

*"Bringing Exchange Traded Commodities to the World's Stock Exchanges"*

## **ETFS Metal Securities Limited**

*(Incorporated and registered in Jersey under the Companies  
(Jersey) Law 1991 (as amended) with registered number 95996)*

### Prospectus for the issue of **ETFS Metal Securities**

comprising:

<b>Individual Securities</b>	<b>LSE Code</b>
ETFS Physical Platinum	PHPT
ETFS Physical Palladium	PHPD
ETFS Physical Silver	PHAG
ETFS Physical Gold	PHAU
ETFS Physical Swiss Gold	SGBS
<b>Basket Securities</b>	<b>LSE Code</b>
ETFS Physical PM Basket	PHPM

Any prospective investor intending to acquire or acquiring any securities from any Authorised Participant or other person (an "**Offeror**") should be aware that, in the context of an offer to the public as defined in section 102B of the Financial Services and Markets Act 2000 ("**FSMA**"), the Issuer may be responsible to the prospective investor for the Prospectus under section 90 of FSMA, only if the Issuer has authorised that Offeror to make the offer to the prospective investor. Each prospective investor should therefore enquire whether the Offeror is so authorised by the Issuer. If the Offeror is not authorised by the Issuer, the prospective investor should check with the Offeror whether anyone is responsible for the Prospectus for the purposes of section 90 of FSMA in the context of the offer to the public, and, if so, who that person is. If the prospective investor is in any doubt about whether it can rely on the Prospectus and/or who is responsible for its contents it should take legal advice.

**A prospective investor intending to acquire or acquiring any Metal Securities from an Offeror will do so, and offers and sales of the Metal Securities to a prospective investor by an Offeror will be made, in accordance with any terms and other arrangements in place between such Offeror and such prospective investor including as to price, allocations and settlement arrangements. The Issuer will not be a party to any such arrangements with prospective investors (other than with Authorised Participants) in connection with the offer or sale of the Metal Securities and, accordingly, this Prospectus does not and any Pricing Supplement will not contain such information and any prospective investor must obtain such information from the Offeror.**

The Issuer currently issues six types of Metal Securities consisting of five classes of Individual Metal Securities and one category of Basket Security. The Individual Securities are designed to track the price of individual metals (being gold, silver, platinum or palladium) and Basket Securities will track the price of baskets of metals (comprising some or all of the metals). The Metal Securities are intended to provide investors with a return equivalent to movements in the spot price less the daily Management Fee.

Each Initial Metal Security is backed by physical metal held in custody by HSBC Bank USA, National Association (acting through its London branch) ("**HSBC Bank USA, N.A.**" or the "**Initial Custodian**") itself or through Zurich Sub-Custodians pursuant to Custodian Agreements between HSBC Bank USA, N.A., the Issuer and the Trustee.

Each Swiss Gold Metal Security is backed by physical metal held in custody by JPMorgan Chase Bank, N.A. ("**JPMorgan Chase**" or the "**Swiss Gold Custodian**") through UBS AG, Zurich as Zurich Sub-Custodian pursuant to Custodian Agreements between JPMorgan Chase, the Issuer and the Trustee.

All metal will be held in allocated form (other than amounts which may be held on a temporary basis in unallocated form to effect creations and redemptions) as Good Delivery bars. The metal will be held and settled in accordance with the standards set down by the LPPM (for platinum and palladium) and the LBMA (for silver and gold).

In respect of the Initial Metal Securities and any Basket Securities to the extent comprised of any Initial Individual Metal Securities, payments for creations and redemptions will be in unallocated form, loco Zurich or loco London for platinum and palladium and loco London for silver and gold.

In respect of the Swiss Gold Metal Securities, payments for creations and redemptions will be in unallocated form, loco Zurich or (subject to a loco swap) loco London.

The Issuer is a special purpose entity owned and administered by ETF Securities Limited.

In order to provide liquidity and ensure minimal tracking error, Metal Securities can be applied for or redeemed at any time by Authorised Participants (with no limits on the Application and Redemption amounts). However, all other investors must buy and sell Metal Securities through trading on the London Stock Exchange (or other exchanges if Metal Securities are listed or traded thereon).

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## ETFS Metal Securities

Terms used in this Prospectus have the meanings given to them under the heading “*Definitions and Interpretation*”.

ETFS Metal Securities Limited (the “**Issuer**”) has established a programme under which Metal Securities, in the form of five classes of Individual Metal Security and one category of Basket Security may be issued from time to time. The Issuer reserves the right to increase the number of Metal Securities that may be issued in any proportions. Whenever any Metal Securities are issued, notice of the number and type of such Metal Securities will be specified in a Pricing Supplement which will be delivered to the UK Listing Authority before such Metal Securities are issued.

The Metal Securities will be constituted by a Trust Instrument entered into between the Issuer and The Law Debenture Trust Corporation p.l.c. (the “**Trustee**”) as trustee for the Security Holders of the Metal Securities of each type. Metal Securities are debt securities which have no specified maturity date and do not bear interest.

The assets of the Issuer relating to each separate class of Individual Securities (and Basket Securities to the extent they comprise Individual Securities of that class) are pooled, so that all assets relating to a particular class of Individual Securities (and Basket Securities to the extent they comprise Individual Securities of that class) are available to secure all liabilities relating to that class. A separate Security Deed applies to each Pool. If the net proceeds from the enforcement of the relevant Secured Property for a Pool are not sufficient to meet all obligations and make all payments then due in respect of that Pool, the obligations of the Issuer will be limited to such net proceeds, and the other assets of the Issuer will not be available to meet any shortfall. The Issuer will not be obliged to make any transfer or payment in excess of such net proceeds and no debt shall be owed by the Issuer in respect of such shortfall.

Under Security Deeds between the Trustee and the Issuer with respect to each Pool, the Issuer has granted to the Trustee, as trustee for the holders of each relevant class of Individual Security (and Basket Securities to the extent they comprise Individual Securities of that class), security over all the assets (including all Bullion) attributable to the relevant Pool held in custody by HSBC Bank USA, N.A. or JPMorgan Chase whether held by them directly or through any Sub-Custodian or Zurich Sub-Custodian.

A copy of this document, which comprises a base prospectus relating to the Metal Securities of each type in compliance with Article 3 of Directive 2003/71/EC and the prospectus rules made under sections 73A and 84 of the Financial Services and Markets Act 2000, has been filed with the FSA and made available to the public for the purposes of section 85 of that Act and in accordance with Article 14 of Directive 2003/71/EC and Rule PR3.2 of those prospectus rules. Metal Securities will be available to be issued on a continuing basis during the period of 12 months from the date of this document.

Application has been made to the UK Listing Authority for all Metal Securities issued within 12 months of the date of this document to be admitted to the Official List and to the London Stock Exchange for all such Metal Securities to be admitted to trading on the Main Market of the London Stock Exchange which is part of its Regulated Market for listed securities and is a regulated market for the purposes of Directive 2004/39/EC (the Markets in Financial Instruments Directive).

Applications for new Metal Securities may only be made by Authorised Participants. Metal Securities may only be redeemed by Authorised Participants (except where there are no Authorised Participants or as otherwise announced by the Issuer). All other investors must buy and sell Metal Securities on the London Stock Exchange (or other exchanges if Metal Securities are listed or traded thereon). The procedures for applying for and redeeming Metal Securities are set out in this document.

The Metal Securities have not been and will not be registered under the United States Securities Act of 1933 (the “**Securities Act**”), as amended, or under the securities laws of any states of the United States. Except in a transaction exempt from the registration requirements of the Securities Act and applicable United States securities laws, the Metal Securities may not be directly or indirectly offered, sold, taken up, delivered or transferred in or into the United States.

A copy of this document has been delivered to the Jersey Registrar of Companies in accordance with Article 5 of the Companies (General Provisions) (Jersey) Order 2002, and he has given, and has not withdrawn, his consent to circulation. The Jersey Financial Services Commission has given, and has not withdrawn, its consent under Article 3 of the Collective Investment Funds (Unclassified Funds)

(Prospectuses) (Jersey) Order 1995 to the marketing of Metal Securities by means of this document. It must be distinctly understood that, in giving these consents, neither the Jersey Registrar of Companies nor the Jersey Financial Services Commission takes any responsibility for the financial soundness of the Issuer or for the correctness of any statements made, or opinions expressed, with regard to it.

The Issuer accepts responsibility for the information contained in this document. To the best of the knowledge and belief of the Issuer, which has taken all reasonable care to ensure that such is the case, the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information.

The previous paragraph should be read in conjunction with the first paragraph on the first page of this Prospectus.

**An investment in Metal Securities involves a degree of risk. In addition to the other information contained in this document, the risk factors set out under the heading “Risk Factors” below should be carefully considered by prospective investors before deciding whether to invest in Metal Securities.**

**Nothing in this document or anything communicated to holders or potential holders of the Metal Securities or other obligations by the Issuer is intended to constitute or should be construed as advice on the merits of the purchase of or subscription for the Metal Securities or the exercise of any rights attached thereto for the purposes of the Jersey Financial Services (Jersey) Law 1998, as amended.**

**It should be remembered that the price of securities can go down as well as up.**

If at any time the Issuer shall be required to prepare a supplementary prospectus pursuant to section 87G of the Financial Services and Markets Act 2000, the Issuer will either prepare and make available an appropriate amendment or supplement to this document which shall constitute a supplementary prospectus as required by section 87G of that Act or prepare and make available a further base prospectus in compliance with Article 3 of Directive 2003/71/EC and the Prospectus Rules.

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## SUMMARY

# ETFS Metal Securities Limited

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## ETFS Metal Securities Prospectus Summary

*This summary should be read as an introduction to the base prospectus of ETFS Metal Securities Limited dated 3 December 2010 (the “Prospectus”) and any decision to invest in the Metal Securities should be based on consideration of the Prospectus as a whole by the investor. Where a claim relating to the information contained in a prospectus is brought before a court, the plaintiff investor might, under the national legislation of the EEA States, have to bear the costs of translating the prospectus before the legal proceedings are initiated. Civil liability attaches to those persons who are responsible for the summary including any translation of the summary, but only if the summary is misleading, inaccurate or inconsistent when read together with the other parts of the prospectus.*

ETFS Metal Securities Limited (the “**Issuer**”) has established a programme under which Metal Securities, in the form of five classes of Individual Securities and one category of Basket Securities, may be issued from time to time. The Initial Metal Securities have been listed on the London Stock Exchange since April 2007 and the Swiss Gold Metal Securities have been listed on the same exchange since December 2009.

Metal Securities have been designed to enable investors to gain exposure to a return from investing in physical Bullion (through Individual Securities) or baskets of physical Bullion (through Basket Securities) without the necessity of trading and storing physical Bullion. Authorised Participants will receive Metal Securities in return for the delivery of physical Bullion to the relevant Custodian. Investors can buy and sell Metal Securities through the trading of securities listed on the London Stock Exchange (and any other exchange to which they may be admitted to trading from time to time).

### **The Precious Metals Market**

The Issuer believes that two factors set precious metals apart from other commodities: precious metals can be stored in a vault at low cost without deteriorating; and, whether as coins or jewellery, precious metals can be used as a store of value.

While silver and gold have a history which is thousands of years old, platinum and palladium have a much shorter history. All four of these precious metals are mined from the ground and can be recycled and their main uses are industrial and in jewellery.

Platinum and palladium are the two most well known metals of the six platinum group metals, which occur together in nature alongside nickel and copper. Platinum and palladium have the greatest economic importance and are found in the largest quantities. Approximately 50 per cent. of platinum and palladium demand comes from autocatalyst manufacturing with demand for both increasing over the past ten years.

Silver is similar to platinum and palladium in that a majority of demand is driven by industrial applications (including photography) while less than one-third of demand is driven by jewellery. Gold is quite different in this respect as only 11 per cent. of gold’s demand is driven by industrial applications while 50 per cent. is driven by jewellery. Due to the rapid growth in catalytic converters, demand for platinum and palladium has grown faster than silver and gold over the past ten years.

The main centres of the OTC physical metals market are London, Zurich, New York and Hong Kong. Central banks, producers and consumers of precious metals, together with investors and speculators, tend to transact their business through one of these market centres. Participants in other centres such as Dubai and several cities in the Far East also transact substantial OTC market business, typically involving jewellery and small bars (1 kilogram or less), and will hedge their exposure into one of the main centres.

Clearing in the physical precious metals market is primarily centred in Zurich (and London as of September 2009) for platinum and palladium, and in London for silver and gold. There are two trade associations which act as the coordinator for activities conducted in these markets — the London Platinum and Palladium Market (LPPM) and the London Bullion Market Association (LBMA). The roles

of both these associations include maintaining a "Good Delivery" list and ensuring that the physical bars meet the minimum standard of quality, coordinating market clearing and vaulting, promoting good trading practices and developing standard documentation.

### **Metal Securities**

A Metal Security is an undated secured limited recourse debt obligation of the Issuer, which entitles a Security Holder (provided it is an Authorised Participant or in certain other limited circumstances) to require the redemption of the security and on the Settlement Date receive an amount of Bullion equal to the Metal Entitlement on that date. A Security Holder who is not an Authorised Participant may only require the redemption of a Metal Security if on any given Business Day there is no Authorised Participant, in which case the Security Holder will be paid the proceeds of sale of the Metal Entitlement in US dollars rather than in Bullion.

Six types of Metal Security will be issued under this Programme — ETFS Physical Platinum Securities, ETFS Physical Palladium Securities, ETFS Physical Silver Securities, ETFS Physical Gold Securities, ETFS Physical Swiss Gold Securities and ETFS Physical PM Basket Securities — and each will be backed by physical Bullion in a vault i.e. each Metal Security will be secured by "allocated" Bullion which complies with the "Good Delivery" standard set by the Relevant Association.

There is a separate Metal Entitlement for each class of Individual Security.

As at 24 April 2007 (being the day dealings in the Initial Metal Securities first commenced on the London Stock Exchange), the Metal Entitlement for each class of Initial Metal Security was fixed at 0.10 troy oz platinum, 0.10 troy oz palladium, 1.00 troy oz silver and 0.10 fine troy oz gold and as at 16 December 2009 (being the day dealings in the ETFS Physical Swiss Gold Securities first commenced on the London Stock Exchange), the Metal Entitlement for ETFS Physical Swiss Gold Securities was 0.10 fine troy oz gold.

Thereafter, the Metal Entitlement is reduced daily by the Management Fee. As at 30 November 2010, the Metal Entitlement for each class of Individual Security was 0.098252501 troy oz platinum, 0.098252501 troy oz palladium, 0.982524963 troy oz silver, 0.098607330 fine troy oz gold for the ETFS Physical Gold Securities and 0.0996324 fine troy oz gold for the ETFS Physical Swiss Gold Securities. The Metal Entitlement of the Basket Securities is the aggregate of the Metal Entitlements of the Individual Securities of which they are comprised. Whenever new securities are issued or existing securities redeemed, this will be done at the then prevailing Metal Entitlement, thereby ensuring that all securities of the same type have the same Metal Entitlement and are fully fungible.

### **Custody and the Secured Metal**

Platinum and Palladium on which Metal Securities will be secured will be held by the Initial Custodian at its London vault premises or, in the case of some or all of the platinum and palladium, by one or more by Initial Zurich Sub-Custodians at their Zurich vault premises. Silver and gold (other than gold attributable to the ETFS Physical Swiss Gold Securities) will be held by the Initial Custodian at its London vault premises. Gold attributable to ETFS Physical Swiss Gold Securities will be held in Switzerland by the Swiss Gold Custodian through the Swiss Gold Zurich Sub-Custodian at its Zurich vault premises.

Such Bullion may be held elsewhere by the relevant Custodian, or a Sub-Custodian appointed by the relevant Custodian or by a delegate of a Sub-Custodian on a temporary basis prior to Bullion being transported to such vault premises or as part of a creation or redemption process. The relevant Custodian will be responsible for the transportation, handling and any costs associated with moving Bullion to or from its London vault premises or the Zurich vault premises of the Zurich Sub-Custodian and between any vaults of Sub-Custodians.

HSBC Bank USA, N.A., the London branch of which is regulated by the Financial Services Authority and which is an indirect wholly-owned subsidiary of HSBC Holdings plc, is the Custodian of the Bullion held in the Secured Metal Accounts and Subscription Unallocated Account in relation to Initial Metal Securities.

JPMorgan Chase Bank, N.A., the London branch of which is regulated by the Financial Services Authority and which is a subsidiary of JPMorgan Chase & Co., has been appointed the custodian of the Bullion held in the Secured Metal Accounts and Subscription Unallocated Accounts in relation to the Swiss Gold Metal Securities.

All Bullion held in the Secured Metal Accounts will be the subject of a fixed charge in favour of the Trustee under the applicable Security Deed to secure the obligations owed by the Issuer to the Trustee and the



Security Holders in respect of Metal Securities of the relevant class. Bullion in the Secured Metal Accounts will be held in allocated form — meaning unencumbered uniquely identifiable whole Good Delivery bars — except to the extent an amount cannot be held as a whole bar or as part of a creation or redemption process.

### **Applications and Redemptions**

Metal Securities can be issued or redeemed at any time by Authorised Participants in exchange for Bullion, subject to conditions. The issue and redemption process is intended to ensure that Metal Securities have sufficient liquidity and that the price at which they trade on the London Stock Exchange tracks (subject to the deduction of fees) the relevant Bullion price. Applications and Redemptions for Metal Securities can only be made by an Authorised Participant — all other persons must buy and sell Metal Securities through trading on the London Stock Exchange (or any other exchange to which Metal Securities may be admitted to trading).

A Metal Security will only be issued upon receipt of a valid Application Form and after the Bullion has been transferred into the Secured Metal Accounts. A Metal Security will only be cancelled upon receipt of a valid Redemption Form and the delivery of the relevant Metal Securities to the Registrar on the Settlement Date, whereupon the Bullion will be transferred out of the Secured Metal Accounts.

### **Security Structure**

The Issuer has been established as an “umbrella” or “multi-class” company with separate Pools of assets so that the Issuer can issue separate types of securities, based on different types of Bullion or combinations of types of Bullion or having some other different characteristics, but on terms that each such separate class of securities would have recourse only to the Pool attributable to that class and not to the assets attributable to any other class. The assets and liabilities attributable to each class of Individual Security (and the Basket Securities to the extent they comprise such Individual Securities) will represent the Pool for that class.

Thus there are five separate Pools applicable to Metal Securities. A single Pool secures all Individual Securities of a single class and all Basket Securities to the extent they comprise such Individual Securities.

The Metal Securities are constituted by a Trust Instrument entered into between the Issuer and The Law Debenture Trust Corporation p.l.c. as trustee for the Security Holders of each type. The Trustee holds all rights and entitlements under the Trust Instrument on trust for the Security Holders. In addition, the Issuer and the Trustee have entered into a separate Security Deed in respect of each Pool. The rights and entitlements held by the Trustee under each Security Deed are held by the Trustee on trust for the Security Holders.

### **Administration**

The parent of the Issuer, ETFSL, will supply, or arrange the supply of, all management and administration services to the Issuer and will pay all the management and administration costs of the Issuer, including the fees of the Trustee and the Custodian, in return for which the Issuer will pay ETFSL a Management Fee. The Management Fee will vary with the type of Bullion and will range from 0.39 per cent. to 0.49 per cent. per annum and will be deducted daily from the Metal Entitlement. At the end of each month, an amount of Bullion equivalent to the cumulative daily Management Fee for that month will be transferred from the Secured Metal Accounts.

### **Investment Considerations and Risk Factors**

Past performance is not an indication of expected performance and the investment performance of Metal Securities could be volatile.

An investment in Metal Securities involves a significant degree of risk. The following are just some of the risk factors which should be carefully considered by prospective investors before deciding whether to invest in Metal Securities:

- Bullion prices, and therefore the value of Metal Securities, may fluctuate widely. As Metal Securities are priced in US dollars their value in other currencies will also be affected by exchange rate movements.
- Bullion markets have the potential to suffer from market disruption or volatility caused by shortages of physical Bullion. Such events could result in a spike in Bullion prices. Price spiking can also



result in volatile forward rates and lease rates which could result in the bid-offer spread on any exchange where Metal Securities are traded to widen, reflecting short-term forward rates in the relevant Bullion.

- At any time, the price at which the Metal Securities trade on the London Stock Exchange (or any other exchange to which they may be admitted to trading from time to time) may not reflect accurately the price of Bullion represented by such Metal Securities.
- Access to the vault premises of the Custodian or a Zurich Sub-Custodian could be restricted by natural events, such as flooding, or human actions, such as a terrorist attack. The Custodian has no obligation to insure the Bullion held in the Secured Metal Accounts against loss, theft or damage and the Issuer does not intend to insure against such risks. Accordingly, there is a risk that the Secured Property could be lost, stolen or damaged and the Issuer would not be able to satisfy its obligations in respect of the Metal Securities.
- Investors are dependent on there being Authorised Participants making a market in Metal Securities in order to minimise tracking error and to provide investors with liquidity.
- There are certain circumstances in which an early redemption of Metal Securities may be imposed on investors, which may result in an investment in Metal Securities being redeemed earlier than desired.

See “Risk Factors” in the Prospectus.

## RISK FACTORS

*An investment in Metal Securities involves a significant degree of risk. Prior to making an investment decision, prospective investors should carefully read the entire Prospectus. In addition to the other information contained in this document, the following material risk factors should be carefully considered by prospective investors before deciding whether to invest in Metal Securities. These statements of risk are not intended to be exhaustive.*

*Prospective Security Holders should obtain their own independent accounting, tax and legal advice and should consult their own professional investment advisers to ascertain the suitability of Metal Securities as an investment, and should conduct such independent investigation and analysis regarding the risks, security arrangements, delivery processes and cash-flows associated with Metal Securities as they deem appropriate, in order to evaluate the merits and risks of an investment in Metal Securities.*

### **Bullion Prices**

Bullion prices generally may fluctuate widely and may be affected by numerous factors, including:

- global or regional political, economic or financial events and situations, particularly war, terrorism, expropriation and other activities which might lead to disruptions to supply from countries that are major Bullion producers;
- global metal supply and demand, which is influenced by such factors as exploration success, mine production and net forward selling activities by metal producers, jewellery demand, investment demand and industrial demand, net of any recycling;
- financial activities including investment trading, hedging or other activities conducted by large trading houses, producers, users, hedge funds, commodities funds, governments or other speculators which could impact global supply or demand; and
- financial market factors such as investors' expectations with respect to the future rates of inflation, movements in world equity, financial and property markets, interest rates and currency exchange rates, particularly the strength of and confidence in the US dollar.

### **Shortage of Physical Bullion**

Bullion markets, particularly in platinum and palladium, have the potential to suffer from market disruption or volatility caused by shortages of physical Bullion. Such events could result in a spike in Bullion prices. Price spiking can also result in volatile forward rates and lease rates which could result in the bid-offer spread on any stock exchange or market where Metal Securities are traded to widen, reflecting short-term forward rates in the relevant Bullion.

### **Currency**

Bullion prices are generally quoted in US dollars and the price of Metal Securities will be quoted on the London Stock Exchange in US dollars. To the extent that a Security Holder values Metal Securities in another currency, that value will be affected by changes in the exchange rate between the US dollar and that other currency.

### **Tracking Error and Liquidity Risk**

At any time, the price at which Metal Securities trade on the London Stock Exchange (or any other exchange or market on which they may be quoted or traded) may not reflect accurately the price of Bullion represented by such Metal Securities. The application and redemption procedures for Metal Securities and the role of certain Authorised Participants as market-makers are intended to minimise this potential difference or "tracking error". However, the market price of Metal Securities will be a function of supply and demand amongst investors wishing to buy and sell Metal Securities and the bid-offer spread that market-makers are willing to quote for Metal Securities. In addition, if new demand for Metal Securities exceeds the availability of the physical Bullion required to create such new Metal Securities, then the issue of new Metal Securities will be restricted and therefore Metal Securities may trade at a premium. Investors who pay a premium risk losing the premium if demand for Metal Securities abates or when new Metal Securities are issued. Investors are dependent on there being Authorised Participants making a market in Metal Securities in order to minimise tracking error and to provide investors with liquidity.

There can be no assurance as to the depth of the secondary market (if any) in Metal Securities, which

could affect their liquidity and market price.

### **Custody and Insurance**

In respect of Bullion attributable to the Initial Metal Securities or any other Basket Securities to the extent comprised of any Initial Individual Metal Securities, platinum and palladium will be held by the Initial Custodian at its London vault premises or, in the case of some or all of the platinum and palladium, by one or more by Initial Zurich Sub-Custodians at their Zurich vault premises. Silver and gold (other than gold attributable to ETFs Physical Swiss Gold Securities) will be held by the Initial Custodian at its London vault premises.

Gold attributable to the ETFs Physical Swiss Gold Securities will be held in Switzerland by the Swiss Gold Custodian through the Swiss Gold Zurich Sub-Custodian at its Zurich vault premises.

Such Bullion may be held elsewhere by the relevant Custodian or a Sub-Custodian appointed by the relevant Custodian or by a delegate of a Sub-Custodian on a temporary basis prior to Bullion being transported to such vault premises or as part of a creation or redemption process. Access to such Bullion could be restricted by natural events, such as flooding, or human actions, such as terrorist attack.

The Custodians may make such insurance arrangements in connection with their custodial obligations with respect to Bullion in allocated form as they consider fit. The Custodians have no obligation to insure such Bullion against loss, theft or damage and the Issuer does not intend to insure against such risks. In addition, the Trustee is not responsible for ensuring that adequate insurance arrangements have been made, or for insuring the Bullion held in the Secured Metal Accounts, and shall not be required to make any enquiry regarding such matters. Furthermore, neither the Issuer nor the Trustee will require any Zurich Sub-Custodian or any other direct or indirect sub-custodians to be insured or bonded with respect to their custodial activities or in respect of the Bullion held by them pursuant to the Custodian Agreements.

