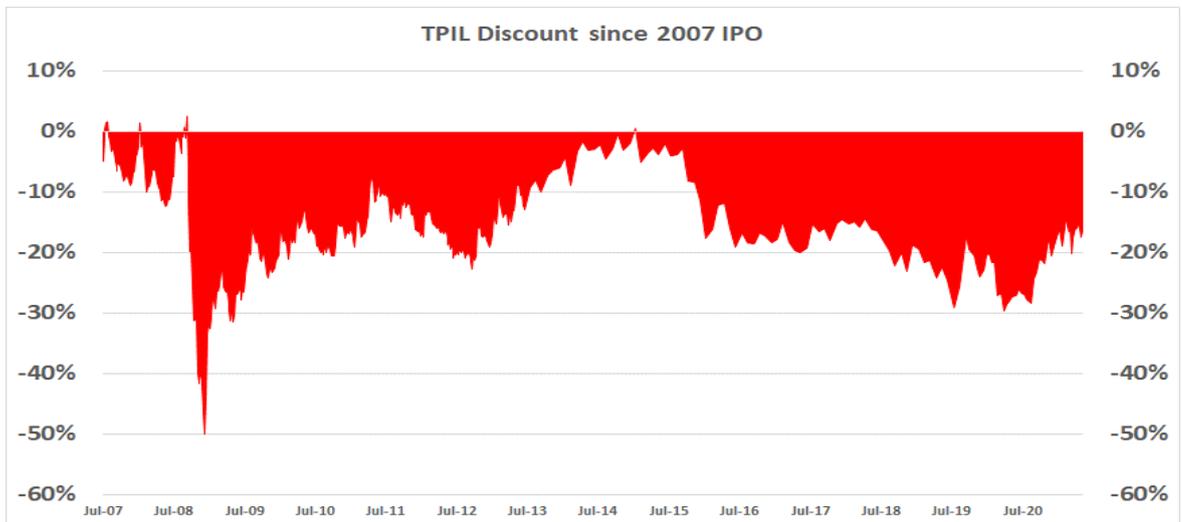
AVI has been a Shareholder in TPIL for almost four years. Due in no small part to our constructive engagement with the Board and the Investment Manager over that time and the changes that resulted, TPIL is in a better place than "when we found it"<sup>1</sup> as a number of previous shortcomings were corrected.

That said, TPIL's discount to NAV has remained persistently wide, and it has been clear to us for some time that a more structural solution is required.

The following chart (source: Morningstar) illustrates the alarming extent and persistence of the discount which, at the time of writing, we estimate to be 17 per cent. to NAV.

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<sup>1</sup> Over our holding period to date, changes have included: Replacing the legacy Standard Listing (no longer available to new investment companies) with a Premium Listing; commencement of a share buyback programme; reducing the management fee from the highest rate paid by all Third Point clients to one that better reflects TPIL's importance; the cancellation of "repurchased" Ordinary Shares that, owing to them being held by the Master Fund, had for years continued to pay management and performance fees to Third Point.



While we welcomed the TPIL Board’s implicit recognition in holding a strategic review that the status quo was untenable, the outputs from the Strategic Review fall woefully short of the structural changes required to fix TPIL’s discount problem.

The key announced changes were as follows:

- 1 a long-term target discount level of 7.5 per cent. and continuation of the buyback programme;
- 2 discount-contingent tender offers for 25 per cent. of NAV to be held in 2024 and 2027 at a 2 per cent. discount to NAV, triggered if the average discounts in the six-month periods ending 31-Mar-24 and 31-Mar-27 are greater than 10 per cent. and 7.5 per cent. respectively; and
- 3 TPIL to receive an increased allocation to venture capital and private equity investment opportunities in the Master Fund of up to 20 per cent. of NAV.

Our concerns with the Strategic Review and the conclusions reached are as follows:

- 1 based on our extensive discussions with a large number of fellow Shareholders accounting for a meaningful proportion of the share register both before and after the outcome of the Strategic Review was published, we do not believe the announced measures accurately reflect the feedback received from Shareholders. Rather, we believe they are reflective of a Board that ultimately felt unable to follow through on Shareholders’ wishes in the face of aggressive over-reach by the Investment Manager. **In contrast, our Proposed Resolution provides an opportunity for all Shareholders’ voices to be heard in a fully transparent fashion;**
- 2 as a matter of good governance, we do not believe it was in any way appropriate to appoint a consultant who we understand was introduced by Third Point to the TPIL Board to lead the Shareholder consultation process. This calls into question the independence of the entire consultation, review, and outcome;
- 3 the timing of the first tender offer, almost three years from now, is too distant to have any meaningful impact on the discount;