Accordingly, there is a risk that the Bullion could be lost, stolen or damaged and the Issuer would not be able to satisfy its obligations in respect of the Metal Securities.

The Custodian Agreements provide that, other than the Custodian's obligations to make commercially reasonable efforts to obtain delivery of Bullion from its Sub-Custodians, the Custodians have no responsibility for any action of any Sub-Custodians (unless the appointment of the relevant Sub-Custodian was made negligently or in bad faith), other than the Zurich Sub-Custodians. The Trustee has no direct relationship with any of the Sub-Custodians other than the Zurich Sub-Custodians. The Trustee's relationship with the Zurich Sub-Custodians is limited to its receipt of confirmation from the Zurich Sub-Custodians that Bullion will be segregated from Bullion owned by the Zurich Sub-Custodian or held for others and segregated from Bullion held for the Custodians and any other customers of the Custodians and make appropriate entries in its books and records. Accordingly, the Trustee has no contractual rights to direct any Sub-Custodian or any Zurich Sub-Custodian. Its only contractual rights are, in certain circumstances, to direct the Custodian.

Under the Custodian Agreements, the Custodians are only liable for losses that are the direct result of their own negligence, fraud or wilful default in the performance of their duties and then only up to the market value of the Bullion lost or damaged at the time such negligence, fraud or wilful default is discovered by the relevant Custodian. In addition, the Custodians are not liable for any delay in performance or any non-performance of any of their obligations under the Custodian Agreements by reason of any cause beyond their reasonable control, including breakdown, malfunction or failure of transmission, communication or computer facilities. If any Bullion forming part of the Secured Property attributable to any Metal Securities is lost, damaged, stolen or destroyed under circumstances rendering a party liable to the Issuer and/or the Trustee, the responsible party may not have the financial resources (including liability insurance coverage) sufficient to satisfy the claim or may not readily be identifiable.

The ability of the Issuer and the Trustee to monitor the performance of the Custodian may be limited because under the Custodian Agreements, the Trustee and the Issuer have only limited rights to visit the premises of the Custodian or the Zurich Sub-Custodian for the purpose of examining the Bullion and certain related records maintained by the Custodian or Zurich Sub-Custodian.

No investigation has been made as to the effectiveness of the security granted to the Trustee over the Bullion as against any Sub-Custodian or any Zurich Sub-Custodian.

The Initial Custodian is entitled to terminate the relevant Custodian Agreements and the Initial Metal Sale Counterparty Agreement after a fixed term of five years from 18 April 2007 or, in certain circumstances upon 90 days written notice during such term. The Swiss Gold Custodian is entitled to terminate the

relevant Custodian Agreements and the Swiss Gold Metal Sale Counterparty Agreement after a fixed term of five years from 11 December 2009 (or, in certain circumstances, immediately upon written notice during such fixed term), in either case upon 90 days' written notice (see paragraph 10 (*Termination*) of Part 7 (*Description of Custodian Agreements*)).

The Custodians are each regulated in the UK by the Financial Services Authority, but the custodial services provided by the Custodians and any Sub-Custodian under the Custodian Agreements are presently not a regulated activity subject to the supervision and rules of the FSA.

Further details regarding the custody of Bullion are set out in Part 3 (*Description of Metal Securities*).

#### **Settlement of Platinum and Palladium**

The Initial Custodian is not a clearing bank for platinum and palladium and will be reliant on its Zurich clearing bank (currently UBS AG) to credit its own account at that bank in order to effect creations and redemptions of Metal Securities involving platinum or palladium. Particularly in the case of redemptions, it may take longer than three Business Days for platinum or palladium to be credited to such account and if so the Settlement Date will be delayed.

#### **Settlement of Swiss Gold**

The Swiss Gold Custodian is not a clearing bank for gold, loco Zurich, and will be reliant on its Zurich clearing bank (currently UBS AG) to credit its own account at that bank to effect creations and redemptions of Swiss Gold Metal Securities.

In respect of the Swiss Gold Metal Securities, where an Authorised Participant elects for redemption to be effected loco London, it may take longer than three Business Days for gold to be credited to the relevant account and if so the Settlement Date will be delayed.

#### **VAT**

Platinum, palladium and silver are subject to 17.5 per cent. VAT (rising to 20 per cent. VAT from 4 January 2011) when imported into the United Kingdom (except those arrivals from within the EU which are not subject to such import VAT). The VAT can be reclaimed as long as the importer is a member of the LBMA (in the case of silver) and the LPPM (in the case of platinum and palladium) and the metals are kept within the London "black box" clearing system. Investment gold is zero rated.

The Initial Custodian is a member of both the LBMA and the LPPM and the Swiss Gold Custodian is a member of the LBMA and thus any VAT charged to the Custodian under the Programme is reclaimable. The processes designed by the Custodians for the benefit of the Issuer means that Metal Securities should not accrue any future irrecoverable VAT charges, although if the rules for irrecoverable VAT or importation were changed, it is possible that Metal Securities could be liable for VAT when the Bullion is imported into the UK. However, even under the current rules, if upon redemption the Security Holder requires physical delivery outside of the black box system then they will be liable for VAT.

In respect of metals coming in from outside the EU, they can be brought straight into the bonded warehouse which will mean that as they are not in free circulation no import VAT charge arises. They can be traded whilst remaining in bond, without a VAT charge arising. Storage charges for metals in bond do not attract a VAT charge, whereas storage charges for metals that are outside the bond but fall within the reliefs of the London "black box" clearing system are subject to VAT.

Under the Custodian Agreements, all VAT is for the account of the Custodian.

#### **Limited Operating History and Management Experience**

The Issuer is a company incorporated on 22 February 2007, and has a limited trading record. The directors and management of ETFSL and the Issuer have had experience in establishing and operating companies providing similar types of exchange-traded products since December 2003, including ETFS Oil Securities Limited, ETFS Commodity Securities Limited, ETFS Foreign Exchange Limited and Gold Bullion Securities Limited and through a US subsidiary, certain exchange traded products offering exposure to precious metals in the United States. If it transpires that the experience of ETFSL, the Issuer and their respective management is neither adequate nor suitable to manage the Issuer, then the operations of the Issuer may be adversely affected.

### **Only Authorised Participants May Apply for or Redeem Metal Securities**

Only Authorised Participants may deal with the Issuer in applying for or redeeming Metal Securities, save in relation to redemptions where at any time there are no Authorised Participants or in certain other limited circumstances as announced by the Issuer. The Issuer has agreed to use reasonable endeavours to ensure that at all times there are at least two Authorised Participants. There can, however, be no assurance that there will at all times be an Authorised Participant to deal with the Issuer in applying for or redeeming Metal Securities.

### **Early Redemption of Metal Securities**

The Issuer may, at any time, upon not less than 30 days' notice by RIS announcement to the Security Holders, redeem all Metal Securities of a particular type. The Trustee may, at any time, where an Issuer Insolvency Event has occurred and is continuing, upon not less than two Business Days' notice, give notice to the Issuer and by RIS announcement to the Security Holders that all the Metal Securities outstanding are to be redeemed.

The Issuer may, at any time by not less than seven nor more than fourteen days' written notice, redeem any Metal Securities held by Prohibited US Persons or Prohibited Benefit Plan Investors or other Security Holders who have not provided appropriate certifications as to their status in accordance with the Conditions or in certain other circumstances specified in the Conditions.

The Initial Custodian has only agreed to act as custodian in relation to the Initial Metal Securities for a fixed term of five years from 18 April 2007. If the Initial Custodian does not agree to act as custodian beyond such date, then unless the Issuer is able to find a suitable replacement custodian, the Issuer will elect to redeem the outstanding Initial Metal Securities. In addition the Initial Metal Sale Counterparty Agreement will terminate automatically if the Initial Secured Unallocated Account Agreement is terminated. In the event that the Initial Metal Sale Counterparty Agreement is to be terminated and no replacement Initial Metal Sale Counterparty Agreement is entered into, the Issuer will elect to redeem the outstanding Initial Metal Securities.

The Swiss Gold Custodian has only agreed to act as custodian in relation to the Swiss Gold Metal Securities for a fixed term of five years from 11 December 2009. If the Swiss Gold Custodian does not agree to act as such custodian beyond such date, then unless the Issuer is able to find a suitable replacement custodian, the Issuer will elect to redeem the outstanding Swiss Gold Metal Securities. In addition the Swiss Gold Metal Sale Counterparty Agreement will terminate automatically if the Swiss Gold Secured Unallocated Account Agreement is terminated. In the event that the Swiss Gold Metal Sale Counterparty Agreement is to be terminated and no replacement Swiss Gold Metal Sale Counterparty Agreement is entered into, the Issuer will elect to redeem the outstanding Swiss Gold Metal Securities.

Consequently, an investment in Metal Securities may be redeemed earlier than desired by a Security Holder.

### **General Market Risk**

General movements in local and international markets and factors that affect the investment climate and investor sentiment could all affect the level of trading and, therefore, the market price of Metal Securities. These risks are generally applicable to any investment in listed securities. Investors should be aware that Metal Securities can go down in price as well as up and investors may lose the value of all or part of their investment.

### **No Recourse Except to the Issuer and the Secured Property**

The Issuer is a special purpose company established for the purpose of issuing exchange traded commodities (ETCs) as asset backed securities. If the net proceeds from the enforcement of the Secured Property in respect of a particular Pool, following enforcement of the Security Deed applicable to that Pool, are not sufficient to meet all obligations and make all payments then due in respect of the Individual Securities of that class (and the Basket Securities to the extent they comprise Individual Securities of that class), the obligations of the Issuer in respect of such Individual Securities of that class (and Basket Securities to the extent they comprise Individual Securities of that class) will be limited to the net proceeds of realisation of that Secured Property. In such circumstances the assets (if any) of the Issuer other than those attributable to the relevant Pool will not be available to meet any shortfall, the rights of the relevant Security Holders to receive any further amounts in respect of such obligations shall be extinguished and none of the Security Holders or the Trustee may take any further action to recover such amounts.

Any claims made against the Issuer will be satisfied in order of the priority of payments in accordance with the Trust Instrument, further details of which are set out in Condition 12 (*Application of Moneys*) in Part 5 (*Trust Instrument and the Conditions*).

### **No Representation**

None of the Issuer, the Authorised Participants, or the Custodian makes any representations as to (i) the suitability of any Metal Securities for any particular investor; (ii) the appropriate accounting treatment or possible tax consequences of an investment in any Metal Securities; or (iii) the expected performance of any Metal Securities, either in absolute terms or relative to competing investments.

### **Limited Enforcement Rights**

The Trustee may enforce the Security at its discretion but is only required to enforce the Security on behalf of a Security Holder if it is directed to do so:

- (a) by a Security Holder to whom a Defaulted Obligation is owed; or
- (b) if an Issuer Insolvency Event has occurred and is continuing, (i) in writing by Security Holders holding not less than 25 per cent. by Principal Amount (as at the date of the last signature) of the Metal Securities (as a whole) then outstanding, or (ii) by an Extraordinary Resolution,

in each case provided that the Trustee is indemnified and/or secured and/or funded to its satisfaction.

### **Administration and Winding-Up Proceedings in England and stays**

Under Section 426 of the Insolvency Act 1986, the English Courts may, if requested by a Court in a “relevant country or territory” (including Jersey), make an administration or winding up order in respect of a foreign company, such as the Issuer.

Furthermore, under the European Insolvency Regulations (No.1346/2000)(“**EIR**”) main insolvency proceedings (including administration and liquidation) can be opened if the centre of main interests of the Issuer is considered to be in England, or winding up proceedings (liquidation) may be opened if the Issuer has an establishment (as defined in the EIR) in England.

If the Issuer were placed in administration in England, the effect would be that during the period of administration, the affairs, business and property of the Issuer would be managed by a person known as an administrator.

During the period beginning with making an application for an administration order and ending with the making of such an order or the dismissal of the application, no steps could be taken to enforce the Security except with the leave of the Court and subject to such terms as the Court may impose.

In the case of administration, while the Issuer remained in administration no steps could be taken to enforce the Security, except with the consent of the administrator or the leave of the Court and subject to such terms as the Court might impose. It is also open to the administrator to apply to the Court to sell property subject to the Security free from the Security. The administrator must however account to the Trustee and the Security Holders for the proceeds of sale.

Under the Cross-Border Insolvency Regulations 2006 a foreign insolvency representative, in this case the insolvency representative of the Issuer in Jersey, may apply to the English Courts, inter alia, to commence insolvency proceedings under English law (which could include administration) or to have the English Courts recognise a foreign insolvency proceeding, or to have the English Courts grant a stay of any enforcement of any security. If any such application were made, it could affect the ability of the Trustee to enforce the Security.

If the Issuer were placed in liquidation in England, the Security could be enforced by the Trustee on behalf of the Security Holders.

### **Trustee’s scope of responsibilities**

The Trustee may rely on any information, certificates and/or instructions received from the Issuer and/or the Registrar in relation to Metal Securities, the Secured Property and the Management Fee, and shall not be responsible for making any investigation or verification of the same. The Trustee shall have no liability for any failure of the Issuer or any Authorised Participant or the Custodian. The Trust Instrument and the Security Deed provide various exclusions of liability for the Trustee, including that it is not obliged to monitor the performance of the Issuer, any Authorised Participant or the Custodian or the solvency of

the Custodian, and may assume that they are performing their obligations in accordance with the Documents.

**Regulatory Risk**

The Issuer may be required by the rules of an exchange (other than the London Stock Exchange) to which the Metal Securities are admitted to trading to have a minimum number of market makers. If a market maker ceases to act as market maker and a replacement cannot be found and as a result the Issuer cannot meet the minimum requirement, the relevant exchange may require the Metal Securities to cease trading.



## DEFINITIONS AND INTERPRETATION

The following definitions apply throughout this Prospectus (including the Conditions) unless the context otherwise requires:

<b>“Affiliate”</b>	means, in relation to any person, any entity controlled, directly or indirectly, by that person, any entity that controls, directly or indirectly, that person, or any entity directly or indirectly under common control with that person; and for this purpose, “control” of any entity or person means ownership of a majority of the voting power of the entity or person
<b>“Applicant”</b>	means an Authorised Participant who makes an Application for Metal Securities
<b>“Application”</b>	means an offer by an Authorised Participant to the Issuer to subscribe for Metal Securities, being an offer on terms referred to in an Application Form and this document and in accordance with the provisions of the relevant Authorised Participant Agreement
<b>“Application Date”</b>	means the Business Day on which a valid Application Form is lodged with (or deemed to be lodged with) the Registrar in accordance with the relevant Authorised Participant Agreement
<b>“Application Fee”</b>	means the fee payable by an Authorised Participant to the Issuer on Application for Metal Securities
<b>“Application Form”</b>	means an application form used in connection with the Programme
<b>“Authorised Participant”</b>	means a person which has entered into an Authorised Participant Agreement with the Issuer in relation to Metal Securities and which (a) is a securities house or other market professional approved by the Issuer (in its absolute discretion); (b) is an Authorised Person, an Exempt Person or an Overseas Person; and (c) is not a UCITS Fund
<b>“Authorised Participant Agreement”</b>	means a written agreement between the Issuer and another person under which such person is appointed to act as an “Authorised Participant”, distribution agent or in a substantially similar function in relation to Metal Securities and if such agreement is subject to conditions precedent, provided that such conditions have been satisfied
<b>“Authorised Person”</b>	means a person authorised for the purposes of FSMA
<b>“Basket Securities”</b>	means the Initial Basket Security and any other category of Basket Securities that may be so created and constituted from time to time
<b>“Board”</b>	means the board of directors of the Issuer
<b>“Bullion”</b>	means any and all of platinum, palladium, silver and gold
<b>“Business Day”</b>	means: <ul style="list-style-type: none"><li>(a) in relation to any or all of ETFS Physical Platinum Securities, ETFS Physical Palladium Securities and ETFS Physical PM Basket Securities (and any other Basket Security comprised, <i>inter alia</i>, of ETFS Physical Platinum Securities or ETFS Physical Palladium Securities) and any Bullion forming part of the Secured Property in respect thereof, a day which is both a London Business Day and a Zurich Business Day;</li><li>(b) in relation to ETFS Physical Silver Securities and ETFS Physical Gold Securities (and any Basket Security comprised only of ETFS Physical Silver Securities and ETFS Physical Gold Securities) and any Bullion forming part of the Secured Property in respect thereof, a London Business Day; and</li><li>(c) in relation to ETFS Physical Swiss Gold Securities and any</li></ul>

	Bullion forming part of the Secured Property in respect thereof, a day which is both a London Business Day and a Zurich Business Day
<b>“category”</b>	means in relation to Basket Securities, the type of Basket Security determined by the mix of different classes of Individual Securities comprised in the Basket Security
<b>“Certificated” or “Certificated Form”</b>	means not in Uncertificated Form
<b>“class”</b>	means a class of Individual Securities under which the Issuer’s obligations to make payment and/or deliver Bullion are determined by reference to a particular metal
<b>“comprised in” and “compromised of”</b>	in relation to a Basket Security means the Individual Securities by reference to which the Metal Entitlement of that Basket Security is calculated and for which a Basket Security (when in Certificated Form) may be surrendered in accordance with the provisions of the Trust Instrument and <b>“comprise”</b> and <b>“comprised”</b> shall be construed accordingly
<b>“Conditions”</b>	means the terms and conditions on and subject to which Metal Securities are issued in the form set out in the Trust Instrument and as set out in Part 5 ( <i>Trust Instrument and the Conditions</i> )
<b>“Controller”</b>	means, in relation to any company, a person who: <ul style="list-style-type: none"> <li>(a) holds 10 per cent. or more of the shares in such company;</li> <li>(b) is able to exercise significant influence over the management of such company by virtue of his shareholdings in such company;</li> <li>(c) holds 10 per cent. or more of the shares in a parent undertaking of such company;</li> <li>(d) is able to exercise significant influence over the management of the parent undertaking of such company;</li> <li>(e) is entitled to exercise, or control the exercise of, 10 per cent. or more of the voting power in such company;</li> <li>(f) is able to exercise significant influence over the management of such company by virtue of his voting power in such company;</li> <li>(g) is entitled to exercise, or control the exercise of, 10 per cent. or more of the voting power in the parent undertaking of such company; or</li> <li>(h) is able to exercise significant influence over the management of the parent undertaking of such company by virtue of his voting rights</li> </ul>
<b>“CREST”</b>	means the system of paperless settlement trades and the holding of Uncertificated securities administered by Euroclear UK & Ireland Limited
<b>“Custodian”</b>	each of the Initial Custodian and the Swiss Gold Custodian, and: <ul style="list-style-type: none"> <li>(a) in relation to Initial Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Initial Custodian; and</li> <li>(b) in relation to Swiss Gold Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Swiss Gold Custodian</li> </ul>

<b>“Custodian Agreements”</b>	means the Initial Custodian Agreements and the Swiss Gold Custodian Agreements, and: <ul style="list-style-type: none"> <li>(a) in relation to Initial Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Initial Custodian Agreements, and</li> <li>(b) in relation to Swiss Gold Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Swiss Gold Custodian Agreements</li> </ul>
<b>“Defaulted Obligation”</b>	means the failure of the Issuer to make or procure any payment of cash or delivery of Bullion in respect of the redemption of any Metal Securities when due, and such failure is not remedied within 48 hours of receipt of notice requiring remedy of the same
<b>“Directors”</b>	means the directors of the Issuer, being at the date of this document the persons whose names are listed as such under the heading “Directors, Secretary and Advisers” below
<b>“Documents”</b>	means the Trust Instrument, the Security Deeds, the Custodian Agreements, the Metal Sale Counterparty Agreements, all Authorised Participant Agreements, the Service Agreement and the Registrar Agreement
<b>“Domestic Market”</b>	means the main market of the London Stock Exchange
<b>“EEA State”</b>	means a member of the European Economic Area
<b>“ETFSL”</b>	means ETF Securities Limited, a company incorporated and registered in Jersey, with registered number 88370
<b>“EU”</b>	means the European Union
<b>“Euro” or “€”</b>	means euro
<b>“Exempt Person”</b>	means a person who, in entering into and performing the terms of an Authorised Participant Agreement, is acting in the course of a business comprising a regulated activity in relation to which it is exempt from the need to be an Authorised Person as a result of a provision of the FSMA or associated secondary legislation
<b>“Extraordinary Resolution”</b>	means in respect of a particular type or particular types taken together of Metal Securities either (a) a resolution passed at a duly convened meeting of the holders of Metal Securities of such type or types by a majority consisting of the holders of not less than 75 per cent. by Principal Amount of such type or types of Metal Securities voting on such resolution or (b) a resolution in writing of holders of such type or types of Metal Securities holding not less than 75 per cent. by Principal Amount of such type or types of Metal Securities, and in the cases of (a) and (b) where so provided for in the Trust Instrument or the Conditions, holders of Basket Securities may for these purposes be treated as holders of the relevant class or classes of Individual Securities
<b>“Fixing”</b>	means in relation to each type of Bullion on any day on which the Relevant Market is open for business, the price fixing process or processes conducted under the rules and procedures of the Relevant Association to determine a price for that type of Bullion on that day at that Fixing
<b>“Fixing Price”</b>	means in relation to any Fixing for any type of Bullion, the price determined by the Fixing
<b>“FSA”</b>	means the Financial Services Authority of the United Kingdom
<b>“FSA Glossary”</b>	means the glossary giving the meaning of the defined expressions used in the FSA Handbook

<b>“FSA Handbook”</b>	means the FSA’s Handbook of Rules and Guidance (as amended)
<b>“FSMA”</b>	means the Financial Services and Markets Act 2000 (as amended)
<b>“Good Delivery”</b>	means the refining standard and weights of Bullion set by the Relevant Association
<b>“Individual Securities”</b>	means together Platinum class undated limited recourse secured debt securities of US\$20.00 in principal amount each, Palladium class undated limited recourse secured debt securities of US\$5.00 in principal amount each, Silver class undated limited recourse secured debt securities of US\$2.00 in principal amount each, Gold class undated limited recourse secured debt securities of US\$10.00 in principal amount each and Swiss Gold class undated limited recourse secured debt securities of US\$10.00 in principal amount each, in each case of the Issuer, created pursuant to and constituted by the Trust Instrument and recorded on the relevant Register of Individual Securities, and any other class of Individual Securities that may be so created and constituted from time to time, and <b>“ETFS Physical Platinum Securities”, “ETFS Physical Palladium Securities”, “ETFS Physical Silver Securities”, “ETFS Physical Gold Securities”</b> and <b>“ETFS Physical Swiss Gold Securities”</b> shall be construed accordingly
<b>“Initial Basket Securities”</b>	means the PM category undated limited recourse secured debt securities of US\$9.40 in principal amount each of the Issuer, created pursuant to and constituted by the Trust Instrument and recorded on the relevant Register of Basket Securities, and <b>“ETFS Physical PM Basket Securities”</b> shall be construed accordingly
<b>“Initial Custodian”</b>	means HSBC Bank USA, N.A., a national association incorporated in the State of Delaware, United States of America, acting through its London branch, whose principal place of business in England is at 8 Canada Square, London, E14 5HQ and a wholly-owned subsidiary of HSBC Holdings p.l.c. or such other person or persons (being a member of each Relevant Association) who provides custody and transfer facilities from time to time pursuant to the Initial Custodian Agreements
<b>“Initial Custodian Agreements”</b>	means the Initial Secured Allocated Account Agreement, the Initial Secured Unallocated Account Agreement and the Initial Subscription Unallocated Account Agreement
<b>“Initial Individual Metal Securities”</b>	means ETFS Physical Platinum Securities, ETFS Physical Palladium Securities, ETFS Physical Silver Securities, and ETFS Physical Gold Securities
<b>“Initial Metal Sale Counterparty”</b>	means HSBC Bank USA, N.A or such other person as may from time to time be the counterparty under the Initial Metal Sale Counterparty Agreement
<b>“Initial Metal Sale Counterparty Account”</b>	means such unallocated Bullion account of the Initial Metal Sale Counterparty as may be specified in or pursuant to the Initial Metal Sale Counterparty Agreement
<b>“Initial Metal Sale Counterparty Agreement”</b>	means the agreement dated 18 April 2007 between the Issuer, the Trustee and HSBC Bank USA, N.A as amended, varied, novated, supplemented or replaced from time to time or any successor agreement to which the Issuer and Trustee are party providing for the sale of Bullion attributable to or forming part of the Secured Property in respect of Initial Metal Securities from time to time at the request of the Trustee
<b>“Initial Metal Securities”</b>	means the ETFS Physical Platinum Securities, ETFS Physical Palladium Securities, ETFS Physical Silver Securities, ETFS

	Physical Gold Securities and ETFS Physical PM Basket Securities
<b>“Initial Secured Allocated Account”</b>	means the allocated Bullion account number 19235 established in the name of the Trustee (as legal mortgagee pursuant to the Initial Security Deeds) with the Initial Custodian pursuant to the Initial Secured Allocated Account Agreement
<b>“Initial Secured Allocated Account Agreement”</b>	means the Secured Allocated Account Agreement dated 18 April 2007 between the Issuer, the Trustee (as legal mortgagee pursuant to the Initial Security Deeds) and the Initial Custodian as amended and restated on 15 April 2008 and as amended on 27 October 2009 and 11 December 2009 and as may be further amended, varied, novated, supplemented or replaced from time to time pursuant to which the Initial Secured Allocated Account is established and operated
<b>“Initial Secured Unallocated Account”</b>	means the unallocated Bullion account number 19235 established in the name of the Trustee (as legal mortgagee pursuant to the Initial Security Deeds) with the Initial Custodian pursuant to the Initial Secured Unallocated Account Agreement
<b>“Initial Secured Unallocated Account Agreement”</b>	means the Secured Unallocated Account Agreement dated 18 April 2007 between the Issuer, the Trustee (as legal mortgagee pursuant to the Initial Security Deeds) and the Initial Custodian as amended and restated on 15 April 2008 and as amended on 27 October 2009 and 11 December 2009 and as may be further amended, varied, novated, supplemented or replaced from time to time pursuant to which the Initial Secured Unallocated Account is established and operated
<b>“Initial Security Deeds”</b>	means the Security Deeds pertaining to the Pools to which the Initial Metal Securities are attributable
<b>“Initial Subscription Unallocated Account”</b>	means the unallocated Bullion account number 19236 established by the Issuer with the Initial Custodian in the name of the Issuer pursuant to the Initial Subscription Unallocated Account Agreement
<b>“Initial Subscription Unallocated Account Agreement”</b>	means the Subscription Unallocated Account Agreement dated 18 April 2007 between the Issuer and the Initial Custodian as amended and restated on 15 April 2008 and as amended on 27 October 2009 and 11 December 2009 and as may be further amended, varied, novated, supplemented or replaced from time to time pursuant to which the Initial Subscription Unallocated Account is established and operated
<b>“Initial Zurich Sub-Custodian”</b>	means any firm selected by the Initial Custodian to hold platinum or palladium on behalf of the Initial Custodian in the firm’s Zurich vault premises on a segregated basis, appointed pursuant to the Initial Custodian Agreements and whose appointment has been approved by the Trustee and the Issuer, currently being Brink’s Global Services Inc. and ViaMat International
<b>“Investment Company Act”</b>	means the United States Investment Company Act of 1940, as amended
<b>“Issuer”</b>	means ETFS Metal Securities Limited, a company incorporated and registered in Jersey with registration number 95996
<b>“Issuer Insolvency Event”</b>	means the Issuer (1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) has a declaration made against it declaring the assets of the Issuer <i>en désastre</i> pursuant to the Bankruptcy ( <i>Désastre</i> )

(Jersey) Law 1990, as amended; (5) institutes or has instituted against it any other proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (6) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (7) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (8) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (9) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (8) (inclusive); or (10) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts, **provided that** no action taken by the Trustee in respect of the Issuer pursuant to the Trust Instrument or a Security Deed shall constitute an Issuer Insolvency Event

**“Issuer’s Website”**

means the website having the following internet address:

<http://www.etfsecurities.com/msl>

or such other internet address as may be notified to Security Holders and the Trustee by RIS announcement

**“Jersey”**

means the Island of Jersey, Channel Islands

**“LBMA”**

means The London Bullion Market Association and where the context requires includes London Gold Market Fixing Ltd. and London Silver Market Fixing Ltd.