- 4 the discount-contingent nature of the proposed tender offers is flawed and illogical. If the discount target of 7.5 per cent. is appropriate, then why should a tender offer **almost three years** from now be avoided if the average measured discount is, say, 9.99 per cent.?
- 5 we understand Daniel Loeb, CEO and CIO of Third Point, owns 17 per cent. of the Ordinary Shares. At an annual buyback rate of 10 per cent. of Ordinary Shares, he will own 23 per cent. by the time of the first potential tender offer. Given Mr. Loeb's demonstrably unveiled contempt for shareholder rights and good governance, and the open disrespect shown in a public forum to TPIL's Chairman (see section below), how can Shareholders have any comfort that the promises made in 2021 will be adhered to in 2024 given the increased influence associated with his shareholding? We do not see how Shareholders can have confidence they will be. And if we assume, charitably, that the promises are kept in 2024, that shareholding will have grown to over 40 per cent. by the time of the next tender falling due in 2027 given the buyback pace we assume above; and
- 6 Shareholders should consider Mr. Loeb's attitude towards Shareholders and good governance in the context of not only his growing shareholding and influence, but also with respect to TPIL's announced increased allocation to venture capital and private equity investments of up to 20 per cent. of NAV. It is not difficult to see a scenario in which the increase in TPIL's exposure to illiquid investments is used as an excuse not to hold the tenders in 2024 or 2027.
- 7 The Mask Slips....

Shareholders unable to listen live to TPIL'S Q4-Update webinar held on 2 February 2021, and thus reliant on the recording later circulated by Third Point, may have been surprised by the abrupt ending. Those of us listening as the event unfolded were subjected to an extraordinary rant by Mr. Loeb in the last five minutes. Third Point's excision of these comments from the official recording suggests either Mr. Loeb was embarrassed by his own unprofessionalism and unintended candour as to his views on shareholder rights and corporate governance, or his marketing team were embarrassed by their boss.

Mr. Loeb's belligerence was on full display at the beginning of the call. The Chairman, having assured Shareholders that *"We do hope that we'll come up with something that is a long-term solution to the discount problems that have plagued Third Point Investors Limited"*, posed a question to Mr. Loeb, asking him *"...Investors, I think, want to know whether it's important....it's obviously important to the investors...but is it important to Third Point as well that the discount be closed from here?"*

Mr. Loeb responded:

*"Right, I would say something about that, I mean obviously the discount matters but really what matters more is the investment engine which the fund is invested in and our overall performance.*

*I don't think investors have anything to complain about when they look at our 9% YTD performance, 30% last year, and very solid mid-teens performance over the last five years.*

*So we take that seriously but let's not take our eye off the ball and really focus on the fact that Third Point is really doing what we're supposed to be doing,"*

And again just over 30 minutes later:

*“We need to look at this discount mechanism but there are very few people of those sniping at us and complaining about the discount...very few... I don’t think anyone of them actually paid par, they came in around a 20% discount, it’s trading around a 20% discount, and they’ve done very well over the course of the time they’ve invested in Third Point...”*

These comments are remarkable for their hypocrisy and lack of self-awareness. If shareholders in public companies had no basis to complain about a company’s poor trading rating if they acquired the shares at said poor trading rating, then Mr. Loeb would have been unable to build a fund management business over the last 25 years pursuing precisely that strategy. A clear case of *“do as I say, not as I do”*.

Finally, in response to an emailed question highlighting the clear double standards in this last comment, Mr. Loeb began the rant that was subsequently deleted from the official recording. Highlights (or more appositely lowlights) appear below:

*“Look, if I thought the company was badly managed – meaning Third Point – you could certainly try to vote me out and move the management of the fund to someone that you think is a better [indecipherable] manager, but you certainly knew, also, what the corporate governance of the entity was before you buy their shares, so ... I wouldn’t suggest doing that on a company that has dual share classes or had the kind of voting protection that we had, which was put in place specifically to protect our long-term investors from short-term profiteers who are looking to make a quick buck by trying to liquidate or diminish the amount of capital that we have invested....*

*....what we won’t do is sacrifice the long-term value of this entity and its ability to make investments and to allocate capital to, you know, satisfy the short-term desires of a few Shareholders that have... that are just seeking to earn a quick buck by trying to bully or force the board or me to do something that isn’t in the long-term interests of all of our investors.*

*..... It’s a very small-minded way to invest if you are just going to game the system.... try to make quick bucks on things like this... and it might be the best thing for them to move on and find other companies to invest in.”*

We will leave Shareholders to form their own view on who appears to be the “bully” here. We note during this monologue that the Chairman attempted to intervene to reassure Shareholders that the TPIL Board does indeed take the discount issue seriously, but was interrupted and spoken over by Mr. Loeb<sup>2</sup>.

This, and the content of what was said, points to a worrying level of over-reach by the Investment Manager who, lest we forget, is a service provider to TPIL. It suggests a fundamental misunderstanding of the relationship between the Board, the Investment Manager, and the owners of TPIL who were labelled *“short-term profiteers”* and *“small-minded”* amongst other insults flung out by Mr. Loeb.

To be clear, we are aware of a substantial portion of the Shareholder register having made comments directly to the TPIL Board expressing views similar to our own. It is these

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<sup>2</sup> The Chairman said *“Having said that, we are still coming back with proposals...”* before being cut off by Mr. Loeb who interjected *“Let me say something else”* before embarking on the next stage of his tirade.

Shareholders who Mr. Loeb was insulting in this diatribe, all for having the temerity to propose that the persistently excessive discount to NAV be properly addressed.

As discussed earlier in this letter, TPIL's constitution is very clear on the reason for VoteCo's existence. It is emphatically **not** for the reason Mr. Loeb cites. It is disappointing to see an investment manager previously strongly associated with shareholder rights and good governance reach so quickly for "dual share class...voting protection" even though he clearly did so in ignorance given such "protections" do not actually exist in the case of TPIL.

As for the issue he raises of supposed "long-term" investors who require "protection" from short-term profiteers, we make the following points:

- 1 Shareholder rights do not vest after a certain amount of time has elapsed, but at the time of purchase. A "long" period of ownership does not bestow more rights on a shareholder than a "short" period;
- 2 how long had Third Point held shares in Prudential, Nestle, Intel, Campbell Soup, *et al* before engaging with management of those companies?;
- 3 in any event, AVI has been invested in TPIL since Jul-2017, a holding period of just over 3 years and 10 months which, our analysis suggests, is longer than Third Point's average holding period for its equity holdings. We are also aware of other Shareholders who share our concerns and have been invested in TPIL for longer than AVI; and
- 4 it is unclear from what or who long-term investors require protection. We are not suggesting, and have never suggested, that TPIL should wind up. Our proposal would see TPIL make use of the existing contractual right it has to redeem up to 25 per cent. of its holding in the Master Fund on a quarterly basis to the extent required to satisfy Shareholder redemptions. We fail to see why this should have any material impact on returns for those Shareholders who wish to remain invested. Indeed, these are liquidity terms that Third Point has had no problem honouring for other investors since the firm's inception.

Finally, we should draw Shareholders' attention to the following excerpt from a public letter written by Mr. Loeb addressed to the CEO of one of Third Point's investee companies.

*"It has been reported to us that you have accused us of being "short-term traders" and "quick-buck artists" in an attempt to disparage us and to discredit our efforts. First of all, our economic interest in the Company is dictated by our holdings in the Company – not the days, months or years that we have held such interest. This holds in spite of your attempt to segregate Shareholders into two classes with "back of the bus" status accorded to your more recent Shareholders via Phased Voting".<sup>3</sup>*

No additional comment is necessary here, other than to say that we agree wholeheartedly with the younger Mr. Loeb's sentiments.

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<sup>3</sup> Letter released over PRNewswire written by Mr. Loeb, addressed to CEO of Potlatch Corporation, 7-Apr-2003.

## The Benefits of our Proposal

Our proposal, as set out in the Requisition, is consistent with views expressed by many Shareholders we have spoken to over the last few months.

TPIL's discount has become entrenched. While the Chairman has taken steps to address the situation since his appointment in early 2019, the years of neglect from the Investment Manager and, in our opinion, shoddy governance and oversight from the TPIL Board in the years since the 2007 IPO up to his appointment have left an indelible mark. For the most part, the traditional wealth management buyer of London-listed closed-end funds has shown little interest in TPIL; the London-listed hedge fund sector is much diminished and what appetite there is for listed hedge funds as evidenced by discounts is restricted to those with little to no equity exposure or correlation. A robust structural solution is now required.

We believe our proposal, which would see Shareholders offered the opportunity to redeem 25 per cent. of their shareholding periodically (and we would suggest quarterly) at NAV less costs at the same time as allowing subscriptions, offers TPIL the best chance of a viable long-term future for the following reasons:

- 1 Shareholders wanting to exit would have meaningful near-term liquidity without taking a punitive hit to the underlying value of their investment by selling in the market at a wide discount to NAV;
- 2 for those Shareholders wishing to remain invested, downside discount risk is effectively removed; and
- 3 crucially, potential new investors who may have previously been deterred by low secondary market liquidity and downside discount risk, would be able to do so by absorbing Ordinary Shares from exiting investors each quarter and, to the extent, applications exceed redemptions, by receiving newly issued Ordinary Shares

## Conclusion

A focus on ESG is now firmly embedded in the investment process of most institutional investors. With regards to the "G" within the closed-end fund industry, the general standards of governance have steadily improved over the years. That said, there have been some isolated areas of concern of late in the sector. The over-reach by TPIL's investment manager into the Strategic Review process, and the contempt for and disrespect shown to Shareholders in Mr. Loeb's comments, is one such example.