**“Listing”**

means admission of the Metal Securities to the Official List in accordance with the Listing Rules and admission of the Metal Securities to trading on the London Stock Exchange’s market for listed securities (or any of such markets if the London Stock Exchange has at any time more than one such market) becoming effective

**“Listing Rules”**

means the Listing Rules of the UK Listing Authority from time to time made under section 73A of FSMA

**“Loan”**

means any loan made by the Issuer to ETFSL as described under the heading “The Issuer and ETFSL” in Part 1 (*General*) and includes any advance made by the Issuer under the Intercompany Loan Agreement referred to in paragraph 2.8 of Part 9 (*Additional Information*)

**“London AM Fix”**

means in relation to platinum, palladium and gold on any day on which the Relevant Market is open for business, the morning Fixing for that type of Bullion and in relation to silver on any day on which the London Bullion market is open for business, the 12.00 noon silver Fixing



<b>“London Bullion market”</b>	means the over-the-counter market in gold and silver co-ordinated by the LBMA
<b>“London Business Day”</b>	means a day (other than a Saturday or a Sunday or a public holiday in England) on which commercial banks generally and the London Bullion market are open for the transaction of business in London
<b>“London Stock Exchange”</b>	means London Stock Exchange plc or its market for listed securities (or any of such markets if the London Stock Exchange has at any time more than one such market), as the context may require
<b>“LPPM”</b>	means The London Platinum and Palladium Market
<b>“Main Market”</b>	means the Main Market of the London Stock Exchange, which is part of its Regulated Market for listed securities (being securities admitted to the Official List)
<b>“Management Fee”</b>	means the management fee payable by the Issuer to ETFSL in consideration for the provision by ETFSL of all management and administration services in relation to the Programme, as set out in Part 1 ( <i>General</i> ) under the heading “Management Fee”, as that amount may be adjusted from time to time
<b>“Metal Entitlement”</b>	means as at any date and in relation to any Metal Security the amount(s) of Bullion to which the Security Holder is entitled on Redemption of that Metal Security on that date in accordance with Condition 5 ( <i>Metal Entitlement</i> )
<b>“Metal Sale”</b>	means in relation to the Redemption of any Metal Securities, settlement of the Issuer’s Redemption Obligations in respect thereof by sale of Bullion to the Metal Sale Counterparty pursuant to the Metal Sale Counterparty Agreement and payment of the proceeds of sale to the relevant Security Holder in accordance with the Conditions
<b>“Metal Sale Counterparty”</b>	means each of the Initial Metal Sale Counterparty and the Swiss Gold Metal Sale Counterparty, and: <ul style="list-style-type: none"> <li>(a) in relation to Initial Metal Securities, any other Basket Securities to the extent comprised of any Initial Individual Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Initial Metal Sale Counterparty; and</li> <li>(b) in relation to Swiss Gold Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Swiss Gold Metal Sale Counterparty</li> </ul>
<b>“Metal Sale Counterparty Agreement”</b>	means each of the Initial Metal Sale Counterparty Agreement and the Swiss Gold Metal Sale Counterparty Agreement, and: <ul style="list-style-type: none"> <li>(a) in relation to Initial Metal Securities, any other Basket Securities to the extent comprised of any Initial Individual Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Initial Metal Sale Counterparty Agreement; and</li> <li>(b) in relation to the Swiss Gold Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Swiss Gold Metal Sale Counterparty Agreement</li> </ul>
<b>“Metal Securities”</b>	means Individual Securities and Basket Securities
<b>“Notes”</b>	means any unsecured, limited recourse notes of the Issuer as from time to time issued, redeemed, amended, supplemented, extended or replaced in accordance with the terms thereof as described under the heading “The Issuer and ETFSL” in Part 1 ( <i>General</i> ) and includes the 5 per cent. unsecured limited recourse extendable note due 2012



	referred to in paragraph 2.7 of Part 9 ( <i>Additional Information</i> )
<b>“Official List”</b>	means the Official List maintained by the UK Listing Authority for the purpose of Part VI of FSMA
<b>“OTC”</b>	means the global over-the-counter market for the trading of Bullion
<b>“ounces” or oz”</b>	means troy ounces. One troy ounce equals 31.1034768 grammes. A troy ounce is slightly heavier than the more common ounces used in the UK and the US, being approximately 1.097 times the weight of the latter
<b>“outstanding”</b>	<p>means in relation to each type of Metal Securities, all the Metal Securities of that type issued and in respect of which there is for the time being an entry in the Register other than:</p> <p>(a) Metal Securities which have been redeemed and cancelled pursuant to the Trust Instrument; and</p> <p>(b) Metal Securities which have been purchased and cancelled pursuant to the Trust Instrument,</p> <p><b>provided that</b> for the purpose of the right to attend and vote at any meeting of the Security Holders or any of them and certain other purposes of the Trust Instrument, Metal Securities (if any) which are for the time being held by, for the benefit of, or on behalf of, (A) the Issuer, (B) ETFSL, (C) any Subsidiary of the Issuer, (D) any individual Controller of the Issuer or (E) any person controlled by any such persons listed in (A) to (D) above shall (unless and until ceasing to be so held) be deemed not to remain outstanding and accordingly the holders of such Metal Securities shall be deemed not to be Security Holders</p>
<b>“Overseas Person”</b>	means a person whose activities are not subject to the prohibition in section 19 of the FSMA by virtue of its not carrying on such activities in the United Kingdom and whose head office is situated outside the United Kingdom
<b>“Pool”</b>	means a separate fund or pool to which Individual Securities of a particular class (and Basket Securities to the extent that they are comprised of that class of Individual Securities) are attributable
<b>“Pricing Supplement”</b>	means a pricing supplement in or substantially in the form annexed hereto
<b>“Principal Amount”</b>	means in respect of each Metal Security the amount specified in clause 2 of the Trust Instrument and as set out in paragraph 4 of Part 9 ( <i>Additional Information</i> )
<b>“Programme”</b>	means the programme for the issue of Metal Securities
<b>“Prohibited Benefit Plan Investor”</b>	means any “employee benefit plan” within the meaning of section 3(3) of the United States Employee Retirement Income Security Act of 1974, as amended (“ <b>ERISA</b> ”), subject to Part 4. Subtitle B of Title I of ERISA, any “ <b>plan</b> ” to which section 4975 of the United States Internal Revenue Code of 1986, (the “ <b>Code</b> ”) applies (collectively, “ <b>Plans</b> ”), any entity whose underlying assets include “plan assets” of any of the foregoing Plans within the meaning of 29 C.F.R. Section 2510.3-101 or section 3(42) of ERISA, as they may be modified, by reason of a Plan’s investment in such entity, any governmental or church plan that is subject to any U.S. Federal, state or local law that is similar to the prohibited transaction provisions of ERISA or Section 4975 of the Code, or any person who holds Metal Securities on behalf of, for the benefit of or with any assets of any such Plan or entity

<b>“Prohibited US Person”</b>	means a US Person who is not a Qualified Purchaser, or any person who holds Metal Securities for the benefit of a US Person who is not a Qualified Purchaser
<b>“Prospectus”</b>	means this base prospectus of the Issuer
<b>“Prospectus Directive”</b>	means Council Directive 2003/71/EC of the EU
<b>“Prospectus Rules”</b>	means the prospectus rules of the UK Listing Authority from time to time made under sections 73A and 84 of FSMA
<b>“Qualified Purchaser”</b>	means a <b>“qualified purchaser”</b> as defined under the Investment Company Act
<b>“Redemption”</b>	means the redemption of Metal Securities by the Issuer in accordance with the Conditions (and <b>“Redeem”</b> shall be construed accordingly)
<b>“Redemption Fee”</b>	means the fee payable by a Security Holder on the Redemption of Metal Securities pursuant to Condition 9 ( <i>Redemption Fee</i> )
<b>“Redemption Form”</b>	means a notice in the form prescribed from time to time by the Issuer requesting Redemption of Metal Securities
<b>“Redemption Obligations”</b>	means the obligation of the Issuer on Redemption of a Metal Security to make payment or deliver Bullion to the relevant Security Holder in accordance with the Conditions
<b>“Registers”</b>	means the registers of Security Holders of each type kept and maintained by the Registrar and <b>“Register”</b> shall be construed accordingly. At the date of this Prospectus, there are six Registers, one for each of the six different types of Metal Securities currently envisaged to be created pursuant to the Trust Instrument
<b>“Registrar”</b>	means Computershare Investor Services (Jersey) Limited, Queensway House, Hilgrove Street, St. Helier, Jersey, Channel Islands, JE1 1ES or such other person as may be appointed by the Issuer from time to time to maintain the Register and to receive and process applications for and redemptions of Metal Securities
<b>“Registrar Agreement”</b>	means the registrar agreement (as amended) dated 18 April 2007 between the Registrar and the Issuer
<b>“Regulated Market”</b>	means a regulated market for the purposes of EU Directive 2004/39/EC (the Markets in Financial Instrument Directive)
<b>“Regulations”</b>	means the Companies (Uncertificated Securities) (Jersey) Order 1999 including any modifications thereto or any regulations in substitution therefor made and for the time being in force which, <i>inter alia</i> , enable title to Metal Securities to be evidenced otherwise than by a certificate and transferred otherwise than by a written instrument
<b>“Relevant Association”</b>	means: <ul style="list-style-type: none"> <li>(a) in respect of platinum and palladium, the LPPM or its successors; and</li> <li>(b) in respect of silver and gold, the LBMA or its successors</li> </ul>
<b>“Relevant Market”</b>	means: <ul style="list-style-type: none"> <li>(a) in respect of platinum and palladium, the Zurich Bullion market; and</li> <li>(b) in respect of silver and gold, the London Bullion market</li> </ul>
<b>“RIS”</b>	means a Regulatory Information Service (as defined for the purposes of the Listing Rules) from time to time chosen by the Issuer

<b>“Secured Allocated Account”</b>	means the Initial Secured Allocated Account and the Swiss Gold Secured Allocated Account, and: <ul style="list-style-type: none"> <li>(a) in relation to Initial Metal Securities, any Basket Securities to the extent comprised of any Initial Individual Metal Securities and any Bullion forming part of the Secured Property thereof, means the Initial Secured Allocated Account, and:</li> <li>(b) in relation to Swiss Gold Metal Securities and any Bullion forming part of the Secured Property thereof, means the Swiss Gold Secured Allocated Account</li> </ul>
<b>“Secured Metal Accounts”</b>	means the Initial Secured Allocated Account, the Initial Secured Unallocated Account, the Swiss Gold Secured Allocated Account and the Swiss Gold Secured Unallocated Account, and: <ul style="list-style-type: none"> <li>(a) in relation to any Initial Metal Securities or other Basket Securities to the extent comprised of any Initial Individual Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Initial Secured Allocated Account and the Initial Secured Unallocated Account; and</li> <li>(b) in relation to Swiss Gold Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Swiss Gold Secured Allocated Account and the Swiss Gold Secured Unallocated Accounts</li> </ul>
<b>“Secured Property”</b>	means in relation to each class of Individual Security (and each category of Basket Security to the extent it comprises Individual Securities of that class): <ul style="list-style-type: none"> <li>(a) all Bullion credited to the Secured Metal Accounts; and</li> <li>(b) the rights of the Issuer in respect of the Secured Metal Accounts including all rights of the Issuer in the Custodian Agreements, or any part or parts thereof</li> </ul>
<b>“Secured Unallocated Accounts”</b>	means the Initial Secured Unallocated Account and the Swiss Gold Secured Unallocated Accounts, and: <ul style="list-style-type: none"> <li>(a) in relation to Initial Metal Securities, or other Basket Securities to the extent comprised of any Initial Individual Metal Securities and any Bullion forming part of the Secured Property thereof, means the Initial Secured Unallocated Account, and:</li> <li>(b) in relation to Swiss Gold Metal Securities and any Bullion forming part of the Secured Property thereof, means the Swiss Gold Secured Unallocated Account</li> </ul>
<b>“Securities Act”</b>	means the United States Securities Act of 1933, as amended
<b>“Security”</b>	means in respect of each Pool the security constituted by the applicable Security Deed
<b>“Security Deeds”</b>	means in respect of each Pool, the security deed pertaining to that Pool dated (in the cases of the Pools to which the ETFS Physical Platinum Securities, ETFS Physical Palladium Securities, ETFS Physical Silver Securities and ETFS Physical Gold Securities are attributable) 18 April 2007 or (in the case of the Pool to which the ETFS Physical Swiss Gold Securities are attributable) 11 December 2009, in each case entered into between the Issuer and the Trustee
<b>“Security Holder”</b>	means a registered holder of Metal Securities
<b>“Security Holder Account”</b>	means: <ul style="list-style-type: none"> <li>(a) in relation to any Initial Metal Securities or other Basket Securities to the extent comprised of any Initial Individual Metal</li> </ul>

	Securities to be Redeemed by Metal Delivery, an unallocated account with a member of the Relevant Association (or, in the case of a Basket Security, one or more unallocated accounts with one or more members of the Relevant Associations) specified by a Security Holder into which Bullion of the appropriate type may be deposited; and
	(b) in relation to any Swiss Gold Metal Securities to be Redeemed by Metal Delivery, either an unallocated loco Zurich account with the Custodian, the Swiss Gold Zurich Sub-Custodian or any other gold bullion clearing bank in Zurich or an unallocated loco London or loco Zurich account with the Swiss Gold Custodian or any other member of the Relevant Association, in each case specified by a Security Holder into which gold may be deposited
<b>“Service Agreement”</b>	means the Service Agreement dated 18 April 2007 (as amended) between ETFSL and the Issuer providing for certain services to be provided by ETFSL to the Issuer in relation to the Metal Securities
<b>“Settlement Date”</b>	means: <ul style="list-style-type: none"> <li>(a) in relation to any Application, the date three Business Days after the Application Date; and</li> <li>(b) in relation to any Redemption pursuant to Condition 6.2 (<i>Redemption by Authorised Participants</i>) or Condition 6.3 (<i>Redemption by Other Security Holders</i>), the date determined in accordance with Condition 6.12 (<i>Settlement Date</i>)</li> </ul>
<b>“Sterling” or “£”</b>	means pounds sterling
<b>“Sub-Custodians”</b>	means sub-custodians, agents or depositories appointed by the Initial Custodian or the Swiss Gold Custodian pursuant to the Initial Custodian Agreements or the Swiss Gold Custodian Agreements (respectively) to perform any of its duties under the applicable Custodian Agreements including the custody and safe-keeping of Bullion but excluding any Zurich Sub-Custodian in its role as such, currently being: <ul style="list-style-type: none"> <li>(a) in the case of the Initial Custodian, the Bank of England (with respect to gold only), The Bank of Nova Scotia (ScotiaMocatta), Deutsche Bank AG, JPMorgan Chase Bank, N.A., UBS AG, Barclays Bank PLC, Johnson Matthey plc (with respect to silver only), Brink’s Global Services Inc. and ViaMat International; and</li> <li>(b) in the case of the Swiss Gold Custodian, Brink’s Global Services Inc., ViaMat International and Group 4 Security Limited</li> </ul>
<b>“Subsidiary”</b>	has the meaning given to that term in section 1159 of the Companies Act 2006
<b>“Subscription Unallocated Accounts”</b>	means the Initial Subscription Unallocated Account and the Swiss Gold Subscription Unallocated Accounts, and: <ul style="list-style-type: none"> <li>(a) in relation to Initial Metal Securities, or other Basket Securities to the extent comprised of any Initial Individual Metal Securities means the Initial Subscription Unallocated Account, and;</li> <li>(b) in relation to Swiss Gold Metal Securities means the Swiss Gold Subscription Unallocated Accounts</li> </ul>
<b>“Swiss Gold Custodian”</b>	means JPMorgan Chase Bank, N.A., a national banking association organised under the laws of the United States of America, whose principal place of business in England is at 125 London Wall, London EC2Y 5AJ or such other person or persons (being a member of each

	Relevant Association) who provides custody and transfer facilities from time to time pursuant to the Swiss Gold Custodian Agreements
<b>“Swiss Gold Custodian Agreements”</b>	means the Swiss Gold Secured Allocated Account Agreement, the Swiss Gold Secured Unallocated Account Agreement and the Swiss Gold Subscription Unallocated Account Agreement
<b>“Swiss Gold Metal Sale Counterparty”</b>	means JPMorgan Chase Bank, N.A. or such other person as may from time to time be the counterparty under the Swiss Gold Metal Sale Counterparty Agreement
<b>“Swiss Gold Metal Sale Counterparty Account”</b>	means such unallocated Bullion account of the Swiss Gold Metal Sale Counterparty as may be specified in or pursuant to the Swiss Gold Metal Sale Counterparty Agreement
<b>“Swiss Gold Metal Sale Counterparty Agreement”</b>	means the agreement dated 11 December 2009 between the Issuer, the Trustee and JPMorgan Chase Bank, N.A. as amended, varied, novated, supplemented or replaced from time to time or any successor agreement to which the Issuer and Trustee are party providing for the sale of Bullion attributable to or forming part of the Secured Property in respect of Swiss Gold Metal Securities from time to time at the request of the Trustee
<b>“Swiss Gold Metal Securities”</b>	means ETFs Physical Swiss Gold Securities
<b>“Swiss Gold Secured Allocated Account”</b>	means the allocated loco Zurich Bullion account number 01311 established in the name of the Trustee (as legal mortgagee pursuant to the Swiss Gold Security Deed) with the Swiss Gold Custodian pursuant to the Swiss Gold Secured Allocated Account Agreement
<b>“Swiss Gold Secured Allocated Account Agreement”</b>	means the Secured Allocated Account Agreement dated 11 December 2009 between the Issuer, the Trustee (as legal mortgagee pursuant to the Swiss Gold Security Deed) and the Swiss Gold Custodian as amended, varied, novated, supplemented or replaced from time to time pursuant to which the Swiss Gold Secured Allocated Account is established and operated
<b>“Swiss Gold Secured Unallocated Accounts”</b>	means the unallocated loco London Bullion account number 01312 and the unallocated loco Zurich Bullion account number 01310, each established in the name of the Trustee (as legal mortgagee pursuant to the Swiss Gold Security Deed) with the Swiss Gold Custodian pursuant to the Swiss Gold Secured Unallocated Account Agreement
<b>“Swiss Gold Secured Unallocated Account Agreement”</b>	means the Secured Unallocated Account Agreement dated 11 December 2009 between the Issuer, the Trustee (as legal mortgagee pursuant to the Swiss Gold Security Deed) and the Swiss Gold Custodian as amended, varied, novated, supplemented or replaced from time to time pursuant to which the Swiss Gold Secured Unallocated Accounts are established and operated
<b>“Swiss Gold Security Deed”</b>	means the Security Deed pertaining to the Pool to which the Swiss Gold Metal Securities are attributable
<b>“Swiss Gold Subscription Unallocated Accounts”</b>	means the unallocated loco London Bullion account number 01314 and the unallocated loco Zurich Bullion account number 01313, each established by the Issuer with the Swiss Gold Custodian in the name of the Issuer pursuant to the Swiss Gold Subscription Unallocated Account Agreement
<b>“Swiss Gold Subscription Unallocated Account Agreement”</b>	means the Subscription Unallocated Account Agreement dated 11 December 2009 between the Issuer and the Swiss Gold Custodian as amended, varied, novated, supplemented or replaced from time to time pursuant to which the Swiss Gold Subscription Unallocated Accounts are established and operated

<b>“Swiss Gold Zurich Sub-Custodian”</b>	means, currently UBS AG, and any other firm selected by the Swiss Gold Custodian to hold gold on behalf of the Swiss Gold Custodian in the firm’s Zurich vault premises on a segregated basis, appointed pursuant to the Swiss Gold Custodian Agreements and whose appointment has been approved by the Trustee and the Issuer
<b>“Trust Instrument”</b>	means the trust instrument dated 18 April 2007 between the Issuer and the Trustee constituting the Metal Securities and any instrument amending the same or supplemental thereto
<b>“Trustee”</b>	means The Law Debenture Trust Corporation p.l.c. appointed as such under the Trust Instrument and includes any replacement trustee under the Trust Instrument
<b>“type”</b>	means, in relation to Individual Securities, a class thereof and, in relation to Basket Securities, the category thereof
<b>“UCITS Fund”</b>	means a collective investment scheme which in accordance with the UCITS directive (Council Directive No. 85/611/EEC) as amended is an undertaking for collective investment in transferable securities subject to that directive and includes a UCITS Scheme
<b>“UCITS Scheme”</b>	means a scheme that falls within the definition of a “UCITS Scheme” contained in the FSA Glossary
<b>“UK Listing Authority”</b>	means the FSA acting in its capacity as the competent authority for the purposes of Part VI of FSMA or any successor enactment
<b>“Uncertificated” or “Uncertificated Form”</b>	means recorded on the Register as being held in uncertificated form, title to which, by virtue of the Jersey Companies (Uncertificated Securities) (Jersey) Order 1999, is to be transferred by means of CREST
<b>“United Kingdom” or “UK”</b>	means United Kingdom of Great Britain and Northern Ireland
<b>“US Person”</b>	means a “US person” as defined in Regulation S under the Securities Act
<b>“US dollars” or “US\$”</b>	means United States dollars
<b>“VAT”</b>	means value added tax
<b>“Zurich Bullion market”</b>	means the over-the-counter market in platinum and palladium co-ordinated by the LPPM
<b>“Zurich Business Day”</b>	means a day (other than a Saturday or a Sunday or a public holiday in Zurich) on which commercial banks and the Zurich Bullion market are generally open for the transaction of business in Zurich
<b>“Zurich Sub-Custodian”</b>	means the Initial Zurich Sub-Custodian and the Swiss Gold Zurich Sub-Custodian, and: <ul style="list-style-type: none"> <li>(a) in relation to Initial Metal Securities, any Basket Securities to the extent comprised of any Initial Individual Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Initial Zurich Sub-Custodian; and</li> <li>(b) in relation to Swiss Gold Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Swiss Gold Zurich Sub-Custodian</li> </ul>

References in this document to a particular time are, unless otherwise stated, references to the time applicable in London, United Kingdom.



## DIRECTORS, SECRETARY AND ADVISERS

<b>Directors of the Issuer</b>	Graham Tuckwell, Chairman Tom Quigley Graeme Ross Craig Stewart  All the Directors are non-executive
<b>Secretary of the Issuer</b>	R&H Fund Services (Jersey) Limited
<b>Registered Office of the Issuer and address of directors and secretary of the Issuer</b>	The address of all the Directors and all the directors of the Secretary of the Issuer is the registered office of the Issuer, which is:  Ordnance House 31 Pier Road St. Helier Jersey JE4 8PW Channel Islands Tel: +44 1534 825230
<b>Administrator</b>	ETF Securities Limited Ordnance House 31 Pier Road St. Helier Jersey JE4 8PW Channel Islands
<b>Initial Custodian</b>	HSBC Bank USA, National Association, London Branch 8 Canada Square London E14 5HQ United Kingdom
<b>Swiss Gold Custodian</b>	JPMorgan Chase Bank, National Association, London Branch 125 London Wall London EC2Y 5AJ
<b>Trustee</b>	The Law Debenture Trust Corporation p.l.c. Fifth Floor 100 Wood Street London EC2V 7EX United Kingdom
<b>English Legal Advisers to the Issuer</b>	Dechert LLP 160 Queen Victoria Street London EC4V 4QQ United Kingdom
<b>Jersey Legal Advisers to the Issuer</b>	Mourant Ozannes 22 Grenville Street St. Helier Jersey JE4 8PX Channel Islands
<b>German Legal Adviser to the Issuer</b>	Dechert LLP Theresienstraße 6 80333 Munich Germany
<b>German Listing and Paying Agent</b>	HSBC Trinkaus & Burkhardt AG Königsallee 21/23 40212 Düsseldorf Germany



<b>Italian Legal Advisers to the Issuer</b>	Studio Legale Cieri Crocenzi Via A. Bertoloni, 41 00197 Roma Italy
<b>French Legal Advisers to the Issuer</b>	Simmons & Simmons 5 boulevard de la Madeleine 75001 Paris France
<b>French Listing and Paying Agent</b>	HSBC France 103 Avenue des Champs-Élysées 75008 Paris France
<b>Dutch Legal Advisers to the Issuer</b>	Stibbe Strawinskylaan 2001 1077 ZZ Amsterdam The Netherlands
<b>Dutch Listing and Paying Agent</b>	Fortis Bank (Nederland) N.V. Rokin 55 1012 KK. Amsterdam The Netherlands
<b>Swedish Legal Advisers to the Issuer</b>	Oreum Advokatbyrå AB Kungsträdgårdsgatan 16 Stockholm Sweden
<b>Danish Legal Advisers to the Issuer</b>	Horten Philip Heymans Allé 2900 Hellerup Copenhagen, Denmark
<b>Spanish Legal Advisers to the Issuer</b>	Cuatrecasas, Gonçalves Pereira C/Lagasca, 88-28001 Madrid Spain
<b>English Legal Advisers to the Trustee</b>	Simmons & Simmons CityPoint 1 Ropemaker Street London EC2Y 9SS United Kingdom
<b>Jersey Legal Advisers to the Trustee</b>	Ogier Whiteley Chambers Don Street St Helier Jersey JE4 9WG Channel Islands

**Auditors of the Issuer**

Deloitte LLP  
Lord Coutanche House  
66-68 Esplanade  
St. Helier  
Jersey JE4 8WA  
Channel Islands

Deloitte LLP is authorised by the Jersey Financial Services Commission to be appointed as auditor of a Jersey incorporated company under Article 109 of the Companies (Jersey) Law 1991.

**Registrar**

Computershare Investor Services (Jersey) Limited  
Queensway House  
Hilgrove Street  
St. Helier  
Jersey JE1 1ES  
Channel Islands

## DOCUMENTS INCORPORATED BY REFERENCE

The following documents are incorporated in this document by reference and are available at the Issuer's website at <http://www.etfsecurities.com/msl> and at the registered office of the Issuer as set out in paragraph 14 of Part 9 (*Additional Information*):

1. the published audited reports and accounts of the Issuer for the year ended 31 December 2008, as published by the Issuer through the Regulatory News Service of the London Stock Exchange on 5 June 2009; and
2. the published audited reports and accounts of the Issuer for the year ended 31 December 2009, as published by the Issuer through the Regulatory News Service of the London Stock Exchange on 30 April 2010.

No documents referred to in the above documents are themselves incorporated into this Prospectus and other than the documents specifically identified above, no other documents, including the contents of any websites or web pages referred to in this Prospectus, form part of this Prospectus for purposes of the Prospectus Directive or the Prospectus Rules.

**PART 1**  
**GENERAL**

**Introduction**

The Issuer has created and issued six different types of securities, all collectively called ETFs Metal Securities or Metal Securities.

Metal Securities are intended to offer investors a means of investing in the precious metals market without the necessity of taking physical delivery of Bullion, and to buy and sell that interest through the trading of a security on the London Stock Exchange and on any other exchange to which the Metal Securities may be admitted to trading from time to time. A Metal Security is an undated secured limited recourse debt obligation of the Issuer, which entitles a Security Holder (provided it is an Authorised Participant) to require the redemption of the security and on the Settlement Date receive an amount of Bullion equal to the Metal Entitlement on that date.

Platinum and palladium on which Metal Securities will be secured will be held by the Initial Custodian at its London vault premises or by one or more Initial Zurich Sub-Custodians at their Zurich vault premises. Silver and gold (other than gold attributable to ETFs Physical Swiss Gold Securities) will be held by the Initial Custodian at its London vault premises. Gold attributable to the ETFs Physical Swiss Gold Securities will be held in Switzerland by the Swiss Gold Custodian through the Swiss Gold Zurich Sub-Custodian at its Zurich vault premises.

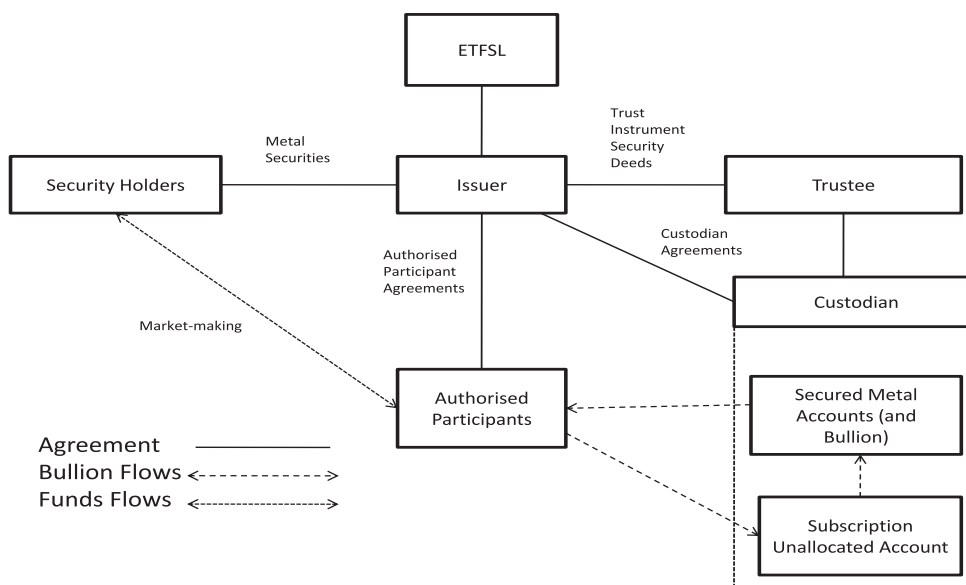
Such Bullion may be held elsewhere by the relevant Custodian or a Sub-Custodian appointed by the relevant Custodian or by a delegate of a Sub-Custodian but only on a temporary basis prior to Bullion being transported to such vault premises or as part of a creation or redemption process. All such Bullion will be held in the Secured Metal Accounts where it will be held in "allocated" form (that is, as uniquely identifiable Good Delivery bars). A small portion may be held in unallocated form on a short term basis when Bullion is in the process of being allocated or de-allocated for a creation or redemption, or for a small portion that cannot be held in whole bars (Good Delivery).

**Contract Structure for Metal Securities**

Metal Securities will be constituted by the Trust Instrument. Under the terms of the Trust Instrument, the Trustee acts as trustee for the Security Holders of each type of Metal Security. The Bullion is the subject of fixed charges under the Security Deeds in favour of the Trustee to secure the obligations owed by the Issuer to the Trustee and the Security Holders in respect of the Metal Securities. Under the Custodian Agreements the relevant Custodian acknowledges the Security created in favour of the Trustee and agrees that once Bullion is deposited in the Secured Metal Accounts, it may only be removed after approval from the Trustee.

The obligations of the Issuer in respect of each class of Individual Security (and each category of Basket Security to the extent it comprises Individual Securities of that class) will be secured by a charge over the equivalent class of Bullion in the Secured Metal Accounts held by the Issuer and over the rights of the Issuer in respect of those Secured Metal Accounts under the relevant Custodian Agreements.

A diagrammatic representation of the principal aspects of the structure as currently in place appears below:



### Applications and Redemptions

Metal Securities can be issued or redeemed at any time by Authorised Participants, subject to conditions. The issue and redemption mechanism is intended to ensure that Metal Securities have sufficient liquidity and that the price at which they trade on the London Stock Exchange tracks the relevant Bullion price (before fees). Only an Authorised Participant may apply for or (unless there are at any given time no Authorised Participants or as otherwise announced) redeem Metal Securities — all other persons must buy and sell Metal Securities through trading on the London Stock Exchange (or any other exchange to which they may from time to time be admitted to trading).

#### Authorised Participants

The Issuer has agreed to use reasonable endeavours to ensure that at all times there are at least two Authorised Participants. However, if at any given time there are no Authorised Participants, Security Holders are permitted to redeem Metal Securities held by them.

As at the date of this document Bayerische Hypo- und Vereinsbank AG, Commerzbank AG, Credit Suisse International, Fortis Bank Global Clearing N.V., Goldman Sachs International, HSBC Bank plc, J.P. Morgan Securities Limited, Knight Capital Europe Ltd, Madison Tyler Europe Limited, Merrill Lynch International, Morgan Stanley & Co. International plc, Morgan Stanley Securities Limited, Susquehanna International Securities Ltd, Susquehanna Ireland Ltd and Susquenna Pacific Pty Ltd are Authorised Participants. Additional Authorised Participants may be introduced in due course.

#### Payments for Applications and Redemptions

A Metal Security will only be issued when Bullion (deposited by the Authorised Participant into the applicable Subscription Unallocated Account) in an amount equal to the required Metal Entitlement is transferred to the applicable Secured Unallocated Account (and thereafter to the applicable Secured Allocated Account). Deposits into the Subscription Unallocated Account must be made as unallocated Bullion as follows:

- (a) *The Initial Metal Securities (and any other Basket Securities to the extent comprised of any Initial Individual Metal Securities)*
  - (i) For ETFS Physical Platinum and ETFS Physical Palladium, loco Zurich or loco London; and
  - (ii) For ETFS Physical Silver and ETFS Physical Gold, loco London

(b) *The Swiss Gold Metal Securities*

For ETFS Physical Swiss Gold, loco Zurich, or subject to loco swap arrangements being agreed with the Swiss Gold Custodian, loco London.

Applications to create ETFS Physical Swiss Gold Securities by deposit of unallocated Bullion loco London will only be accepted if the Authorised Participant has first agreed with the Swiss Gold Custodian the cost of any loco swap that the Swiss Gold Custodian will use to effect gold transfers between the loco London Swiss Gold Secured Unallocated Account and the loco Zurich Swiss Gold Secured Unallocated Account and has undertaken to reimburse the Swiss Gold Custodian for any amount owed under such swap. Such gold loco swap prices will be determined at then prevailing market rates, prices and spreads, which are expected to fluctuate depending on the local London and Zurich gold market supply and demand conditions.

Applications received on day T require payment by 11 a.m. on day T+3 and if so the Metal Securities will generally be issued by 1 p.m. on day T+3.

Bullion held in the Subscription Unallocated Accounts in respect of valid Applications will not be subject to the security created by the Security Deed but will be held on trust for the Applicant pending the transfer of such Bullion to the Secured Metal Accounts. If the relevant Application is rejected or if the relevant Applicant has deposited excess Bullion, such Bullion (or the excess amount thereof as the case may be) will be held for the benefit of the Applicant and will be returned to such Applicant as soon as practicable at the risk of the Applicant.

A Metal Security will be cancelled on redemption when an amount of Bullion equal to the value of the Metal Entitlement has been paid from the Secured Metal Accounts to the Security Holder on the applicable Settlement Date.

Details of the creation and Redemption processes are set out in Part 3 (*Description of Metal Securities*). Further details of the Redemption processes are set out in the Conditions, which are set out in Part 5 (*Trust Instrument and the Conditions*).

### **Security Structure**

A security structure has been established to provide security for the redemption obligations of the Issuer to Security Holders upon redemption of Metal Securities.

The Issuer has been established as an “umbrella” or “multi-class” company with separate Pools of assets so that the Issuer can issue separate types of securities, based on different types of metal or combinations of types of metal or having some other different characteristics, but on terms that each such separate class of securities would have recourse only to the Pool attributable to that class and not to the assets attributable to any other class. The assets and liabilities attributable to each class of Individual Security (and the Basket Securities to the extent they comprise such Individual Securities) will represent the Pool for that class.

Thus there are five separate Pools applicable to Metal Securities. A single Pool secures all Individual Securities of a single class and all Basket Securities to the extent they comprise such Individual Securities.

Metal Securities are constituted under the Trust Instrument. The Trustee holds all rights and entitlements under the Trust Instrument on trust for the Security Holders.

In addition, the Issuer and the Trustee have entered into a separate Security Deed in respect of each Pool. The rights and entitlements held by the Trustee under each Security Deed are held by the Trustee on trust for the Security Holders of that particular class of Metal Security.

Under the terms of each Security Deed, the Issuer has charged to the Trustee by way of first fixed charge the Bullion held in custody attributable to the relevant class of Individual Security (and Basket Securities to the extent they comprise Individual Securities of that class) and all rights of the Issuer in respect of the Secured Metal Accounts, has assigned to the Trustee by way of security the contractual rights of the Issuer relating to such class under the Custodian Agreements and has granted a first-ranking floating charge in favour of the Trustee over all of the Issuer’s rights in relation to the Secured Property attributable to the applicable Pool, including but not limited to its rights under the Custodian Agreements and the Secured Metal Accounts attributable to that Pool.

If the amounts received from the relevant Secured Metal Accounts are insufficient to meet all obligations

and make all payments due in respect of the relevant Pool, no other assets of the Issuer shall be available to meet that shortfall and all further claims of the holders in respect of such class of Individual Securities (and the Basket Securities to the extent they comprise such Individual Securities) will be extinguished.

Under the terms of the Trust Instrument, it is agreed that the Security Holders, or the Trustee on their behalf, will not, in relation to Metal Securities, institute against, or join any person in instituting against, the Issuer any bankruptcy, suspension of payments, moratorium of any indebtedness, winding-up, reorganisation, arrangement, insolvency or liquidation proceeding or other proceeding under any similar law (except for the appointment of a receiver and manager pursuant to the relevant Security Deed) for two years (or, if later, the longest suspense period, preference period or similar period (howsoever described) ending with the onset of insolvency in respect of which transactions entered into by the Issuer within such period may be subject to challenge under applicable insolvency or other proceeding) plus one day after the date on which all amounts payable for all outstanding Metal Securities issued by the Issuer are repaid.

Further details of the Trust Instrument are set out in Part 5 (*Trust Instrument and the Conditions*). Further details of the Security Deeds are set out in Part 6 (*Particulars of Security Deeds*).

### **The Issuer and ETFSL**

The Issuer is a public company incorporated in Jersey for the purpose of issuing Metal Securities and entering into the Documents and to issue other types of securities (and enter into agreements relating thereto) relating to Bullion or other types of metals, whether precious metals or base metals.

The shares in the Issuer are all held by ETFSL, a company incorporated in Jersey which acts, inter alia, as the holding company and manager of the Issuer. The Issuer is neither directly or indirectly owned or controlled by any other party to the Programme. The Issuer is dependent upon ETFSL to provide management and administration services to it, as further described below. ETFSL intends to promote and to provide management and other services to the Issuer and currently also provides such services to ETFSL Metal Securities Australia Limited, Gold Bullion Securities Limited, ETFSL Commodity Securities Limited, ETFSL Oil Securities Limited and ETFSL Foreign Exchange Limited. Further, certain Directors of ETFSL have been involved in establishing and operating exchange traded fund companies and related service companies, in particular ETFSL Fund Company public limited company and its manager ETFSL Management Company Limited in Ireland and ETF Securities USA LLC.

The only assets of the Issuer attributable to Metal Securities will be the Secured Metal Accounts and rights under the Custodian Agreements. The liabilities of the Issuer will primarily be the Issuer's obligations under Metal Securities. In addition the Issuer has issued to ETFSL the 5 per cent. unsecured limited recourse extendable note due 2012 referred to in paragraph 2.7 of Part 9 (*Additional Information*) and has lent back to ETFSL the proceeds from the issue of that Note. The Issuer may issue further Notes to ETFSL and may lend back to ETFSL the proceeds of issue of such Notes. Under the conditions of the Note, ETFSL may not have recourse in respect of the Note to any of the Secured Property. Neither the Issuer nor ETFSL is directly or indirectly owned or controlled by any other party to the Programme.

The directors of ETFSL at the date of this Prospectus are Graham Tuckwell, Craig Stewart, Graeme Ross, Leanne Baker, Ben Cukier and Vince FitzGerald. The secretary of ETFSL at the date of this Prospectus is R&H Fund Services (Jersey) Limited. The directors of the Issuer and their respective biographies are set out below under "Directors and Secretary".

### **Administration**

Pursuant to the Service Agreement, ETFSL supplies all management and administration services for the Issuer and pays all the management and administration costs of the Issuer, including the fees of the Trustee and the Custodian.

ETFSL may engage third parties to provide some or all of these services. In particular, ETFSL has entered into a corporate administration agreement with R&H Fund Services (Jersey) Limited (the "**Secretary**") whereby the Secretary will perform certain administration duties for the Issuer and Computershare Investor Services (Jersey) Limited has been appointed to provide services as Registrar and receiving agent, and will maintain the Registers in Jersey.

The Service Agreement may be terminated by ETFSL at any time on three months' notice or earlier in the event of certain breaches or the insolvency of either party.



## Management Fee

In return for ETFSL supplying to the Issuer all management and administration services, the Issuer is liable under the Service Agreement to transfer to ETFSL by way of a fee amounts of Bullion equal to the Management Fee. The Management Fee is quoted as a rate per annum of the Bullion held in custody:

<b>Class of Security</b>	<b>Management Fee Rate</b>
ETFS Physical Platinum	49 basis points per annum
ETFS Physical Palladium	49 basis points per annum
ETFS Physical Silver	49 basis points per annum
ETFS Physical Gold	39 basis points per annum
ETFS Physical Swiss Gold	39 basis points per annum

The Management Fee for the Basket Securities will be the aggregate of the Management Fee for the Individual Securities of which they are comprised.

The rate of the Management Fee will be reflected in the adjustments to the Metal Entitlement each day, commencing on the day after dealings in the Metal Securities first commence on the London Stock Exchange.

The fee rate may be varied by the Issuer from time to time. If the Management Fee is amended, such amendment will be notified through an RIS, and in the case of an increase will not take effect for at least 30 days following the publication of the RIS.

The Management Fee will be deducted daily from the Metal Entitlement and at the end of each month an amount of Bullion equivalent to the cumulative daily Management Fee for that month will be transferred from the Secured Metal Accounts.

## Directors and Secretary

The Directors and secretary of the Issuer at the date of this document are:

### ***Graham Tuckwell – Chairman***

Mr Tuckwell is the founder and chairman of ETF Securities Limited and the Issuer and of five other companies issuing exchange-traded commodities: Gold Bullion Securities Limited in Jersey, ETFS Metal Securities Australia Limited (formerly known as Gold Bullion Securities Limited) in Australia (which two companies obtained the world's first listings of an exchange traded commodity on a stock exchange), ETFS Oil Securities Limited, ETFS Commodity Securities Limited and ETFS Foreign Exchange Limited. He is also a director of ETFS Fund Company public limited company and of its manager ETFS Management Company Limited in Ireland as well as the President and Chief Executive Officer of ETF Securities USA LLC. Assets under management in those companies are approximately US\$23 billion. Previously, Mr Tuckwell was the founder and managing director of Investor Resources Limited, a boutique corporate advisory firm which specialised in providing financial, technical and strategic advice to the resources industry. He has more than 20 years of corporate and investment banking experience. Prior to the above activities, Mr Tuckwell was Head of Mining Asia/Pacific at Salomon Brothers, Group Executive Director at Normandy Mining responsible for Strategy and Acquisitions and Head of Mergers and Acquisitions at Credit Suisse First Boston in Australia. He holds a Bachelor of Economics (Honours) and a Bachelor of Laws degree from the Australian National University.

### ***Tom Quigley — Non-Executive Director***

Mr Quigley is the Chief Financial Officer of ETF Securities Limited and is also a non-executive director of the Issuer, ETFS Commodity Securities Limited, ETFS Oil Securities Limited, ETFS Foreign Exchange Limited and Gold Bullion Securities Limited. Mr Quigley is also the Chief Financial Officer and Treasurer of ETF Securities USA LLC. Previously, Mr Quigley held senior management positions in investment banking where he was a Managing Director at ING Barings Investment Banking and, prior to that, at Close Brothers Corporate Finance in the City of London. More recently, he was a Director of Terra Firma Capital Partners, the private equity firm, and a Managing Director at W.P. Carey & Co LLC, the asset management firm. He is a Chartered Accountant and a member of the Institute of Chartered Accountants of England and Wales having trained with Price Waterhouse in London. Mr Quigley holds an MA in Physics from Oxford University, England.

**Graeme Ross — Non-Executive Director**

Mr Ross graduated from Abertay University in 1980 and joined Arthur Young McClelland Moores in Perth, Scotland. He qualified as a chartered accountant in 1984 and joined KPMG Peat Marwick's practice in Jersey shortly afterwards. Mr Ross joined the Jersey practice of Rawlinson & Hunter in 1986 as a manager in the fund administration division. In 1994 he was admitted to the Jersey partnership. Mr Ross has been the managing director of R&H Fund Services (Jersey) Limited since 1996 and has in-depth knowledge and experience of the fund management industry and in particular retail funds. He has worked in the offshore fund management industry for 22 years and also served as a committee member of the Jersey Fund Managers Association for three years. Graeme is also a director of Computershare Investor Services (Jersey) Limited and one of his roles is to maintain the day to day operations in Jersey of the Issuer and of Gold Bullion Securities Limited, ETFS Oil Securities Limited, ETFS Commodity Securities Limited and ETFS Foreign Exchange Limited (he is a non-executive director of each of those companies and of ETF Securities Limited).

**Craig Stewart — Non-Executive Director**

Mr Stewart graduated from Edinburgh University in 1987 with a degree in Politics and worked in commercial roles for two blue chip companies headquartered in London. In 1993, he joined Arthur Andersen's Audit and Business Advisory practice in Jersey and qualified as a chartered accountant in 1997. He has specialised in the investment fund sector and been particularly involved with retail, institutional and private equity funds. In 1997, he was promoted to manager with sole responsibility for Andersen's asset management clients in European offshore jurisdictions. He was also the manager on a significant number of consulting assignments including controls reviews, operational reviews, due diligence projects, benchmarking studies and forensic investigations. In April 2000, he joined Rawlinson & Hunter's fund administration division and in January 2001 he was promoted to Director of R&H Fund Services (Jersey) Limited. Mr Stewart is also a non-executive director of ETF Securities Limited, Gold Bullion Securities Limited, ETFS Oil Securities Limited, ETFS Commodity Securities Limited and ETFS Foreign Exchange Limited.

**R&H Fund Services (Jersey) Limited — Company Secretary**

R&H Fund Services (Jersey) Limited is a company incorporated in Jersey on 29 November 1988 with limited liability whose issued and paid up share capital is £25,000. It is not involved in any other business activities other than that of acting as manager and administrator of collective investment schemes and is a wholly owned subsidiary of Rawlinson & Hunter in Jersey. The directors of R&H Fund Services (Jersey) Limited are:

Graeme David Ross  
Craig Andrew Stewart  
Louise Catharine Dods  
Hilary Patricia Valentine

**Conflicts of Interest**

Certain of the Directors of the Issuer are also directors of ETFSL, a provider of services to the Issuer. Mr Ross and Mr Stewart are also directors of the Company Secretary and Mr Ross is also a director of the Registrar. While these roles could potentially lead to conflicts of interest the Directors do not believe there are any actual or potential conflicts of interest between the duties which the Directors and/or members of the administrative, management and supervisory bodies of the Issuer owe to the Issuer, and the private interests and/or other duties which they have.

Save as specifically stated herein, none of the principal activities performed by the Directors outside the Issuer are significant with respect to the Issuer and they have no interests that are material to the Programme.

**Further information**

Information regarding United Kingdom, Jersey, German, French, Danish, Dutch, Italian, Swedish, Spanish and Dutch taxation in respect of the Programme and the Metal Securities is set out in Part 9 (*Additional Information*). If an investor is in any doubt about the tax position, it should consult a professional adviser.

Your attention is drawn to the remainder of this document which contains further information relating to the Programme and the Metal Securities.

## PART 2

### PRECIOUS METALS MARKET OVERVIEW

#### Market Overview

The Issuer believes that two factors set precious metals apart from other commodities: precious metals be stored in a vault at low cost without deteriorating; and, whether as coins, jewellery or bullion, precious metals can be used as a store of value. While silver and gold have a history which is thousands of years old, platinum and palladium have a much shorter history. The primary source of these four precious metals is mining, but all can be recycled. Their main uses are industrial and jewellery applications.

#### Platinum Group Metals

Platinum and palladium are the two best known metals of the six platinum group metals (PGMs). Platinum and palladium have the greatest economic importance and are found in the largest quantities. The other four - iridium, rhodium, ruthenium and osmium - are produced only as co-products of platinum and palladium.

PGMs are found primarily in South Africa and Russia. South Africa is the world's leading platinum producer and the second largest palladium producer. Russia is the largest producer of palladium and most production is concentrated in the Norilsk region. All of South Africa's production is sourced from the Bushveld Igneous Complex, which hosts the world's largest resource of PGMs. Together, South Africa and Russia accounted for over 70 per cent. of total platinum and palladium supply at the end of 2009.

#### Platinum

The main supplier of platinum is South Africa, providing over 75 per cent. of total mine supply over the past four years. Russia is the second largest supplier of platinum. However its share of world production has varied from approximately 10 per cent. to 20 per cent. of total supply over the past ten years. Recovery of platinum from autocatalysts is the other main source of supply and provided around 14 per cent. of total supply in 2009. This source of supply increases along with autocatalyst production.