We appreciate that the issues we have identified are issues that need to be addressed to and resolved with the Company and the Investment Manager. However, we hope that our letter has demonstrated the seriousness of the issues and their legitimacy. As such we believe Shareholders should, by way of the Requisition, have the opportunity to have these issues ventilated and we would very much hope that VoteCo and the VoteCo Board will help facilitate this by signing the Requisition.

Yours sincerely,



Tom Treanor  
Executive Director/Head of Research

26 May 2021

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Dear Sirs,

**Third Point Investors Limited (the "Company")**

In accordance with section 203 of the Companies (Guernsey) Law, 2008 we, the undersigned, (being members who hold more than 10% of such of the capital of the Company as carries the right of voting at general meetings) require you to call a general meeting of the Company to consider, and if thought fit, pass the following resolution as an Ordinary Resolution of the Company:

**ORDINARY RESOLUTION**

THAT the existing investment policy of the Company (as set out in the annual report and audited financial statements of the Company for the year ended 31 December 2020) be changed as set out below, with the proposed changes being shown in blackline:

**"Investment Objective and Policy**

The Company's investment objective is to provide its Shareholders with consistent long term capital appreciation together with periodic opportunities for Shareholders to realise their investment in the Company (as described below) utilising the investment skills of Third Point LLC (the "Investment Manager", "Manager" or "Firm"), through:

(a) investment of all of its capital (net of short-term working capital requirements and save as set out below) in Class E and N Shares of Third Point Offshore Fund, Ltd. (the "**Master Fund**"), an exempted company formed under the laws of the Cayman Islands in October 1996; and

(b) the redemption of such Class E and N Shares to finance Redemption Opportunities (as defined below).

The Master Fund is a limited partner of Third Point Offshore Master Fund L.P. (the "**Master Partnership**"), an exempted limited partnership organised under the laws of the Cayman Islands, of which Third Point Advisors II L.L.C., an affiliate of the Investment Manager, is the general partner. Third Point LLC is the Investment Manager to the Company, the Master Fund and the Master Partnership. The Master Fund and the Master Partnership have the same investment objectives, investment strategies and investment restrictions.

The Master Fund and Master Partnership's investment objective is to seek to generate consistent long-term capital appreciation, by investing capital in securities and other instruments in select asset classes, sectors, and geographies, by taking long and short positions.

The Investment Manager's implementation of the Master Fund and Master Partnership's investment policies is the main driver of the Company's performance.

The Investment Manager identifies opportunities by combining a fundamental approach to single security analysis with a reasoned view on global, political and economic events that shapes portfolio construction and drives risk management.

The Investment Manager seeks to take advantage of market and economic dislocations and supplements its analysis with considerations of managing overall exposures across specific asset classes, sectors, and geographies by evaluating sizing, concentration, risk, and beta, among other factors. The resulting portfolio expresses the Investment Manager's best ideas for generating alpha and its tolerance for risk given global market conditions. The Investment Manager is opportunistic and often seeks a catalyst that will unlock value or alter the lens through which the broad market values a particular investment. The Investment Manager applies aspects of this framework to its decision-making process, and this approach informs the timing of each investment and its associated risk.

The Company has substantially all of its holding in the Master Fund in share class N. This share class attracts a management fee of 1.50% and the Company also qualifies for an additional reduction in the management fee applicable to it based on its size and longevity as an investor in the Master Fund. As a result, the Company pays a management fee of 1.25% per annum in share class N.

The Class N share class is subject to a 25% quarterly investor level redemption gate.

The Company will on a periodic basis (at the discretion of the directors of the Company) offer Shareholders who wish to do so the opportunity (by way of tender offer, share buy-back or otherwise) to realise their Ordinary Shares at a price per Ordinary Share as near as possible to their underlying Net Asset Value per Ordinary Share (less related costs) ("Redemption Opportunities"). In order to finance Redemption Opportunities the Company shall, as part of its investment policy, seek to redeem (subject to the quarterly investor level redemption gate and otherwise the constitution of the Master Fund) such numbers of its Class E and Class N Shares in the Master Fund as are necessary.

Any Ordinary Shares bought for the Company's account (e.g. as part of the buyback programme) traded mid-month will be purchased and held by the Master Partnership until the Company is able to cancel the shares following each month-end. Shares cannot be cancelled intra-month because of legal and logistical factors. The Company and the Master Partnership do not intend to hold any shares longer than the minimum required to comply with these factors, expected to be no more than one month."

<p>Yours faithfully</p>  <p>Duly authorised signatory for and on behalf of <b>AVI Global Trust</b></p>	<p>Yours faithfully</p> <p>Duly authorised signatory for and on behalf of <b>Third Point Offshore Independent Voting Company Limited</b></p>
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