Over the past decade, jewellery demand for platinum peaked at 46 per cent. of total demand in 2000. Jewellery demand declined to 26 per cent. of total demand at the end of 2008, before rebounding to 41 per cent. of demand in 2009. Autocatalyst demand for platinum accounted for 32 per cent. of total demand at the end of 2009, down from approximately 50 per cent. of demand over the preceding 5 years, a result of the financial crisis. Other industrial demand has declined by 37 per cent. over the past ten years due to the financial crisis and now contributes to 10 per cent of total demand at the end of 2009.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
	('000 ozs)									
<b>Supply</b>										
South Africa	3,800	4,100	4,450	4,630	5,010	5,115	5,295	5,070	4,515	4,635
Russia	1,100	1,300	980	1,050	845	890	920	915	805	785
North America	285	360	390	295	385	365	345	325	325	260
Others	105	100	150	225	250	270	270	290	295	345
Recovery	470	530	565	645	690	1,270	1,415	1,590	1,405	1,830
<b>Total Reported Supply</b>	<b>5,760</b>	<b>6,390</b>	<b>6,535</b>	<b>6,845</b>	<b>7,180</b>	<b>7,910</b>	<b>8,245</b>	<b>8,190</b>	<b>7,770</b>	<b>7,430</b>
<b>Demand</b>										
Jewellery	2,830	2,590	2,820	2,510	2,160	2,465	2,195	2,110	2,060	2,810
Auto catalyst	1,890	2,520	2,590	3,270	3,490	3,795	3,905	4,145	3,655	2,185
Other industrial	1,115	1,095	1,005	910	1,065	1,215	1,340	1,350	1,185	700
Investment	-60	90	80	15	45	15	-40	170	555	660
Other	375	465	540	470	470	475	490	495	535	440
<b>Total Reported Demand</b>	<b>6,150</b>	<b>6,760</b>	<b>7,035</b>	<b>7,175</b>	<b>7,230</b>	<b>7,965</b>	<b>7,890</b>	<b>8,270</b>	<b>7,990</b>	<b>6795</b>

Source: Johnson Matthey Platinum 2010

## Palladium

Russia is the main source of mine supply for palladium. However, its contribution has fallen from 67 per cent. in 2000 to 51 per cent. of total mine supply by end-2009. South Africa is the second largest source of supply, accounting for 33 per cent. of total mine supply at the end of 2009. North America contributes approximately 11 per cent. to supply. Recovery of palladium from autocatalysts has increased more than four-fold over the past ten years to account for 17 per cent. of overall supply at the end of 2009.

Autocatalysts are the largest component of palladium demand, representing over 50 per cent. of total demand in 2009. Other industrial demand (electronics, dentistry and chemical) has fallen from 35 per cent. of total demand in 2000 to 28 per cent. of total demand in 2009, with investment demand driving the increase in the 'other' demand category, and contributing less than 10 per cent. of overall demand in 2009. Jewellery demand for palladium has increased by the largest of all the key sectors, rising by 264 per cent. over the past ten years and contributing a total of 10 per cent. of total demand in 2009.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
	('000 ozs)									
<b>Supply</b>										
South Africa	1,860	2,010	2,160	2,320	2,480	2,605	2,775	2,765	2,430	2,370
Russia	5,200	4,340	1,930	2,950	4,800	4,620	3,920	4,540	3,660	3,635
North America	635	850	990	935	1,035	910	985	990	910	755
Others	105	120	170	245	265	270	270	285	310	340
Recovery	230	280	370	410	530	990	1,230	1,565	1,615	1,430
<b>Total Reported Supply</b>	<b>8,030</b>	<b>7,600</b>	<b>5,620</b>	<b>6,860</b>	<b>9,110</b>	<b>9,395</b>	<b>9,180</b>	<b>10,145</b>	<b>8,925</b>	<b>8,530</b>
<b>Demand</b>										
Auto catalyst	5,640	5,090	3,050	3,450	3,790	3,865	4,015	4,545	4,465	4,050
Other industrial	3,235	1,645	1,800	1,990	2,080	2,505	2,555	2,555	2,345	2,210
Jewellery	255	240	270	260	930	1,490	1,140	950	985	815
Other	60	65	90	140	290	485	135	345	495	695
<b>Total Reported Demand</b>	<b>9,190</b>	<b>7,040</b>	<b>5,210</b>	<b>5,840</b>	<b>7,090</b>	<b>8,345</b>	<b>7,845</b>	<b>8,395</b>	<b>8,290</b>	<b>7,770</b>

Source: Johnson Matthey Platinum 2010

## Silver

Like gold, silver has also been used as a currency in the past. However, the main differences between gold and silver is that 58 per cent. of gold is used for jewellery and half of silver demand is industrial uses.

New mine production accounts for approximately 80 per cent. of total supply and has increased by 27 per cent. over the past ten years or 2.5 per cent. per annum. Recycled silver accounts for 19 per cent. of total supply and has remained relatively constant at 165 to 188 million ounces per annum over the past 10 years. The total of producer hedging, government sales and implied "net disinvestment" has been in decline but together account for the balance of total supply.

Industrial applications, jewellery and photography demand account for 75 per cent. of total demand in 2009. Industrial applications grew from 42 per cent. in 1999 to 51 per cent. of demand in 2008, but declined sharply as a result of the financial crisis to 41 per cent of demand in 2009. Jewellery and silverware have remained relatively constant at 216 to 280 million ounces per annum. The balance is primarily made up of investment and coins, growing from 31 to more than 75 million ounces per annum over the past ten years.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
	(million ounces)									
Mine production	591	606	594	597	613	637	641	664	685	710
Net producer hedging	-27	19	-25	-21	10	28	-7	-24	-12	-22
Net government sales	60	63	59	89	62	66	78	43	28	14
Old silver scrap	181	183	188	184	184	186	188	182	176	166
Implied net disinvestment	87	0	13	0	0	0	0	0	0	0
<b>Total supply</b>	<b>892</b>	<b>871</b>	<b>829</b>	<b>849</b>	<b>868</b>	<b>916</b>	<b>900</b>	<b>865</b>	<b>877</b>	<b>868</b>

Industrial applications	374	336	340	351	368	407	427	456	443	352
Photography	218	213	204	193	179	160	142	125	105	83
Jewellery & silverware	267	280	252	263	242	241	227	222	215	216
Coins & medals	32	31	32	36	42	40	40	40	65	79
Implied net investment	0	11	0	6	37	68	64	22	48	137
<b>Total demand</b>	<b>891</b>	<b>871</b>	<b>828</b>	<b>849</b>	<b>868</b>	<b>916</b>	<b>900</b>	<b>865</b>	<b>876</b>	<b>867</b>

Source: GFMS World Silver Survey 2010

## Gold

One factor which separates gold from other precious metals is that there are large above-ground stocks which can be quickly mobilised. As a result of gold's liquidity, gold often acts more like a currency than a commodity.

Over the past ten years, (new) mine production of gold has experienced modest declines, decreasing by only 11 per cent. over the last ten years. Of the four sources of supply, mine production accounts for approximately 60 per cent of total supply. Official sector sales have been volatile in recent years, as the sector begins to transition to being a net buyer of gold per annum. Changes in recycled gold have also been volatile.

On the demand side, jewellery is clearly the greatest source of demand however jewellery's contribution to demand has fallen from 84 per cent. to 51 per cent. of demand from 2000 to 2009. Industrial demand has been relatively constant, contributing 11 per cent. to total demand. The factor to have increased significantly is investment demand with an increase of 695 per cent. in tonnage terms since 2000, partly due to an increase in the gold price and also to the availability of new investment products such as exchange traded commodities.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
	(tonnes)									
<b>Supply</b>										
Mine production	2,620	2,646	2,618	2,623	2,494	2,549	2,483	2,473	2,409	2,572
Old gold scrap	620	749	874	986	881	902	1,133	982	1,316	1,674
Official sector sales	479	520	547	620	479	663	365	484	232	41
Net producer hedging	-15	-151	-412	-289	-438	-92	-434	-444	-352	-254
<b>Total Reported Supply</b>	<b>3,704</b>	<b>3,764</b>	<b>3,627</b>	<b>3,940</b>	<b>3,416</b>	<b>4,022</b>	<b>3,547</b>	<b>3,471</b>	<b>3,605</b>	<b>4,033</b>
<b>Demand</b>										
Jewellery	3,205	3,009	2,662	2,484	2,616	2,718	2,298	2,417	2,193	1,759
Industrial	451	363	358	382	414	433	462	465	439	373
Retail investment	166	357	344	341	482	601	676	686	1,177	1,319
<b>Total Reported Demand</b>	<b>3,822</b>	<b>3,727</b>	<b>3,361</b>	<b>3,206</b>	<b>3,512</b>	<b>3,753</b>	<b>3,435</b>	<b>3,568</b>	<b>3,809</b>	<b>3,451</b>

Source: GFMS Ltd

## The Precious Metals Market

Metals trading on the global market consists of transactions in spot contracts, forward contracts and options and other derivatives on the over-the-counter (OTC) market, together with exchange-traded futures and options. The OTC market trades for the majority of a 24-hour day and accounts for most global metal trading.

Market makers, as well as others in the OTC market, trade with each other and with their clients on a principal-to-principal basis. All risks and issues of credit are between the parties directly involved in the transaction. The OTC market provides a relatively flexible market in terms of quotes, price, size, destinations for delivery and other factors. Precious metal dealers customise transactions to meet clients' requirements. The OTC market has no formal structure and no open-outcry meeting takes place.

The main centres of the OTC market are London, Zurich, New York and Hong Kong. Central banks, producers and consumers of precious metals, together with investors and speculators, tend to transact

their business through one of these market centres. Centres, such as Dubai, and several cities in the Far East also transact substantial OTC market business, typically involving jewellery and small bars (1 kilogram or less) and will hedge their exposure into one of the main centres. Precious metal dealers have offices around the world and most of the world’s major bullion dealers are either members or associate members of the LBMA and/or LPPM (see below).

The most significant futures exchanges are the COMEX, a division of the New York Mercantile Exchange (NYMEX), the Chicago Board of Trade (CBOT, a Chicago based E-Platform, now merged with the Chicago Mercantile Exchange) and the Tokyo Commodity Exchange (TOCOM). Trading on these exchanges is based on fixed delivery dates and transaction sizes for the futures and options contracts traded. Trading costs are negotiable.

Liquidity in the OTC market can vary from time to time during the course of the 24-hour trading day. The period of greatest liquidity in the gold market is typically that time of the day when trading in the European time zones overlaps with trading in the United States, that is when OTC market trading in London, New York and other centres coincides with futures and options trading on the COMEX. This period lasts for approximately four hours each business day afternoon.

### **The LPPM and LBMA**

Clearing in the physical precious metals market is primarily centred in Zurich and London for platinum and palladium and in London for silver and gold. There are two trade associations which act as the coordinator for activities conducted in these markets — the London Platinum and Palladium Market (LPPM) and the London Bullion Market Association (LBMA). The roles of both these associations include maintaining a “Good Delivery” list and ensuring that the physical bars meet the minimum standard of quality, coordinating market clearing and vaulting, promoting good trading practices and developing standard documentation.

### **Good Delivery**

“Good Delivery” is the list of specifications to which a bar/ingot must adhere to be accepted for trading physical metal in the London precious metal markets. The standards required for platinum and palladium ingots to be included in the “London/Zurich Good Delivery List” are set out on the LPPM website. The standards required for gold and silver bars to be included in the “Good Delivery Lists” are set out in “The Good Delivery Rules for Gold and Silver Bars” published by the LBMA. A summary of these appear in the table below:

	<b>Platinum</b>	<b>Palladium</b>	<b>Silver</b>	<b>Gold</b>
Form	Plate or ingot	Plate or ingot	bar	bar
Minimum fineness/purity	99.95%	99.95%	99.9%	99.5%
Weight	1kg to 6kg (32 to 192 oz)	1kg to 6kg (32 to 192 oz)	750oz to 1,100oz	350oz to 430oz
Measure	troy oz	troy oz	troy oz	fine troy oz

The actual quantity of pure gold in a bar is expressed to three decimal places and is calculated by multiplying the gross weight (in ounces, to three decimal places) by the fineness (in per cent., to two decimal places). For example, a gold bar with a gross weight of 404.075 troy ounces and a fineness of 99.58 per cent. would be recorded as having a fine gold content of 402.377 fine troy ounces (there is no rounding up unless the fourth decimal is a nine).

Even though a variety of smaller and exact weight bars are available in the market, the Issuer will only issue securities which are backed by Good Delivery bars.

### **The Gold Bullion Market in Zurich**

After London, the second principal centre for spot or physical gold trading is Zurich. For eight hours a day, trading occurs simultaneously in London and Zurich—with Zurich normally opening and closing an hour earlier than London. During these hours, Zurich closely rivals London in its influence over the spot price because of the importance of the two major Swiss banks—Credit Suisse and Union Bank of Switzerland (UBS)—in the physical gold market. Each of these banks has long maintained its own refinery, often taking physical delivery of gold and processing it for other regional markets. The loco Zurich bullion specification is the same as for the London bullion market, which allows for gold physically



located in Zurich to be quoted loco London and vice versa.

### **Trading Unit**

The trading unit for platinum, palladium and silver is troy ounces (since the word “fine” is not used, the weight is irrespective of purity). For gold it is one fine troy ounce (“fine” meaning pure metal, i.e. the actual gold content based on 100 per cent. purity). The conversion factors between troy ounces and metric used by the Relevant Associations are: one troy ounce equals 31.1034768 grammes and one kilogramme equals 32.1507465 troy ounces.

### **Storage**

#### *Allocated Accounts*

An allocated account is an account held with a dealer in a customer’s name evidencing that uniquely identifiable bars of metal have been “allocated” to the customer and are segregated from other metal held in the vault of that dealer. The client has full title to this metal with the dealer holding it as custodian.

#### *Unallocated Accounts*

Most metal traded in the London and Zurich markets is traded and settled in unallocated form. Metal held in this form does not entitle the holder to specific bars of metal but gives the holder a right to require the delivery of certain amounts of metal. Subject to the terms of a client’s account agreement, a client may make exchanges between allocated and unallocated accounts (provided the client has a sufficient balance).

#### *Location*

Platinum and palladium traded in the Zurich/London market is generally on a loco Zurich basis (meaning the metal is physically held in vaults in Zurich) or on a loco London basis (meaning the metal is physically held in vaults in London) or is transferred into accounts established in Zurich or London. The basis for settlement and delivery of a loco Zurich/London spot trade is payment (generally in US dollars) two business days after the trade date against delivery. Delivery of the metal can either be by physical delivery or through the clearing systems to an unallocated account.

Trading of silver and gold in the London market is similar to that of platinum and palladium except that the metal is usually traded on a loco London basis only. Quotations are usually in US dollars but can also be quoted in other convertible currencies.

### **The Fixing Price**

The London market provides a unique metal fixing service whereby the fixing price represents the matching of orders from customers throughout the world. The Fixings in each of the Relevant Markets takes place by telephone on every day on which members are open for dealing in London. The Fixing price should be the price at which all buying and selling orders declared by members at the Fixing can be matched and it is the responsibility of the Chairman of the Fixing to determine when this occurs. At present four members of the LPPM together make the price fixings in platinum and palladium. These are J. Aron & Company, a division of Goldman Sachs International, Engelhard Metals Limited, HSBC Bank USA, N.A. London Branch, and Standard Bank London Limited. There are five Gold Fixing members — all of whom are market making members of the LBMA. They are the Bank of Nova Scotia (ScotiaMocatta), Barclays Bank Plc, Deutsche Bank AG, HSBC Bank USA, N.A. and Société Générale. Three market making members of the LBMA conduct the Silver Fixing meeting under the chairmanship of The Bank of Nova Scotia (ScotiaMocatta). The other two members of the Silver Fixing are Deutsche Bank AG and HSBC Bank USA, N.A.

The Fixings make it possible for any interested party, be they supplier, customer, dealer or investor, to trade at the price at which every current interest is satisfied. The Fixings are fully transparent benchmarks and are widely accepted as the basis for pricing spot transactions as well as a variety of other transactions.

	<b>Platinum</b>	<b>Palladium</b>	<b>Silver</b>	<b>Gold</b>
Fixing times (approximate)	09.45 14.00	09.45 14.00	12.00	10.30 15.00



### ***Vaulting and Clearing***

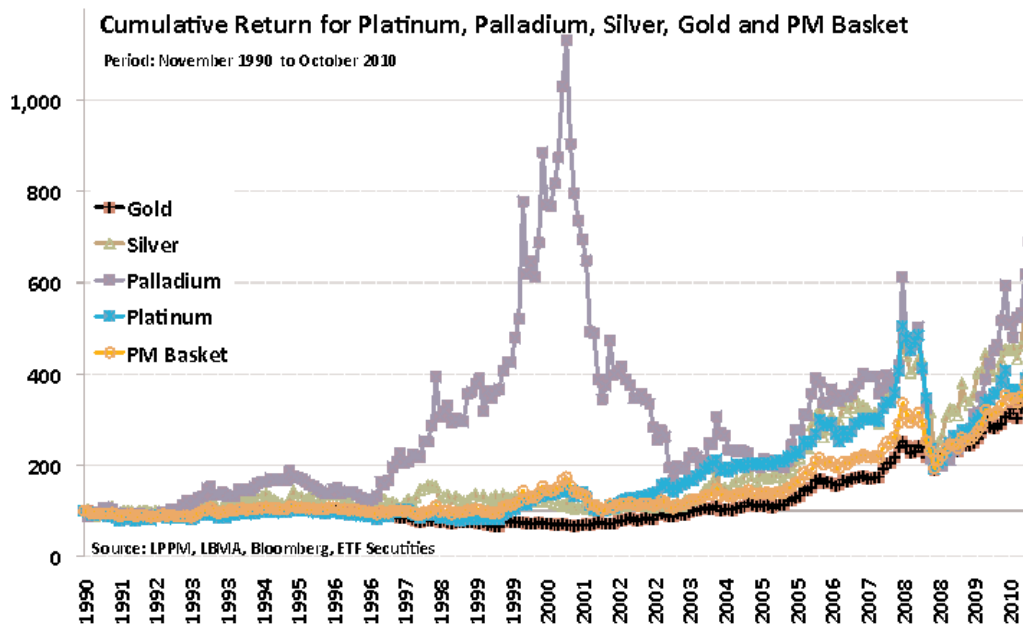
Certain members of the Relevant Association offer clearing services. They may use their own vaults for storage of physical metal and/or have the use of storage facilities under security with another company. The present Custodians are members of both associations. The Issuer believes that presently the Custodians and their affiliated entities are two of the largest precious metal clearers in the market. The clearing members of both associations use a daily clearing system whereby those members utilise the unallocated metal they maintain between each other for the settlement of all mutual trades and third party transfers. This system is designed to avoid the security risks and costs involved in the physical movement of the metals.

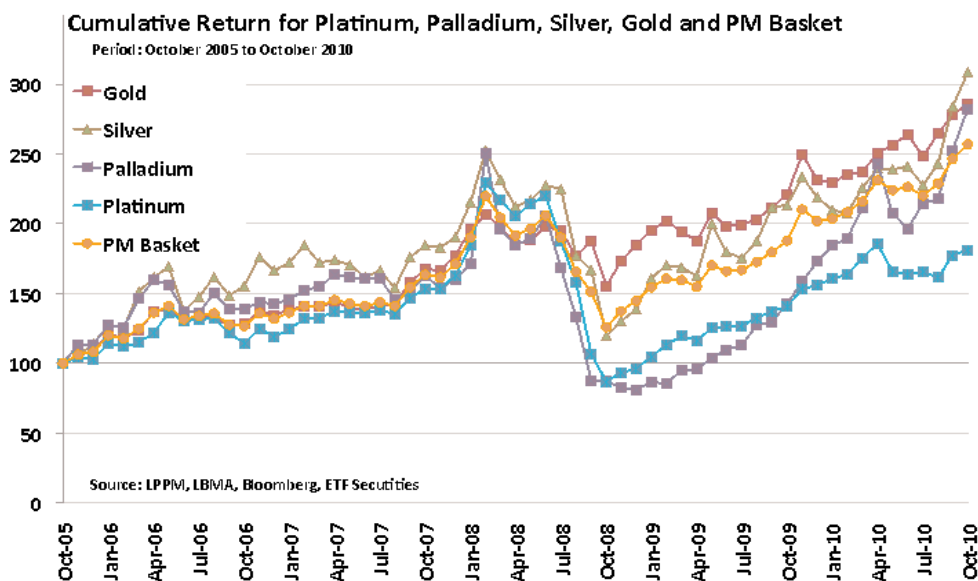
### ***Documentation***

The Relevant Associations have developed and introduced a number of standard agreements which cover the terms and conditions for operating allocated and unallocated accounts and for dealing in spot metal transactions. In all dealings in metal the Issuer, to the extent possible, will use the standard clearing documentation, amended as required by the Trustee.

### ***Historic Precious Metal Prices***

The charts below show the relative historical price performance (in US dollars) of the five Individual Securities and the Basket Security (before fees). The historical performance has been broken down into two time periods (i) Chart 1 shows the past 20 years for which historical data is available for all four metals and (ii) Chart 2 shows the period beginning in October 2005 when palladium had retreated from the spike in 2000/2001.





The Securities in the above chart have a limited trading history. The relative returns shown in the above charts are mostly simulated, cumulative returns based on the spot prices of the underlying four metals excluding fees. Please note that past performance may not be indicative of future performance.

Each of the Relevant Associations publishes on its website (<http://www.lppm.org.uk/> and <http://www.lbma.org.uk/>) historic Fixing Prices enabling users to calculate historic performance and volatility.

### Correlation of Precious Metals with Other Asset Classes

Numerous academic and other research papers in recent years have examined the risk and return characteristics of a variety of commodities compared to other asset classes such as equities and bonds. A portfolio comprising securities of different asset classes will increase portfolio diversification and decrease portfolio risk (volatility) when the correlation between the asset classes is low or negative. While the precise results of the research vary, depending on choice of time period, data frequency, and indices selected, the results mostly suggest that commodities (including precious metals) have low to negative correlation to equities and bonds.

For example, several papers by the World Gold Council and also Ibbotson Associates (*Portfolio Diversification with Gold, Silver and Platinum*) support these results. The table below also confirms that over the past five years, platinum, palladium, silver and gold had low to negative correlation with equities and bonds.

#### Five Year Correlations

Based on monthly returns period considered: November 2005 to October 2010

	Physical PM Basket <sup>1</sup>	Platinum	Palladium	Silver	Gold	Equity <sup>2</sup>	Bond <sup>3</sup>
Physical PM Basket <sup>1</sup>	1.00	0.87	0.88	0.69	0.86	0.16	0.15
Platinum		1.00	0.81	0.29	0.53	0.02	0.27
Palladium			1.00	0.56	0.68	0.17	-0.07
Silver				1.00	0.79	0.27	-0.11
Gold					1.00	0.24	0.03
Equity <sup>2</sup>						1.00	-0.28
Bond <sup>3</sup>							1.00

<sup>1</sup> Correlation based on the proportions of the Bullion of each type comprised in an ETFS Physical PM Basket Security

<sup>2</sup> S&P Total Return

<sup>3</sup> US Tracker 1 - 10 Yrs Bond Index

Source: Bloomberg

## PART 3

### DESCRIPTION OF METAL SECURITIES

*The following is a description of the rights attaching to the Metal Securities and is included in this Prospectus for illustrative purposes only. The legally binding Conditions of the Metal Securities are set out in the Trust Instrument and reproduced in Part 5 (Trust Instrument and the Conditions) of this Prospectus. Copies of the Trust Instrument, by which the Metal Securities will be constituted, are available for inspection as set out in paragraph 9 (Documents Available for Inspection) of Part 9 (Additional Information).*

A Metal Security is an undated secured limited recourse debt obligation of the Issuer, which entitles a Security Holder (provided it is an Authorised Participant) to require the redemption of the security and on the Settlement Date receive an amount of Bullion equal to the Metal Entitlement. A Security Holder who is not an Authorised Participant may only require the redemption of a Metal Security if on any given Business Day there is no Authorised Participant or the Issuer has announced that redemptions by Security Holders who are not Authorised Participants will be permitted, in which case the Security Holder will receive an amount in cash representing the proceeds of sale of the amount of its Metal Entitlement rather than its Metal Entitlement in Bullion.

Six types of Metal Security will be issued under this Programme – ETFS Physical Platinum Securities, ETFS Physical Palladium Securities, ETFS Physical Silver Securities, ETFS Physical Gold Securities, ETFS Physical Swiss Gold Securities and ETFS Physical PM Basket Securities and each will be backed by physical Bullion in a vault, i.e. each Metal Security will be secured by “allocated” Bullion which complies with the “Good Delivery” standard set by the Relevant Association.

#### **Metal Entitlement**

##### ***Individual Securities***

There is a separate Metal Entitlement for each class of Individual Security. As at 24 April 2007 (being the day dealings in the Initial Metal Securities first commenced on the London Stock Exchange), the Metal Entitlement for each class of Initial Metal Security was fixed at 0.10 troy oz platinum, 0.10 troy oz palladium, 1.00 troy oz silver and 0.10 fine troy oz gold and as at 16 December 2009 (being the day dealings in the ETFS Physical Swiss Gold Securities first commenced on the London Stock Exchange) the Metal Entitlement for the ETFS Physical Swiss Gold Securities was fixed at 0.10 fine troy oz gold. As at 30 November 2010, the Metal Entitlement for each class of Individual Security was as follows:

<b>Class of Security</b>	<b>Metal Entitlement</b>
ETFS Physical Platinum	0.098252501 troy oz
ETFS Physical Palladium	0.098252501 troy oz
ETFS Physical Silver	0.982524963 troy oz
ETFS Physical Gold	0.098607330 fine troy oz
ETFS Physical Swiss Gold	0.0996324 fine troy oz

The Metal Entitlement is reduced daily by the Management Fee. Whenever new securities are issued or existing securities redeemed, this will be done at the then prevailing Metal Entitlement, thereby ensuring that all securities of the same class have the same Metal Entitlement and are fully fungible.

The Management Fee for each class of Individual Security is:

<b>Class of Security</b>	<b>Management Fee</b>
ETFS Physical Platinum	49 basis points per annum
ETFS Physical Palladium	49 basis points per annum
ETFS Physical Silver	49 basis points per annum
ETFS Physical Gold	39 basis points per annum
ETFS Physical Swiss Gold	39 basis points per annum

The Management Fee reduces the Metal Entitlement each day, as follows:

$$ME_{(i,t)} = ME_{(i,t-1)} \times (1 - MF_{(i,t)})^{1/N};$$

where:

- i refers to the relevant class of Metal Security;
- t refers to the applicable day (with t-1 being the previous day);
- $ME_{(i,t)}$  is the Metal Entitlement for Metal Securities of class i for day t;
- $MF_{(i,t)}$  is the per annum Management Fee applicable on day t, expressed as a decimal (so that 49 basis points per annum is expressed as 0.0049);
- N is 365 (or 366 in a leap year).

The Metal Entitlement will be calculated daily by the Issuer, to nine places of decimals with 0.000000005 troy ounces (or fine troy ounces in the case of gold) rounded upwards, and will be published on the Issuer's website. The Management Fee will be paid monthly in arrear by transfer of Bullion from the Secured Metal Accounts but only with the consent of the Trustee.

The Management Fee may be varied by the Issuer at any time, but in the case of an increase only after giving 30 days' prior notice to all Security Holders (to be released through the RIS).

### ***Basket Security***

An ETFS Physical PM Basket Security is a single security comprised of 1/10th of one ETFS Physical Platinum Security, 2/10ths of one ETFS Physical Palladium Security, 12/10ths of one ETFS Physical Silver Security and 4/10ths of one ETFS Physical Gold Security. As at 30 November 2010, each ETFS Physical PM Basket Security therefore had a combined Metal Entitlement comprising each of the four metals as follows:

<b>Type of Bullion</b>	<b>Metal Entitlement</b>
Platinum	0.098252501 troy oz
Palladium	0.098252501 troy oz
Silver	0.982524963 troy oz
Gold	0.098607330 fine troy oz

The Metal Entitlement of the Basket Securities is reduced daily by the Management Fee applicable to the Individual Securities of which they are comprised.

### ***Publication of Metal Entitlement***

The Issuer will arrange for publication on the Issuer's Website of the current Metal Entitlement for each type of Metal Security in issue.

### ***Authorised Participants***

Only Authorised Participants may deal with the Issuer in applying for or redeeming Metal Securities, save where, on the Business Day on which a Redemption Form is lodged, there are no Authorised Participants or the Issuer has announced that redemptions by Security Holders who are not Authorised Participants will be permitted and the Security Holder submits a notice of redemption in the form prescribed for such circumstances by the Issuer. A person can only be an Authorised Participant if: (a) it is a securities house or other market professional approved by the Issuer (in its absolute discretion); (b) it is an Authorised Person, an Exempt Person or an Overseas Person; and (c) it is not a UCITS fund. An Authorised Participant must also have entered into an Authorised Participant Agreement with the Issuer dealing with, amongst other things, the rights and obligations of the Authorised Participant in relation to applying for and redeeming Metal Securities. The terms of the Authorised Participant Agreements are summarised in paragraph 3 of Part 9 (*Additional Information*). The names of all Authorised Participants at any time will be published by the Issuer on its website. The names of the Authorised Participants as at the date of this document are referred to in paragraph 3.1 of Part 9 (*Additional Information*).

The Issuer has agreed to use reasonable endeavours to ensure that at all times there are at least two Authorised Participants.

## **Applications and Redemptions**

### ***Business Days***

ETFS Physical Platinum Securities and ETFS Physical Palladium Securities (and Basket Securities comprising ETFS Physical Platinum Securities and/or ETFS Physical Palladium Securities) and ETFS Physical Swiss Gold Securities are created and redeemed based on a day count (i.e. day T, T+1 etc) using days which are both London Business Days and Zurich Business Days. Other Metal Securities are created and redeemed based on a day count using days which are London Business Days.

### ***Applications***

Metal Securities may be created at any time during the period of 12 months from the date of this document. There is no maximum or minimum number of Metal Securities that may be applied for. Only Authorised Participants may lodge an Application Form.

Payment for new Metal Securities must be made by the Authorised Participant depositing in the Subscription Unallocated Account by the earlier of (i) the clearing cut-off time set by the LPPM for platinum and palladium, currently 12 noon Zurich time (11 a.m. London time); and (ii) the clearing cut-off time set by the LBMA for silver and gold, currently 4.00 p.m. London time on the Settlement Date (day T+3) for ETFS Physical Platinum, ETFS Physical Palladium, and by 12 noon Zurich time (11 a.m. London time) on the Settlement Date (T+3) for ETFS Physical Gold or ETFS Physical Silver and by 12 noon Zurich time (11 a.m. London time) on the Settlement Date (T+3) for ETFS Physical Swiss Gold, an amount of Bullion equal to the aggregate Metal Entitlement of the Metal Securities applied for, calculated as at the Settlement Date (rounded up to the nearest 0.001 troy ounce, or fine troy ounce in the case of gold).

An Application received by the Registrar by 11 a.m. London time (day T) on a Business Day with receipt the Bullion in the applicable Subscription Unallocated Account within three Business Days (T+3) will generally enable the Applicant to receive the new Metal Securities in their CREST account within three Business Days (T+3). Deposits should be made as unallocated Bullion as follows:

- (a) *The Initial Metal Securities (and any Basket Securities to the extent comprised of any Initial Individual Metal Securities)*
  - (i) For ETFS Physical Platinum and ETFS Physical Palladium, loco Zurich or loco London; and
  - (ii) For ETFS Physical Silver and ETFS Physical Gold, loco London;
- (b) *The Swiss Gold Metal Securities*

For ETFS Physical Swiss Gold, loco Zurich or subject to loco swap arrangements being agreed with the Swiss Gold Custodian, loco London.

Applications to create ETFS Physical Swiss Gold Securities by deposit of unallocated Bullion loco London will only be accepted if the Authorised Participant has first agreed with the Swiss Gold Custodian the cost of any loco swap that the Swiss Gold Custodian will use to effect gold transfers between the loco London Swiss Gold Secured Unallocated Account and the loco Zurich Swiss Gold Secured Unallocated Account and has undertaken to reimburse the Swiss Gold Custodian for any amount owed under such swap. Such gold loco swap prices will be determined at then prevailing market rates, prices and spreads, which are expected to fluctuate depending on the local London and Zurich gold market supply and demand conditions.

New Metal Securities will only be issued after the Bullion deposited in a Subscription Unallocated Account has been transferred into the relevant Secured Unallocated Account.

Once in the relevant Secured Unallocated Account, the Custodian will then allocate all the Bullion (other than an amount less than one Good Delivery bar) by transferring such Bullion to the relevant Secured Allocated Account; allocation is generally expected to be completed the same day (although in exceptional circumstances platinum and palladium may take a business day or two longer to allocate and if loco London gold is received for the issue of Swiss Gold Metal Securities, allocation may also be subject to delays of in general one to two Business Days).

### ***Redemptions***

A Security Holder who is an Authorised Participant may, at any time, by lodging a valid Redemption Form with the Registrar, require the redemption of all or any of its Metal Securities.

Payment for redemptions shall be made by the Custodian, on approval of the Trustee, by withdrawing Bullion from the applicable Secured Metal Accounts in an amount equal to the aggregate Metal Entitlement of the Metal Securities being redeemed, calculated as at the Settlement Date (rounded down to the nearest 0.001 troy ounce, or fine troy ounce in the case of gold), and delivering the same to the unallocated metal account of the redeeming Authorised Participant. Bullion will be de-allocated from the Secured Allocated Account to the Secured Unallocated Account before being transferred to the Authorised Participant's account on the Settlement Date.

#### *Platinum and palladium*

For platinum and palladium, the Custodian will only be able to affect the transfer after the Bullion has been credited to the Custodian's account with its Zurich clearing bank and this may take a day or two longer to occur. If so, the Settlement Date will be postponed to such later date.

#### *Swiss Gold*

In the case of the Swiss Gold Metal Securities, an Authorised Participant may elect to receive delivery of Bullion either loco London or loco Zurich. A Redemption Form specifying loco London delivery of Bullion will cause the Swiss Gold Custodian to de-allocate gold from the Swiss Gold Secured Allocated Account to the loco Zurich Swiss Gold Secured Unallocated Account and then to the Authorised Participant's Security Holder Account maintained in London. Such transfer between the Issuer's and Authorised Participant's Zurich and London unallocated accounts will occur pursuant to loco swap arrangements and will not expose the Authorised Participant or the Issuer to any risk of loss of the gold being transferred. All risks of loss for any additional transfers caused by a loco London delivery election will be assumed by the Swiss Gold Custodian.

A Redemption Form specifying loco London delivery of Bullion will not be valid unless the Authorised Participant has first confirmed that it has agreed with the Swiss Gold Custodian the cost of any loco swap that the Swiss Gold Custodian will use to effect gold transfers between the loco Zurich Swiss Gold Secured Unallocated Account and the Authorised Participant's loco London Security Holder Account and has undertaken to reimburse the Swiss Gold Custodian for any amount owed under such swap. Such gold loco swap prices will be determined at then prevailing market rates, prices and spreads, which are expected to fluctuate depending on the local London and Zurich gold market supply and demand conditions. Where an Authorised Participant elects to receive delivery of Bullion loco London, de-allocation may take a Business Day or two longer than in the case of delivery loco Zurich, with consequent delay to the settlement date for the Redemption.

A Security Holder must deposit the Metal Securities being Redeemed with the Registrar by not later than 8.00 a.m. on the Settlement Date and payment for redemption will only be made after the Registrar has confirmed to the Custodian receipt of the Metal Securities. Redemption Forms lodged with the Registrar by 4.30 p.m. on a Business Day (day T) with the Metal Securities deposited by 8.00 a.m. three Business Days later (that is, by T+3) will generally enable an Authorised Participant to receive their Bullion the same day (day T+3). Redemption Forms lodged after 4.30 p.m. (London time) on a Business Day will be treated as having been lodged on the next Business Day.

A Security Holder who is not an Authorised Participant may only require the redemption of any or all of its Metal Securities if either on the date on which a Redemption Form is lodged there are no Authorised Participants or the Issuer has announced that redemptions by Security Holders who are not Authorised Participants will be permitted and in either case the Security Holder lodges a valid Redemption Form on that day and delivers the Metal Securities being Redeemed to the Issuer by either depositing them into an appropriate CREST account in the name of the Issuer or the Registrar and giving correct delivery free of payment instructions in CREST or delivering the certificates in respect of them to the Registrar (or otherwise delivers such Metal Securities to the Issuer by agreement with the Issuer). Redemption Forms will not be treated as having been lodged until the Metal Securities being Redeemed have been so delivered to the Issuer. Payment for such redemptions will be in US dollars rather than in Bullion. To give effect to such redemptions, the Trustee will sell Bullion to the Metal Sale Counterparty pursuant to the Metal Sale Counterparty Agreement in an amount equal to the aggregate Metal Entitlement of the Metal Securities being redeemed, calculated as at the Settlement Date (rounded down to the nearest 0.001 troy ounce, or fine troy ounce in the case of gold). The Bullion will be sold at the price determined in the London AM Fix for the type of Bullion concerned on the first Business Day after the Redemption Form is lodged (or treated as lodged). Once the proceeds are received, they will be paid, generally through CREST, less any Redemption Fee, three Business Days following the date upon which the



Redemption Form is lodged with the Registrar, that is, on a T+3 basis. If the Settlement Date would be a day which is not a “value date” in the Relevant Market, the Conditions provide for the Settlement Date to be postponed to the next day which is such a “value date”. In such circumstances the Management Fee (out of which ETFSL pays all the Issuer’s expenses including the Custodians fees) will continue to accrue.

Neither the Trustee nor the Issuer shall be responsible or liable for any failure by the Custodians (or the Metal Sale Counterparties) to effect a payment of Bullion (or US dollars) in accordance with the instructions of the Trustee and/or the Issuer. However, in the event of such failure, the Issuer shall to the extent practicable assign to the redeeming Security Holder its claims in relation to such Bullion (or US dollars) in satisfaction of all claims of such Security Holder in respect of the Metal Securities to be redeemed and the Security Holder shall have no further claims against the Issuer or the Secured Property.

#### **Application Fees and Redemption Fees**

Application Fees and Redemption Fees will only be payable on Application for and Redemption of Metal Securities and not by investors who buy and sell such on the secondary market, including the London Stock Exchange.

The Issuer will charge Authorised Participants a fee of £500 for each Application and Redemption, regardless of the number of Metal Securities to be issued or redeemed.

In the event of a compulsory redemption or where a Security Holder lodges a Redemption Form when there are no Authorised Participants, the Issuer will reduce the Redemption Fee to an amount equal to the Issuer’s cost in satisfying such Redemption Form, including costs of enquiries under Condition 10 (*Enquiries as to status of Security Holders*) and of giving the redemption notice (but not exceeding £500), and that amount will be charged by the Issuer by way of a deduction from the redemption proceeds due to such Security Holder.

No additional amounts will be charged by the Issuer to an Applicant or a Security Holder in respect of VAT payable in connection with Application Fees or Redemption Fees.

The Issuer may vary the Application Fees and Redemption Fees at any time after giving 30 days’ written notice to Authorised Participants and through an RIS.

#### **Storage and Insurance of Bullion**

Platinum and palladium will be held by the Initial Custodian at its London vault premises or by one or more by Initial Zurich Sub-Custodians at their Zurich vault premises. Silver and gold (other than gold attributable to ETFS Physical Swiss Gold Securities) will be held by the Initial Custodian at its London vault premises. Gold attributable to the ETFS Physical Swiss Gold Securities will be held in Switzerland by the Swiss Gold Custodian through the Swiss Gold Zurich Sub-Custodian at its Zurich vault premises.

Such Bullion may be held elsewhere by the relevant Custodian or a Sub-Custodian appointed by the relevant Custodian or by a delegate of a Sub-Custodian on a temporary basis prior to Bullion being transported to such vault premises or as part of a creation or redemption process. The relevant Custodian will be responsible for the transportation, handling and any costs associated with moving Bullion to or from its London vault premises or the Zurich vault premises of the Zurich Sub-Custodian and between any vaults of Sub-Custodians.

As at the date of this document the Sub-Custodians directly appointed by the Initial Custodian are the Bank of England (with respect to gold only), The Bank of Nova Scotia (ScotiaMocatta), Deutsche Bank AG, JPMorgan Chase Bank, N.A., UBS AG, Barclays Bank PLC, Johnson Matthey plc (with respect to silver only), Brink’s Global Services Inc. and ViaMat International.

At the date of this document the Sub-Custodians directly appointed by the Swiss Gold Custodian are Brink’s Global Services Inc., ViaMat International and Group 4 Security Limited.

The Custodians (or one of their respective affiliates) may make such insurance arrangements from time to time in connection with their custodial obligations with respect to Bullion held in allocated form as they consider appropriate. The Custodians have no obligation to insure such Bullion against loss, theft or damage and the Issuer does not intend to insure against such risks. In addition, the Trustee is not responsible for ensuring that adequate insurance arrangements have been made, or for insuring the Bullion held in the Secured Metal Accounts, and shall not be required to make any enquiry regarding such matters.



Furthermore, neither the Issuer nor the Trustee will require any Zurich Sub-Custodian or any other direct or indirect Sub-Custodians to be insured or bonded with respect to their custodial activities or in respect of the Bullion held by them pursuant to the Custodian Agreements

Consistent with industry standards, the Custodians maintain group insurance policies that cover all metals held in their, their respective Sub-Custodians', and their respective Zurich Sub-Custodian's, vaults for the accounts of all their customers for a variety of events. The Issuer may, subject to confidentiality restrictions, be provided with details of these insurance coverage arrangements from time to time upon reasonable prior notice.

The Initial Custodian has agreed to charge a fee for its services under the Initial Custodian Agreements at a rate of 0.14 per cent. per annum in relation to platinum and palladium, 0.10 per cent. per annum in relation to silver and 0.06 per cent. per annum in relation to gold, in each case based on the aggregate US dollar value of Bullion held in the relevant Secured Metal Account (with no minimum fee), calculated daily and payable monthly or quarterly in arrear (as determined by the Initial Custodian).

The Swiss Gold Custodian has agreed to charge a fee for its services under the Swiss Gold Custodian Agreements based on the aggregate US dollar value of Bullion held in the relevant Secured Metal Accounts (with no minimum fee), calculated daily and payable monthly or quarterly in arrear (as determined by the Swiss Gold Custodian).

The Custodian Agreements are for an initial fixed term of five years from 18 April 2007 (in the case of the Initial Custodian Agreements) and five years from 11 December 2009 (in the case of the Swiss Gold Custodian Agreements) and will continue unless either the Issuer) or Custodian gives 90 days' prior written notice.

Further details of the terms of storage and the extent of the liability of the Custodian for the Bullion held in the Secured Metals Accounts can be found in Part 7 (*Description of the Custodian Agreements*).

## **The Custodians**

### *The Initial Custodian*

HSBC Bank USA, N.A. is a wholly owned subsidiary of HSBC Holdings plc which acts through its London branch at 8 Canada Square, London E14 5HQ and provides custody and transfer facilities from time to time pursuant to the Initial Custodian Agreements.

The Initial Custodian is a corporation organised under the laws of New York and is subject to supervision by the Office of the Comptroller of Currency, the Federal Reserve Bank of New York and the Federal Deposit Insurance Corporation. In addition to supervision and examination by the US federal authorities, HSBC Bank USA, N.A.'s London office is regulated by the Financial Services Authority. HSBC Bank USA, N.A. is the principal subsidiary of HSBC USA Inc. which had total assets of US\$186.441 billion as at 30 June 2010.

### *The Swiss Gold Custodian*

JPMorgan Chase Bank, N.A. is a national banking association organised under the laws of the United States of America which acts through its London branch at 125 London Wall, London, EC2Y 5AJ and provides custody and transfer facilities from time to time pursuant to the Swiss Gold Custodian Agreements.

The Swiss Gold Custodian is a corporation organised under the laws of the USA and is subject to supervision by the Federal Reserve Bank of New York and the Federal Deposit Insurance Corporation, USA. In addition to supervision and examination by the US federal authorities, JPMorgan Chase's London office is regulated by the Financial Services Authority. JPMorgan Chase is a subsidiary of JPMorgan Chase & Co. The Custodians will be responsible for the safekeeping of the Bullion held in the Secured Metal Accounts and the Subscription Unallocated Accounts maintained with them. The primary business activity of the Custodians in respect of their role to the Issuer is to act as custodian of Bullion. The Custodians will maintain custody of the assets on both a book-entry or unallocated basis and an allocated basis.

While the UK operations of each of the Custodians are regulated by the Financial Services Authority, the custodial services provided by the Custodians and any Sub-Custodian under the Custodian Agreements are presently not a regulated activity subject to the supervision and rules of the FSA.

The Custodians and any of their affiliates may from time to time purchase or sell Metal Securities for

their own account, as agent for their customers and for accounts over which they exercise investment discretion.

The Custodian Agreements contain provisions limiting the liability of the Custodians and indemnities in favour of the Custodians which are restricted to exclude matters arising by reason of loss or damage arising as a result of fraud, negligence or material breach by the Custodian in the performance of its duties. The Custodians may make use of Sub-Custodians and depositories in the exercise of their functions.

The Custodians do not warrant the contents of this Prospectus, nor are they involved in the management, administration or net asset value calculation of the Metal Securities.

### **Value Added Tax**

Platinum, palladium and silver are subject to 17.5 per cent. VAT (rising to 20 per cent. VAT from 4 January 2011) when imported into the United Kingdom (except those arrivals from within the EU which are not subject to such import VAT). The VAT can be reclaimed as long as the importer is a member of the LBMA (in the case of silver) and the LPPM (in the case of platinum and palladium) and the metals are kept within the London "black box" clearing system. Investment gold is zero rated.

The Initial Custodian is a member of both the LBMA and the LPPM, and the Swiss Gold Custodian is a member of the LBMA, and thus any VAT charged to the Custodians under the Programme is reclaimable. The processes designed by the Custodians for the benefit of the Issuer means that Metal Securities should not accrue any future irrecoverable VAT charges, although if the rules for VAT or importation were changed, it is possible that Metal Securities could be liable for irrecoverable VAT when the Bullion is imported into the UK. However, under current rules, if upon redemption the Security Holder requires physical delivery outside of the "black box" system then they will be liable for VAT.

In respect of metals coming in from outside the EU, they can be brought straight into the bonded warehouse which will mean that as they are not in free circulation no import VAT charge arises. They can be traded whilst remaining in bond, without a VAT charge arising. Storage charges for metals in bond do not attract a VAT charge, whereas storage charges for metals that are outside the bond but fall within the reliefs of the London "black box" clearing system are subject to VAT.

Pursuant to the Custodian Agreements, the Custodians (and not the Issuer or Trustee) are liable for any VAT.

### **Separate Pools**

Individual Securities of any class will have recourse only to the Secured Property of the Pool attributable to that class and not to the Secured Property of any Pool attributable to any other class. The principal assets to be included in each Pool are Bullion held in the Secured Metal Accounts attributable to that class and the Custodian Agreements to the extent attributable to that class. The Issuer may issue other types of securities but any such securities will have recourse only to the Secured Property of the Pool attributable to such new type and not to the assets attributable to any other type.

### **Security**

All Bullion in the Secured Metal Accounts will be the subject of a fixed charge in favour of the Trustee under the applicable Security Deed to secure the obligations owed by the Issuer to the Trustee and the Security Holders.

### **Accounts**

The Issuer's financial statements will be presented in US dollars. The value of any assets and liabilities denominated in currencies other than US dollars will be converted in US dollars at rates quoted by independent sources. The valuation of the assets and liabilities of the Issuer attributable to any Pool will be determined under the supervision of the Board. The Secured Metal Accounts and the Bullion held in such accounts will constitute an asset of the Issuer. For the purposes of the valuation of the Issuer's assets, the Bullion held in the Secured Metal Accounts will be valued at the London AM Fix as at the date of valuation.

## PART 4

### THE PROGRAMME

#### Overview of the Programme

The rights attached to Metal Securities are summarised in Part 3 (*Description of Metal Securities*), and have the rights set out in Part 5 (*Trust Instrument and the Conditions*).

Metal Securities are being made available by the Issuer for subscription only to Authorised Participants. Applications for Metal Securities will not be accepted unless the Issuer in its discretion determines to do so. Only Authorised Participants may apply for and/or redeem Metal Securities (except in the event that on any given Business Day there are no Authorised Participants, or in certain other circumstances as may be announced by the Issuer, in which case a Security Holder who is not an Authorised Participant may request redemption of Metal Securities which it holds by lodging a valid Redemption Form and delivery to the Issuer (in CREST or by delivery of certificates) of such Metal Securities).

Metal Securities are available to be issued in Certificated Form or in Uncertificated Form in the CREST System. Persons who apply for Metal Securities and wish to hold their Metal Securities in Uncertificated Form should so signify on the Application Form and complete the relevant sections of that form in accordance with the instructions thereon. See "CREST" below.

#### Passporting

The Issuer has requested the FSA to provide the *Bundesanstalt für Finanzdienstleistungsaufsicht* (the German Federal Financial Supervisory Authority), the *Autorité des Marchés Financiers* (French Authority for the Financial Markets), the *Autoriteit Financiële Markten* (Netherlands Authority for the Financial Markets), the *Commissione Nazionale per le Società e la Borsa* (CONSOB), *Finansinspektionen* (Swedish Financial Supervisory Authority) *Comisión Nacional del Mercado de Valores* (Spanish Securities Market Commission) and *Finanstilsynet* (Danish Financial Supervisory Authority) with a certificate of approval attesting that this Prospectus has been drawn up in accordance with Directive 2003/71/EC. The Issuer may request the FSA to provide competent authorities in other EEA Member States with such certificates, whether for the purpose of making a public offer in such Member States or for admission to trading of all or any Metal Securities on a regulated market therein or both.

The Initial Metal Securities have been admitted to listing on the Regulated Market (General Standard) (*Regulierter Markt [General Standard]*) of the Frankfurt Stock Exchange (*Frankfurter Wertpapierbörse*) since 8 May 2007, NYSE Euronext Paris since 9 May 2007, Euronext Amsterdam since 9 May 2007 and the ETFplus market of the Borsa Italiana S.p.A. since 20 June 2007.

The Swiss Gold Metal Securities have been listed on the Regulated Market (General Standard) (*Regulierter Markt [General Standard]*) of the Frankfurt Stock Exchange (*Frankfurter Wertpapierbörse*) since January 2010.

#### Japan listing

The Initial Metal Securities have also been admitted to listing on the Tokyo Stock Exchange since 24 August 2009.

#### Procedure for Application

Only Authorised Participants may make an Application. An Authorised Participant who wishes to apply for Metal Securities should complete the Application Form in accordance with the instructions thereon and the applicable Authorised Participant Agreement and lodge it with the Registrar.

For those Applicants who wish to hold their Metal Securities in Certificated Form, certificates in respect of the Metal Securities will be dispatched within 10 London Business Days of the Metal Securities being issued. For those Applicants who desire to hold their Metal Securities in Uncertificated Form, the relevant CREST account will be credited on the day on which the Metal Securities are issued against payment. The Issuer considers it preferable that Metal Securities be held in Uncertificated Form. Notwithstanding any other provision in this document, the Issuer reserves the right to issue any Metal Securities in Certificated Form. In normal circumstances this right is only likely to be exercised in the event of any interruption, failure or breakdown of CREST (or any part of CREST), or on the part of the facilities and/or systems operated by the Registrar in connection with CREST. This right may also be exercised if the correct details (such as participant ID and member account details) are not provided as requested on

the Application Form. No temporary documents of title will be issued and, pending despatch of security certificates, transfers will be certified against the register.

By completing and lodging an Application Form the Applicant confirms and agrees that:

- (a) it is not relying on any information or representation other than such as may be contained in this document;
- (b) no person responsible solely or jointly for this document or any part of it shall have any liability for any information or representation not contained in this document;
- (c) it is an Authorised Person, an Exempt Person or an Overseas Person;
- (d) it is not a UCITS Fund; and
- (e) it understands that Metal Securities are direct, limited recourse obligations of the Issuer alone.

Further details on the procedure for applications are set out under the heading “Applications and Redemptions” in Part 3 (*Description of Metal Securities*).

### **Subscription for Metal Securities**

All Bullion being used to apply for Initial Metal Securities and any other Basket Securities to the extent comprised of any Initial Individual Metal Securities must be deposited into the Initial Subscription Unallocated Account.

All Bullion being used to apply for the Swiss Gold Metal Securities must be deposited into the loco Zurich Swiss Gold Subscription Unallocated Account or the loco London Swiss Gold Subscription Unallocated Account. An Application to create ETFS Physical Swiss Gold Securities by deposit of unallocated Bullion loco London will only be accepted if the Authorised Participant has first agreed with the Swiss Gold Custodian the cost of any loco swap that the Swiss Gold Custodian will use to effect gold transfers between the loco London Swiss Gold Secured Unallocated Account and the loco Zurich Swiss Gold Secured Unallocated Account and has undertaken to reimburse the Swiss Gold Custodian for any amount owed under such swap.

Bullion held in a Subscription Unallocated Account in respect of valid Applications will not be subject to the security created by the Security Deeds but will be held on trust for the Applicant pending the transfer of such Bullion to the Secured Metal Accounts. If the relevant Application is rejected or if the relevant Applicant has deposited excess Bullion, such Bullion (or the excess amount thereof as the case may be) will be held for the benefit of the Applicant and will be returned to such Applicant as soon as practicable at the risk of the Applicant. To the extent that an Applicant deposits Bullion into the applicable Subscription Unallocated Account in excess of the amount required for the number of Metal Securities applied for, such excess Bullion shall be returned to the relevant Applicant as soon as practicable.

The Metal Securities in respect of which the deposit has been made will not be issued until the Custodian has confirmed to the Issuer that it has completed the transfer to the relevant Secured Unallocated Account.

### **SETTLEMENT**

#### *CREST*

The Issuer is a participating issuer in, and the Metal Securities are participating securities in, CREST, a paperless multi currency electronic settlement procedure enabling securities (including debt securities) to be evidenced otherwise than by written instrument, and transferring such securities electronically with effective delivery versus payment. Accordingly, to the extent that Metal Securities are issued in Uncertificated Form, settlement of transactions in the Metal Securities will take place within the CREST system.

#### *Settlement and Delivery on the Frankfurt Stock Exchange*

For the purpose of good delivery of the Metal Securities on the Frankfurt Stock Exchange, Clearstream Banking Aktiengesellschaft (“**Clearstream**”) will issue, for each type and the relevant number of Metal Securities, a Global Bearer Certificate (the “**Global Bearer Certificate**”) in the German language created under German law (“**Collective Safe Custody**”). The Global Bearer Certificates will have the following German ISIN Codes:

Type of Global Bearer Certificate:	ISIN Code:
ETFS Physical Platinum	DE000A0N62D7
ETFS Physical Palladium	DE000A0N62E5
ETFS Physical Silver	DE000A0N62F2
ETFS Physical Gold	DE000A0N62G0
ETFS Physical PM Basket	DE000A0N62H8
ETFS Physical Swiss Gold	DE000A1DCTL3

A non-binding English language translation of the conditions of the Global Bearer Certificate is set out in Part 8 (*Global Bearer Certificates (Germany)*) of this Prospectus.

For each Global Bearer Certificate, the relevant number and type of Metal Securities will be registered in the name of Vidacos Nominees Limited, London, England (the “**Nominee**”) in the relevant Register of Security Holders and credited to a separate safe custody account of Clearstream with Citibank N.A., London, England (the “**Custodian**”). The safe custody account assigned to the Metal Securities (the “**Safe Custody Account**”) will be designated “Clearstream Banking Aktiengesellschaft (Clearstream) — Special Safe Custody Account for Metal Securities Global Bearer Certificate” — followed by the name of the type of Metal Security concerned as set out in Annex 2.

In accordance with the conditions governing the Global Bearer Certificate:

- each co-owner thereof will be entitled, at his expense, to demand at any time that Clearstream arrange for the registration of the co-owner or a third party designated by him, in the relevant Register of Security Holders of the number of Metal Securities corresponding to his co ownership share or any portion thereof in the Global Bearer Certificate; and
- any registered holder of Metal Securities will be entitled, at his expense, to have his Metal Securities delivered to the Custodian for crediting to the Safe Custody Account against a corresponding co-ownership share in the Global Bearer Certificate.

Whenever the number of Metal Securities represented by the Global Bearer Certificate changes (as a result, for example, of deliveries to the Safe Custody Account, withdrawals from the Safe Custody Account or issues or redemptions of Metal Securities), Clearstream will amend the Global Bearer Certificate accordingly.

Unless otherwise agreed, the Issuer will treat the Nominee as one single security holder so far as fractional rights and entitlements are concerned.

*Cash Payments and Exercise of Subscription Rights and Other Rights:* Cash payments are credited to Clearstream’s cash account with the Custodian and paid by Clearstream to the respective co-owners. Any subscription rights or other rights and any fractional rights relating to the Metal Securities in the Safe Custody Account will be held by Clearstream at the disposal of HSBC Trinkaus & Burkhardt AG (the “**Bank**”). Upon the request of the Bank, Clearstream will give instructions to the Custodian for the exercise, purchase or sale of such subscription rights, other rights or fractional rights. In case of any flow of cash amounts resulting out of such transactions, Clearstream will without delay inform the Bank by fax of the net proceeds or the net costs, respectively, and the related value date. The net proceeds or the net costs, respectively, must be credited or debited to the Bank’s cash account with Clearstream or as otherwise agreed between Clearstream and the Bank.

*Clearstream Banking AG:* Clearstream is a company that was incorporated on 12 July 1949 in Frankfurt under the laws of the Federal Republic of Germany.

Clearstream is a regulated credit institution under the German Banking Act and licensed as the German Central Securities Depository pursuant to the German Securities Deposit Act, i.e. a professional depository that holds securities for its customers and facilitates the clearance and settlement of securities transactions among them through electronic book-entry transfers between their accounts, thereby eliminating the need for physical movement of the securities. Clearstream also provides other services to its customers, including safekeeping, administration, clearance and settlement of internationally traded securities and securities lending and borrowing. Clearstream’s customers are worldwide financial institutions, including underwriters, securities brokers and dealers, banks, trust companies and clearing corporations.

Clearstream conducts its business in the legal form of a German stock corporation (Aktiengesellschaft), registered in the commercial register at the local court in Frankfurt under number HRB 7500, and with



registered office at Neue Börsenstraße 1, D-60487 Frankfurt am Main, Federal Republic of Germany.

*Supply and Inspection of Documents in Germany*

For the duration of the Programme or so long as any Metal Securities remain outstanding, copies of this Prospectus (or any replacement prospectus), the German translation of the summary thereto and all financial information as well as the contracts required to be disclosed by the Issuer pursuant to the applicable rules will be available for inspection during normal business hours on any weekday (Saturdays, Sundays and public holidays excepted) at the registered office of the Bank, and a copy of the documents referred above may be requested by contacting the Bank.

*Settlement and Delivery on NYSE Euronext Paris*

All Metal Securities traded on NYSE Euronext Paris will be recorded in the Register in the name of Euroclear France or another Euroclear company and held beneficially for persons who have bought through NYSE Euronext Paris. For those persons Euroclear will maintain its own record of holders ("**French sub-register**"). All Metal Securities traded on NYSE Euronext Paris are eligible for settlement and clearing through the normal Euroclear systems. Market makers and other account holders at Euroclear will be permitted to transfer securities between the Register and the French sub-register and any other sub-registers applicable to other markets to which the Metal Securities may be admitted to trading, and thereby be able to move securities between the London Stock Exchange, such other markets and NYSE Euronext Paris.

For the purposes of discharging any obligations under the Metal Securities held through Euroclear France, the Issuer will treat Euroclear France (or such nominee) as the single security holder of such Metal Securities and the holders recorded in the French sub-register must look to Euroclear France to receive any and all entitlements under such Metal Securities.

*Settlement and Delivery on Euronext Amsterdam*

All Metal Securities traded on Euronext Amsterdam are eligible for settlement in the systems of Euroclear Bank Brussels and Euroclear NIEC Nederland. For the purposes of discharging any obligations under the Metal Securities, the Issuer will treat the persons or entities registered in the Register as the sole Security Holders. In so far as any Metal Securities are held through them, Euroclear Bank Brussels or Euroclear Nederland will be registered in the Register as the Security Holder and consequently will be treated by the Issuer as sole Security Holder in respect of such Metal Securities. Account holders recorded in the systems of Euroclear Bank Brussels or Euroclear Nederland as the holders of Metal Securities must look to Euroclear Bank Brussels or Euroclear Nederland (respectively) to receive any and all entitlements under such Metal Securities.

*Settlement and Delivery on the ETFplus market of the Borsa Italiana S.p.A.*

All Metal Securities traded on the Borsa Italiana S.p.A. will be recorded in the Register in the name of Monte Titoli S.p.A. and held beneficially for persons who have bought through the Borsa Italiana S.p.A. For those persons Monte Titoli S.p.A. will maintain its own record of holders ("**Italian sub-register**"). All Metal Securities traded on the Borsa Italiana S.p.A. are eligible for settlement through the normal Monte Titoli S.p.A. settlement systems on the deposit accounts opened with Monte Titoli S.p.A. Market makers and other account holders at Monte Titoli S.p.A. will be permitted to transfer securities between the Register and the Italian sub-register and any other sub-registers applicable to other markets to which the Metal Securities may be admitted to trading, and thereby be able to move securities between the London Stock Exchange, such other markets and Monte Titoli S.p.A.

For the purposes of discharging any obligations under the Metal Securities held through Monte Titoli S.p.A., the Issuer will treat Monte Titoli S.p.A. (or such nominee) as the single security holder of such Metal Securities and the holders recorded in the Italian sub-register must look to Monte Titoli S.p.A. to receive any and all entitlements under such Metal Securities.

**Registers**

The Registrar will maintain the Registers in Jersey.

**UCITS and CIS**

***United Kingdom***

The Issuer has received legal advice that:

- (a) the Metal Securities do not constitute units in a collective investment scheme;
- (b) the Metal Securities are capable of constituting transferable securities and do not give rise to an investment in precious metals or constitute certificates representing precious metals and are therefore capable of being eligible investments for a UCITS Scheme; and
- (c) for the purposes of COLL 5.2.29(R)(2) of the FSA Handbook, all outstanding Metal Securities and all outstanding Notes will constitute “debt securities”.

With respect to (c), the Issuer believes that in calculating the amount of debt securities of the Issuer in issue at any time the principal amount of such securities should be used.

Prospective investing UCITS Schemes would need to satisfy themselves that an investment in the Metal Securities in their own circumstances would be in line with their investment objectives and comply with the relevant parts of the FSA Handbook.

### **Money Laundering Regulations**

The verification of identity requirements of Jersey’s anti-money laundering laws and regulations and/or any subsequent equivalent legislation will apply to the Programme and verification of the identity of the Authorised Participants for Metal Securities may be required. The anti-money laundering laws and regulations of other jurisdictions may also apply to the Programme and verification of the identity of the Authorised Participants.

By lodging an Application Form, each Authorised Participant confirms that it is subject to the Money Laundering (Jersey) Order 2008 (as amended from time to time) (in relation to Jersey), the Money Laundering Regulations 2007 (in relation to the UK) and/or any other applicable anti-money laundering laws and regulations and/or undertakes to provide such other evidence of identity as is required by the Issuer at the time of lodging the Application Form, or, at the absolute discretion of the Issuer, at such specified time thereafter as may be requested to ensure compliance with the Money Laundering (Jersey) Order 2008, the Money Laundering Regulations 2007 and/or any other applicable legislation.

The Registrar is entitled, in its absolute discretion, to determine whether the verification of identity requirements apply to any Authorised Participant and whether such requirements have been satisfied. Neither the Issuer nor the Registrar shall be responsible or liable to any person for any loss or damage suffered as a result of the exercise of their discretion hereunder.

No Application will be accepted by the Issuer unless evidence of such Authorised Participant’s identity satisfactory to the Issuer and its agents is provided.



## PART 5

### TRUST INSTRUMENT AND THE CONDITIONS

The issue of up to 1,000,000,000 Metal Securities of each type in the form of Individual Securities and Basket Securities of the Issuer (each having the Principal Amount stated in paragraph 4 of Part 9 (Additional Information)), of any of the classes and categories described in this Prospectus, was authorised pursuant to resolutions of the Board passed on 4 April 2007 and 9 December 2009.

Metal Securities will be constituted by the Trust Instrument, which is governed by Jersey law. The conditions of issue of each type of Metal Securities are set out in the Trust Instrument. The Trustee holds its rights and entitlements under the Trust Instrument as trustee for the Security Holders of all types of Metal Securities.

#### Conditions

The following are the conditions applicable to the Metal Securities:

The Metal Securities are undated, limited recourse, secured debt securities of ETFS Metal Securities Limited (the “**Issuer**”) and are constituted by, are issued subject to and have the benefit of, a trust instrument dated 18 April 2007 between the Issuer and The Law Debenture Trust Corporation p.l.c. as trustee for the holders of Metal Securities, as amended by a supplemental trust instrument dated 15 April 2008 and a second supplemental trust instrument dated 11 December 2009 (the “**Second Supplemental Trust Instrument**”), and are governed by Jersey law.

The Security Holders are entitled to the benefit of, are bound by and are deemed to have notice of, all the provisions of the Trust Instrument and the Security Deeds (as defined below) and the Conditions set out below.

#### 1. Defined Terms and Interpretation

1.1 In these Conditions, the following words and expressions have the following meanings:

“**Affiliate**” means, in relation to any person, any entity controlled, directly or indirectly, by that person, any entity that controls, directly or indirectly, that person, or any entity directly or indirectly under common control with that person; and for this purpose, “control” of any entity or person means ownership of a majority of the voting power of the entity or person

“**Authorised Participant**” means a person which has entered into an Authorised Participant Agreement with the Issuer in relation to Metal Securities and which (a) is a securities house or other market professional approved by the Issuer (in its absolute discretion); (b) is an Authorised Person, an Exempt Person or an Overseas Person; and (c) is not a UCITS Fund

“**Authorised Participant Agreement**” means a written agreement between the Issuer and another person under which such person is appointed to act as an “Authorised Participant”, distribution agent or in a substantially similar function in relation to Metal Securities and if such agreement is subject to conditions precedent, provided that such conditions have been satisfied

“**Authorised Person**” means a person authorised for the purposes of FSMA

“**Basket Securities**” means the Initial Basket Securities and any other category of Basket Securities that may be so created and constituted from time to time.

“**Bullion**” means any and all of platinum, palladium, silver and gold

“**Business Day**” means:

- (a) in relation to any or all of ETFS Physical Platinum Securities, ETFS Physical Palladium Securities and ETFS Physical PM Basket Securities (and any other Basket Security comprised *inter alia*, of ETFS Physical Platinum Securities or ETFS Physical Palladium Securities) and any Bullion forming part of the Secured Property in respect thereof, a day which is both a London Business Day and a Zurich Business Day;
- (b) in relation to ETFS Physical Silver Securities and ETFS Physical Gold Securities (and any Basket Security comprised only of ETFS Physical Silver Securities and ETFS Physical Gold Securities) and any Bullion forming part of the Secured Property in respect thereof, a London Business Day; and

- (c) in relation to ETFS Physical Swiss Gold Securities and any Bullion forming part of the Secured Property in respect thereof, a day which is both a London Business Day and a Zurich Business Day

“**category**” means in relation to Basket Securities, the type of Basket Security determined by the mix of different classes of Individual Securities comprised in the Basket Security

“**Certificated**” or “**Certificated Form**” means not in Uncertificated Form

“**class**” means a class of Individual Securities under which the Issuer’s obligations to make payment and/or deliver Bullion are determined by reference to a particular metal

“**comprised in**” and “**comprised of**” in relation to a Basket Security means the Individual Securities by reference to which the Metal Entitlement of that Basket Security is calculated and for which a Basket Security (when in Certificated Form) may be surrendered in accordance with the provisions of this Trust Instrument and “comprise” and “comprised” shall be construed accordingly

“**Compulsory Metal Sale Date**” in relation to any Metal Securities means the second Business Day following a Final Redemption Notice Date in respect of such type of Metal Securities, provided that if the relevant Metal Sale Counterparty notifies the Trustee that sale of Bullion of that type (or of each relevant type where more than one type of Metal Security is being Redeemed) cannot be effected on the Relevant Market on that day, the Compulsory Metal Sale Date shall be postponed to the immediately following Business Day

“**Compulsory Redemption Notice Date**” means in relation to any Redemption pursuant to Condition 7.2 (*Compulsory Redemption on Issuer Insolvency Event*) the date specified by the Trustee as such in accordance with that Condition and in relation to any Redemption pursuant to Condition 7.3 (*Compulsory Redemption for Cause*) the date specified by the Issuer as such in accordance with that Condition

“**Compulsory Settlement Date**” means in relation to any Redemption pursuant to Condition 7 (*Compulsory Redemption by the Issuer or Trustee*), the date determined in accordance with Condition 7.7.2

“**Conditions**” means these terms and conditions on and subject to which Metal Securities are issued in the form or substantially in the form set out in the Second Schedule to the Second Supplemental Trust Instrument as the same may from time to time be modified in accordance with the Trust Instrument and any reference herein to a particular specified Condition or paragraph or sub-paragraph of such a Condition shall be construed accordingly

“**Controller**” means, in relation to any company, a person who:

- (a) holds 10 per cent. or more of the shares in such company;
- (b) is able to exercise significant influence over the management of such company by virtue of his shareholdings in such company;
- (c) holds 10 per cent. or more of the shares in a parent undertaking of such company;
- (d) is able to exercise significant influence over the management of the parent undertaking of such company;
- (e) is entitled to exercise, or control the exercise of, 10 per cent. or more of the voting power in such company;
- (f) is able to exercise significant influence over the management of such company by virtue of his voting power in such company;
- (g) is entitled to exercise, or control the exercise of, 10 per cent. or more of the voting power in the parent undertaking of such company; or
- (h) is able to exercise significant influence over the management of the parent undertaking of such company by virtue of his voting rights

“**CREST**” means the system of paperless settlement trades and the holding of Uncertificated securities administered by Euroclear UK & Ireland Limited

**“Custodian”** means each of the Initial Custodian and the Swiss Gold Custodian, and:

- (a) in relation to Initial Metal Securities, any other Basket Securities to the extent comprised of any Initial Individual Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Initial Custodian; and
- (b) in relation to Swiss Gold Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Swiss Gold Custodian

**“Custodian Agreements”** means the Initial Custodian Agreements and the Swiss Gold Custodian Agreements, and:

- (a) in relation to Initial Metal Securities, any other Basket Securities to the extent comprised of any Initial Individual Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Initial Custodian Agreements; and
- (b) in relation to Swiss Gold Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Swiss Gold Custodian Agreements

**“Defaulted Obligation”** means the failure of the Issuer to make or procure any payment of cash or delivery of Bullion in respect of the redemption of any Metal Securities when due, and such failure is not remedied within 48 hours of receipt of notice requiring remedy of the same

**“Documents”** means the Trust Instrument, the Security Deeds, the Custodian Agreements, the Metal Sale Counterparty Agreements, all Authorised Participant Agreements, the Service Agreement and the Registrar Agreement

**“Domestic Market”** means the main market of the London Stock Exchange

**“ETFSL”** means ETF Securities Limited, a company incorporated and registered in Jersey with registered number 88370

**“Exempt Person”** means a person who, in entering into and performing the terms of an Authorised Participant Agreement, is acting in the course of a business comprising a regulated activity in relation to which it is exempt from the need to be an Authorised Person as a result of a provision of the FSMA or associated secondary legislation

**“Extraordinary Resolution”** means in respect of a particular type or particular types taken together of Metal Securities either (a) a resolution passed at a duly convened meeting of the holders of Metal Securities of such type or types by a majority consisting of the holders of not less than 75 per cent. by Principal Amount of such type or types of Metal Securities voting on such resolution or (b) a resolution in writing of holders of such type or types of Metal Securities holding not less than 75 per cent. by Principal Amount of such type or types of Metal Securities, and in the cases of (a) and (b) where so provided for in the Trust Instrument or these Conditions, holders of Basket Securities may for these purposes be treated as holders of the relevant class or classes of Individual Securities

**“Final Redemption Notice Date”** means the tenth Business Day following the Final Trading Date

**“Final Trading Date”** means the date specified by the Issuer in relation to any type of Metal Securities pursuant to Condition 7.1 (*Compulsory Redemption on Termination*) (with effect from which date, subject to compliance with any applicable legal or regulatory requirements, the Issuer will apply for trading on the Domestic Market (and any other stock exchange or market on which they are then admitted to trading) in such type of Metal Securities to be suspended or cancelled)

**“FSA”** means the Financial Services Authority of the United Kingdom

**“FSA Glossary”** means the glossary giving the meaning of the defined expressions used in the FSA Handbook

**“FSA Handbook”** means the FSA’s Handbook of Rules and Guidance (as amended)

**“FSMA”** means the Financial Services and Markets Act 2000 (as amended)

**“Further Securities”** means securities issued by the Issuer in accordance with Condition 14 (*Further Securities; Other Pools; Consolidation and Division*)

**“Individual Securities”** means together Platinum class undated limited recourse secured debt securities of US\$20.00 in principal amount each, Palladium class undated limited recourse secured

debt securities of US\$5.00 in principal amount each, Silver class undated limited recourse secured debt securities of US\$2.00 in principal amount each, Gold class undated limited recourse secured debt securities of US\$10.00 in principal amount each and Swiss Gold class undated limited recourse secured debt securities of US\$10.00 in principal amount each, in each case of the Issuer, created pursuant to and constituted by this Trust Instrument and recorded on the relevant Register of Individual Securities, and any other class of Individual Securities that may be so created and constituted from time to time, and **“ETFS Physical Platinum Securities”, “ETFS Physical Palladium Securities”, “ETFS Physical Silver Securities”, “ETFS Physical Gold Securities” and “ETFS Physical Swiss Gold Securities”** shall be construed accordingly

**“Initial Basket Security”** means the PM category undated limited recourse secured debt securities of US\$9.40 in principal amount each of the Issuer, created pursuant to and constituted by the Trust Instrument and recorded on the relevant Register of Basket Securities, and **“ETFS Physical PM Basket Securities”** shall be construed accordingly

**“Initial Custodian”** means HSBC Bank USA, National Association, a national association incorporated in the State of Delaware, United States of America, whose principal place of business in England is at 8 Canada Square, London, E14 5HQ and an indirectly wholly-owned subsidiary of HSBC Holdings p.l.c. or such other person or persons (being a member of each Relevant Association) who provides custody and transfer facilities from time to time pursuant to the Initial Custodian Agreements

**“Initial Custodian Agreements”** means the Initial Secured Allocated Account Agreement, the Initial Secured Unallocated Account Agreement and the Initial Subscription Unallocated Account Agreement

**“Initial Individual Metal Securities”** means ETFS Physical Platinum Securities, ETFS Physical Palladium Securities, ETFS Physical Silver Securities, and ETFS Physical Gold Securities

**“Initial Metal Sale Counterparty”** means HSBC Bank USA, National Association or such other person as may from time to time be the counterparty under the Initial Metal Sale Counterparty Agreement

**“Initial Metal Sale Counterparty Account”** means such unallocated Bullion account of the Initial Metal Sale Counterparty as may be specified in or pursuant to the Initial Metal Sale Counterparty Agreement

**“Initial Metal Sale Counterparty Agreement”** means the agreement dated 18 April 2007 between the Issuer, the Trustee and HSBC Bank USA, National Association as amended from time to time or any successor agreement to which the Issuer and Trustee are party providing for the sale of Bullion attributable to or forming part of the Secured Property in respect of Initial Metal Securities from time to time at the request of the Trustee

**“Initial Metal Securities”** means the ETFS Physical Platinum Securities, ETFS Physical Palladium Securities, ETFS Physical Silver Securities and ETFS Physical Gold Securities and ETFS Physical PM Basket

**“Initial Secured Allocated Account”** means the allocated Bullion account number 19235 established in the name of the Trustee (as legal mortgagee pursuant to the Initial Security Deeds) with the Initial Custodian pursuant to the Initial Secured Allocated Account Agreement

**“Initial Secured Allocated Account Agreement”** means the Secured Allocated Account Agreement dated 18 April 2007 between the Issuer, the Trustee (as legal mortgagee pursuant to the Initial Security Deeds) and the Initial Custodian pursuant to which the Initial Secured Allocated Account is established and operated

**“Initial Secured Unallocated Account”** means the unallocated Bullion account number 19235 established in the name of the Trustee (as legal mortgagee pursuant to the Initial Security Deeds) with the Initial Custodian pursuant to the Initial Secured Unallocated Account Agreement

**“Initial Secured Unallocated Account Agreement”** means the Secured Unallocated Account Agreement dated 18 April 2007 between the Issuer, the Trustee (as legal mortgagee pursuant to the Initial Security Deeds) and the Initial Custodian pursuant to which the Initial Secured Unallocated Account is established and operated

**“Initial Security Deeds”** means the Security Deeds pertaining to the Pools to which the Initial Metal Securities are attributable

**“Initial Subscription Unallocated Account”** means the unallocated Bullion account number 19236 established by the Issuer with the Initial Custodian in the name of the Issuer pursuant to the Initial Subscription Unallocated Account Agreement

**“Initial Subscription Unallocated Account Agreement”** means the Subscription Unallocated Account Agreement dated 18 April 2007 between the Issuer and the Initial Custodian pursuant to which the Initial Subscription Unallocated Account is established and operated

**“Issuer Insolvency Event”** means the Issuer (1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) has a declaration made against it declaring the assets of the Issuer en désastre pursuant to the Bankruptcy (*Désastre*) (Jersey) Law 1990, as amended; (5) institutes or has instituted against it any other proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (6) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (7) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (8) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (9) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (8) (inclusive); or (10) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts, **provided that** no action taken by the Trustee in respect of the Issuer pursuant to this Trust Instrument or a Security Deed shall constitute an Issuer Insolvency Event

**“Issuer’s Website”** means the website having the following internet address: <http://www.etfsecurities.com/msl> or such other internet address as may be notified to Security Holders and the Trustee by RIS announcement

**“Investment Company Act”** means the United States Investment Company Act of 1940

**“Jersey”** means the Island of Jersey, Channel Islands

**“LBMA”** means The London Bullion Market Association and where the context requires includes the London Gold Market Fixing Ltd. and the London Silver Market Fixing Ltd.

**“LBMA Value Date”** means in relation to the Redemption of any Metal Securities the second Business Day following the applicable Metal Sale Date, Compulsory Metal Sale Date or Compulsory Redemption Notice Date (as the case may be, and each case in this definition the **“Contract Date”**), provided that if the LBMA determines that the “value date” for a “contract date” on the Contract Date should be later than two Business Days after a “contract date”, then on such day as specified by the LBMA as the relevant “value date”

**“Listing”** means admission of the Metal Securities to the Official List in accordance with the Listing Rules and admission of the Metal Securities to trading on the London Stock Exchange’s market for listed securities (or any of such markets if the London Stock Exchange has at any time more than one such market) becoming effective

**“Listing Rules”** means the Listing Rules of the UK Listing Authority from time to time made under Section 73A of FSMA

**“Loan”** means any loan to be made by the Issuer to ETFSL as described in the Prospectus and



includes any advance made by the Issuer under the Intercompany Loan Agreement referred to in the Prospectus

**“London Bullion market”** means the over-the-counter market in gold and silver co-ordinated by the LBMA

**“London Business Day”** means a day (other than a Saturday or a Sunday or a public holiday in England) on which commercial banks generally and the London Bullion market are open for the transaction of business in London

**“London Stock Exchange”** means London Stock Exchange plc or its market for listed securities (or any of such markets if the London Stock Exchange has at any time more than one such market), as the context may require

**“LPPM”** means The London Platinum and Palladium Market

**“LPPM Value Date”** means in relation to the Redemption of any Metal Securities the second Business Day following the applicable Metal Sale Date, Compulsory Metal Sale Date or Compulsory Redemption Notice Date (as the case may be, and each case in this definition the **“Contract Date”**), provided that if the LPPM determines that a “value date” for a “trade date” on the Contract Date should be later than two Business Days after a “trade date”, then on such day as is specified by the LPPM as the relevant “value date”

**“Management Fee”** means the management fee payable by the Issuer to ETFSL or any Affiliate of ETFSL in consideration for the provision by ETFSL or any Affiliate of ETFSL of all management and administration services in relation to the Programme, as set out in the Prospectus, as that amount may be adjusted from time to time

**“Metal Delivery”** means in relation to the Redemption of any Metal Securities, settlement of the Issuer’s Redemption Obligations in respect thereof by delivery of Bullion in accordance with the Conditions

**“Metal Entitlement”** means as at any date and in relation to any Metal Security the amount(s) of Bullion to which the Security Holder is entitled on Redemption of that Metal Security on that date in accordance with Condition 5 (*Metal Entitlement*)

**“Metal Sale”** means in relation to the Redemption of any Metal Securities, settlement of the Issuer’s Redemption Obligations in respect thereof by sale of Bullion to the Metal Sale Counterparty pursuant to the Metal Sale Counterparty Agreement and payment of the proceeds of sale to the relevant Security Holder in accordance with the Conditions

**“Metal Sale Counterparty”** means each of the Initial Metal Sale Counterparty and the Swiss Gold Metal Sale Counterparty, and:

- (a) in relation to Initial Metal Securities, any Basket Securities to the extent comprised of any Initial Individual Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Initial Metal Sale Counterparty; and
- (b) in relation to Swiss Gold Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Swiss Gold Metal Sale Counterparty

**“Metal Sale Counterparty Account”** means each of the Initial Metal Sale Counterparty Account and the Swiss Gold Metal Sale Counterparty Account, and:

- (a) in relation to the Initial Metal Sale Counterparty, means the Initial Metal Sale Counterparty Account; and
- (b) in relation to the Swiss Gold Metal Sale Counterparty, means the Swiss Gold Metal Sale Counterparty Account

**“Metal Sale Counterparty Agreement”** means each of the Initial Metal Sale Counterparty Agreement and the Swiss Gold Metal Sale Counterparty Agreement, and:

- (a) in relation to Initial Metal Securities, any other Basket Securities to the extent comprised of any Initial Individual Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Initial Metal Sale Counterparty Agreement; and
- (b) in relation to the Swiss Gold Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Swiss Gold Metal Sale Counterparty Agreement

**“Metal Sale Date”** means, with respect to a Redemption pursuant to Condition 6 (*Redemption of Metal Securities*) of any Metal Securities to be effected by Metal Sale, the first Business Day following the Redemption Notice Date for that Redemption, provided that if the Metal Sale Counterparty notifies the Trustee that sale of Bullion of the applicable type cannot be effected on the Relevant Market on that day, the Metal Sale Date shall be postponed to the immediately following Business Day

**“Metal Securities”** means Individual Securities and Basket Securities

**“Notes”** means any unsecured, limited recourse notes of the Issuer as from time to time issued, redeemed, amended, supplemented, extended or replaced in accordance with the terms thereof as described in the Prospectus and includes the 5 per cent. unsecured limited recourse extendable note due 2012 referred to in the Prospectus

**“Official List”** means the Official List maintained by the UK Listing Authority for the purpose of Part VI of FSMA

**“outstanding”** means in relation to each type of Metal Securities, all the Metal Securities of that type issued and in respect of which there is for the time being an entry in the Register other than:

- (a) Metal Securities which have been redeemed and cancelled pursuant to this Trust Instrument; and
- (b) Metal Securities which have been purchased and cancelled pursuant to this Trust Instrument,

**PROVIDED THAT** for the purpose of the right to attend and vote at any meeting of the Security Holders or any of them and certain other purposes of this Trust Instrument, Metal Securities (if any) which are for the time being held by, for the benefit of, or on behalf of, (A) the Issuer, (B) ETFSL, (C) any Subsidiary of the Issuer, (D) any individual Controller of the Issuer or (E) any person controlled by any such persons listed in (A) to (D) above shall (unless and until ceasing to be so held) be deemed not to remain outstanding and accordingly the holders of such Metal Securities shall be deemed not to be Security Holders

**“Overseas Person”** means a person whose activities are not subject to the prohibition in section 19 of the FSMA by virtue of its not carrying on such activities in the United Kingdom and whose head office is situated outside the United Kingdom

**“Pool”** means a separate fund or pool to which Individual Securities of a particular class (and Basket Securities to the extent that they are comprised of that class of Individual Securities) are attributable

**“Principal Amount”** means in respect of each Metal Security the amount specified in clause 2 of the Trust Instrument

**“Programme”** means the programme for the issue of Metal Securities

**“Prohibited Benefit Plan Investor”** means any “employee benefit plan” within the meaning of section 3(3) of the United States Employee Retirement Income Security Act of 1974, as amended (“ERISA”), subject to Part 4, Subtitle B of Title I of ERISA, any “plan” to which section 4975 of the United States Internal Revenue Code of 1986, (the “Code”) applies (collectively, “Plans”), any entity whose underlying assets include “plan assets” of any of the foregoing Plans within the meaning of 29 C.F.R. Section 2510.3 101 or section 3(42) of ERISA, as they may be modified, by reason of a Plan’s investment in such entity, any governmental or church plan that is subject to any U.S. Federal, state or local law that is similar to the prohibited transaction provisions of ERISA or Section 4975 of the Code, or any person who holds Metal Securities on behalf of, for the benefit of or with any assets of any such Plan or entity

**“Prohibited US Person”** means a US Person who is not a Qualified Purchaser, or any person who holds Metal Securities for the benefit of a US Person who is not a Qualified Purchaser

**“Prospectus”** means the base prospectus of the Issuer in relation to the Metal Securities, as the same may be modified, supplemented or amended from time to time

**“Qualified Purchaser”** means a “qualified purchaser” as defined under the Investment Company Act



**“Redemption”** means the redemption of Metal Securities by the Issuer in accordance with the Conditions (and **“Redeem”** shall be construed accordingly)

**“Redemption Fee”** means the fee payable by a Security Holder on the redemption of Metal Securities pursuant to Condition 9 (*Redemption Fee*)

**“Redemption Form”** means a notice in the form prescribed from time to time by the Issuer requesting Redemption of Metal Securities

**“Redemption Notice Date”** means a Business Day on which a valid Redemption Form is received provided that a Redemption Form received after 4.30 p.m. (London time) on a London Business Day will be treated as having been received on the next Business Day

**“Redemption Obligations”** means the obligation of the Issuer on Redemption of a Metal Security to make payment or deliver Bullion to the relevant Security Holder in accordance with the Conditions

**“Registers”** means the registers of Security Holders of each type kept and maintained by the Registrar and “Register” shall be construed accordingly. At the date of issue of the first ETFS Physical Swiss Gold Securities there are six Registers, one for each of the six different types of Metal Securities then created pursuant to the Trust Instrument

**“Registrar”** means Computershare Investor Services (Jersey) Limited, Ordnance House, 31 Pier Road, St. Helier, Jersey, Channel Islands, JE4 8PW or such other person as may be appointed by the Issuer from time to time to maintain the Register and to receive and process applications for and redemptions of Metal Securities

**“Registrar Agreement”** means the registrar agreement dated 18 April 2007 between the Registrar and the Issuer

**“Regulations”** means the Companies (Uncertificated Securities) (Jersey) Order 1999 including any modifications thereto or any regulations in substitution therefor made and for the time being in force which, inter alia, enable title to Metal Securities to be evidenced otherwise than by a certificate and transferred otherwise than by a written instrument

**“Relevant Association”** means:

- (a) in respect of platinum and palladium, the LPPM or its successors; and
- (b) in respect of silver and gold, the LBMA or its successors

**“Relevant Market”** means:

- (a) in respect of platinum and palladium, the Zurich Bullion market; and
- (b) in respect of silver and gold, the London Bullion market

**“repay”, “redeem” and “pay”** shall each include both the others and cognate expressions shall be construed accordingly

**“RIS”** means a Regulatory Information Service (as defined for the purposes of the Listing Rules) from time to time chosen by the Issuer

**“Secured Metal Accounts”** means the Initial Secured Allocated Account, the Initial Secured Unallocated Account, the Swiss Gold Secured Allocated Account and the Swiss Gold Secured Unallocated Accounts, and:

- (a) in relation to Initial Metal Securities, any other Basket Securities to the extent comprised of any Initial Individual Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Initial Secured Allocated Account and the Initial Secured Unallocated Accounts; and
- (b) in relation to Swiss Gold Metal Securities and any Bullion forming part of the Secured Property in respect thereof, means the Swiss Gold Secured Allocated Account and the Swiss Gold Secured Unallocated Accounts

**“Secured Property”** means in relation to each class of Individual Security (and each category of Basket Security to the extent it comprises Individual Securities of that class):

- (a) all Bullion of the applicable type credited to the Secured Metal Accounts attributable to such class; and
- (b) the rights of the Issuer in respect of the Secured Metal Accounts attributable to such class including all rights of the Issuer in the Custodian Agreements,

or any part or parts thereof

**“Securities Act”** means the United States Securities Act of 1933, as amended

**“Security”** means in respect of each Pool the security constituted by the applicable Security Deed

**“Security Deeds”** means in respect of each Pool, the security deed pertaining to that Pool dated (in the cases of the Pools to which the ETFS Physical Platinum Securities, ETFS Physical Palladium Securities, ETFS Physical Silver Securities and ETFS Physical Gold Securities are attributable) 18 April 2007 or (in the case of the Pool to which the ETFS Physical Swiss Gold Securities are attributable) 11 December 2009, in each case entered into between the Issuer and the Trustee

**“Security Holder”** means a registered holder of Metal Securities

**“Security Holder Account”** means:

- (a) in relation to any Initial Metal Securities, any other Basket Securities to the extent comprised of any Initial Individual Metal Securities to be Redeemed by Metal Delivery, an unallocated account with a member of the Relevant Association (or, in the case of a Basket Security, one or more unallocated accounts with one or more members of the Relevant Associations) specified by a Security Holder into which Bullion of the appropriate type may be deposited; and
- (b) in relation to any Swiss Gold Metal Securities to be Redeemed by Metal Delivery, either an unallocated loco Zurich account with the Swiss Gold Zurich Sub-Custodian or any other gold bullion clearing bank in Zurich or an unallocated loco London or loco Zurich account with the Swiss Gold Custodian or any other member of the Relevant Association, in each case specified by a Security Holder into which Bullion of the appropriate type may be deposited

**“Service Agreement”** means the service agreement dated 18 April 2007 between ETFSL and the Issuer providing for certain services to be provided by ETFSL to the Issuer in relation to the Metal Securities

**“Settlement Date”** means in relation to any Redemption pursuant to Condition 6.2 (*Redemption by Authorised Participants*) or Condition 6.3 (*Redemption by Other Security Holders*), the date determined in accordance with Condition 6.12 (*Settlement Date*)

**“Sterling”** or **“£”** means pounds sterling

**“Subsidiary”** has the meaning given to that term in section 1159 of the Companies Act 2006

**“Swiss Gold Custodian”** means JPMorgan Chase Bank, National Association, a national banking association organised under the laws of the United States of America, whose principal place of business in England is at 125 London Wall, London EC2Y 5AJ or such other person or persons (being a member of each Relevant Association) who provides custody and transfer facilities from time to time pursuant to the Swiss Gold Custodian Agreements

**“Swiss Gold Custodian Agreements”** means the Swiss Gold Secured Allocated Account Agreement, the Swiss Gold Secured Unallocated Account Agreement and the Swiss Gold Subscription Unallocated Account Agreement

**“Swiss Gold Metal Sale Counterparty”** means JPMorgan Chase Bank, National Association or such other person as may from time to time be the counterparty under the Swiss Gold Metal Sale Counterparty Agreement

**“Swiss Gold Metal Sale Counterparty Account”** means such unallocated Bullion account of the Swiss Gold Metal Sale Counterparty as may be specified in or pursuant to the Swiss Gold Metal Sale Counterparty Agreement

**“Swiss Gold Metal Sale Counterparty Agreement”** means the agreement dated 11 December 2009 between the Issuer, the Trustee and JPMorgan Chase Bank, National Association or any successor agreement to which the Issuer and Trustee are party providing for the sale of Bullion attributable to or forming part of the Secured Property in respect of Swiss Gold Metal Securities from time to time at the request of the Trustee

**“Swiss Gold Metal Securities”** means ETFs Physical Swiss Gold Securities

**“Swiss Gold Secured Allocated Account”** means the allocated Bullion account number 01311 established in the name of the Trustee (as legal mortgagee pursuant to the Swiss Gold Security Deed) with the Swiss Gold Custodian pursuant to the Swiss Gold Secured Allocated Account Agreement

**“Swiss Gold Secured Allocated Account Agreement”** means the Secured Allocated Account Agreement dated 11 December 2009 between the Issuer, the Trustee (as legal mortgagee pursuant to the Swiss Gold Security Deed) and the Swiss Gold Custodian pursuant to which the Swiss Gold Secured Allocated Account is established and operated

**“Swiss Gold Secured Unallocated Accounts”** means the unallocated loco London Bullion account number 01312 and the unallocated loco Zurich Bullion account number 01310, each established in the name of the Trustee (as legal mortgagee pursuant to the Swiss Gold Security Deed) with the Swiss Gold Custodian pursuant to the Swiss Gold Secured Unallocated Account Agreement

**“Swiss Gold Secured Unallocated Account Agreement”** means the Secured Unallocated Account Agreement dated 11 December 2009 between the Issuer, the Trustee (as legal mortgagee pursuant to the Swiss Gold Security Deed) and the Swiss Gold Custodian pursuant to which the Swiss Gold Secured Unallocated Account is established and operated

**“Swiss Gold Security Deed”** means the Security Deed pertaining to the Pool to which the Swiss Gold Metal Securities are attributable

**“Swiss Gold Subscription Unallocated Accounts”** means the unallocated loco London Bullion account number 01314 and the unallocated loco Zurich Bullion account number 01313, each established by the Issuer with the Swiss Gold Custodian in the name of the Issuer pursuant to the Swiss Gold Subscription Unallocated Account Agreement

**“Swiss Gold Subscription Unallocated Account Agreement”** means the Subscription Unallocated Account Agreement dated 11 December 2009 between the Issuer and the Swiss Gold Custodian pursuant to which the Swiss Gold Subscription Unallocated Accounts are established and operated

**“Swiss Gold Zurich Sub-Custodian”** means any firm selected by the Swiss Gold Custodian to hold gold on behalf of the Swiss Gold Custodian in the firm’s Zurich vault premises on a segregated basis, appointed pursuant to the Swiss Gold Custodian Agreements and whose appointment has been approved by the Trustee and the Issuer

**“Tax”** means any VAT, tax, income tax, capital gains tax, corporation tax, goods and services tax, withholding tax stamp, financial institutions, registration and other duties, bank accounts debits tax, import/export tax or tariff and any other taxes, levies, imposts, deductions, interest penalties and charges imposed or levied by a government or government agency

**“Trust Instrument”** means the trust instrument dated 18 April 2007 between the Issuer and The Law Debenture Trust Corporation p.l.c. as trustee for the Security Holders including the Schedules thereto and any trust instrument supplemental thereto and the schedules (if any) thereto

**“Trustee”** means The Law Debenture Trust Corporation p.l.c. appointed as such under the Trust Instrument and includes any replacement trustee under the Trust Instrument

**“type”** means, in relation to Individual Securities, a class thereof and, in relation to Basket Securities, the category thereof

**“UCITS Fund”** means a collective investment scheme which in accordance with the UCITS directive (Council Directive No. 85/611/EEC) as amended is an undertaking for collective investment in transferable securities subject to that directive and includes a UCITS Scheme

“**UCITS Scheme**” means a scheme that falls within the definition of a “UCITS Scheme” contained in the FSA Glossary

“**UK Listing Authority**” means the FSA acting in its capacity as the competent authority for the purposes of Part VI of FSMA or any successor enactment

“**Uncertificated**” or “**Uncertificated Form**” means recorded on the Register as being held in uncertificated form, title to which, by virtue of the Jersey Companies (Uncertificated Securities) (Jersey) Order 1999, is to be transferred by means of CREST

“**United Kingdom**” or “**UK**” means United Kingdom of Great Britain and Northern Ireland

“**US Person**” means a “US person” as defined in Regulation S under the Securities Act

“**US dollars**” or “**US\$**” means United States dollars

“**VAT**” means value added tax

“**Zurich Bullion market**” means the over-the-counter market in platinum and palladium coordinated by the LPPM

“**Zurich Business Day**” means a day (other than a Saturday or a Sunday or a public holiday in Zurich) on which commercial banks are generally open for the transaction of business in Zurich

1.2 The following rules shall apply to the interpretation of these Conditions unless the context otherwise requires:

1.2.1 Headings to Conditions, paragraphs, and other provisions of these Conditions are inserted for ease of reference only and shall not affect the interpretation of these Conditions.

1.2.2 Any reference to a person or persons includes reference to any individual, corporation, partnership, joint venture, association, public body, governmental authority or other entity.

1.2.3 Words in the singular shall also include the plural and vice versa.

1.2.4 Any reference to these Conditions or to any agreement or document includes a reference to these Conditions, or, as the case may be, such agreement or document, as amended, varied, novated, supplemented or replaced from time to time.

1.2.5 Any reference to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to such statute or statutory provision as the same may have been or may from time to time be amended, modified, extended consolidated, re-enacted or replaced and includes any subordinate legislation made thereunder.

1.2.6 Unless otherwise indicated, any reference in these Conditions to a time is a reference to local time in London, England.

## 2. STATUS OF PHYSICAL METAL SECURITIES

2.1 Metal Securities constitute undated limited recourse secured debt obligations of the Issuer secured as set out in Condition 3 (*Security and Limited Recourse*). The Metal Securities of each type rank pari passu among themselves. Each Metal Security has a Principal Amount as set out below and without prejudice to the provisions of Condition 6 (*Redemption of Metal Securities*) but subject always to the provisions of Condition 3.2 a Security Holder may elect to receive on redemption an amount in cash equal to the Principal Amount in lieu of the amount otherwise specified in Condition 6. The Issuer acknowledges in the Trust Instrument its indebtedness in respect of the aggregate Principal Amount.

The Principal Amounts of the Metal Securities are:

<b>Class of Metal Securities</b>	<b>Principal Amount</b>
ETFS Physical Platinum	US\$20.00
ETFS Physical Palladium	US\$5.00
ETFS Physical Silver	US\$2.00
ETFS Physical Gold	US\$10.00
ETFS Physical PM Basket	US\$9.40
ETFS Physical Swiss Gold	US\$10.00

- 2.2 Each Basket Security constitutes a separate security from the Individual Securities by reference to which the Metal Entitlement of that Basket Security is calculated and for which they may be surrendered in accordance with the provisions of the Trust Instrument.
- 2.3 The Metal Entitlement of a Basket Security is equal to the sum of the Metal Entitlements of a defined number of Individual Securities of various classes as set out in the table below. Each Basket Security may be surrendered in accordance with the provisions of the Trust Instrument in exchange for such Individual Securities:

<b>Category of Basket Security</b>	<b>Class of Individual Security</b>	<b>Number of Individual Securities of which Basket Security is composed</b>
ETFS Physical PM	ETFS Physical Platinum	0.10
	ETFS Physical Palladium	0.20
	ETFS Physical Silver	1.20
	ETFS Physical Gold	0.40

- 2.4 A Security Holder holding:
- 2.4.1 Basket Securities in Certificated Form may surrender the certificates for cancellation and receive certificates in respect of the Individual Securities comprised in such Basket Securities; or
- 2.4.2 Individual Securities in Certificated Form of the appropriate classes and in at least the appropriate numbers of each class may surrender the certificates for cancellation and receive certificates for such number of Basket Securities of any class or classes requested by it as are comprised of the Individual Securities represented by such surrendered certificates as it requested to be combined in the form of such Basket Securities and one or more Certificates in respect of the balance of the Individual Securities not so combined in the form of Basket Securities, in each case rounded down to the nearest whole number of Metal Securities of each type and otherwise in accordance with the provisions of the Trust Instrument.
- 2.5 Metal Securities do not bear interest and have no final maturity date.
- 2.6 The Issuer shall at all times publish on the Issuer's Website:
- 2.6.1 the classes of Individual Securities which are in issue or available to be issued; and
- 2.6.2 the categories of Basket Securities which are in issue or available to be issued, and the number and classes of Individual Securities which at that time are comprised in each category of Basket Securities.

### **3. SECURITY AND LIMITED RECOURSE**

- 3.1 The obligations of the Issuer in respect of each class of Individual Security (and any type of Metal Securities to the extent that the amount payable on Redemption of such Metal Securities is calculated by reference to Individual Securities of that class) are secured pursuant to the Security Deed applicable to that class by a first fixed charge over the Bullion attributable to that class in the Secured Metal Accounts held by the Issuer and an assignment to the Trustee by way of security of the contractual rights of the Issuer relating to such class under the Secured Metal Accounts and the Custodian Agreements, and by a first ranking floating charge in favour of the Trustee for the Security Holders over all the Issuer's rights in relation to the Secured Property attributable to that Pool.
- 3.2 The Trustee and the Security Holders of any class of Individual Securities (and any category of Securities if and to the extent that the Metal Entitlement of such Basket Securities is calculated by reference to Individual Securities of that class) shall have recourse only to the Secured Property relating to the relevant Pool and any sums derived therefrom. If, the Trustee (or any other secured party) having realised the same, the net proceeds are insufficient for the Issuer to make all payments and meet all obligations which, but for the effect of this Condition, would then be due, the obligations of the Issuer to each Security Holder shall be satisfied by delivery to the Security Holder of the Relevant Proportion of the Bullion held for that Pool, where the "Relevant

Proportion” is the proportion that the Individual Securities of the relevant class (and Basket Securities to the extent comprised of Individual Securities of that class) held by such Security Holder and being redeemed bears to the total number of the Individual Securities of that class (and Basket Securities to the extent comprised of individual securities class) outstanding, neither the Trustee nor any person acting on its behalf shall be entitled to take any further steps against the Issuer to recover any further sums or property and no debt shall be owed by the Issuer to any such person in respect of any such further sum or property. In particular, neither the Trustee nor any Security Holder shall be entitled to institute, nor join with any other person in bringing, instituting or joining, any bankruptcy, suspension of payments, moratorium of any indebtedness, winding up, reorganisation, arrangement, insolvency or liquidation proceeding or other proceeding under any similar law (whether court based or otherwise) (except for the appointment of a receiver and manager pursuant to the relevant Security Deed) for two years (or, if later, the longest suspense period, preference period or similar period (howsoever described) ending with the onset of insolvency in respect of which transactions entered into by the Issuer within such period may be subject to challenge under applicable insolvency or other proceeding) plus one day after the date on which all amounts payable under the last outstanding security of any type issued by the Issuer and constituted by the Trust Instrument are repaid in relation to the Issuer, nor shall they have any claim in respect of any sum arising or other obligation in respect of the Secured Property for any other Pool or any other assets of the Issuer.

#### **4. FORM AND TRANSFER**

- 4.1 Metal Securities are in registered form and are individually transferable.
- 4.2 Metal Securities may be held and transferred in Uncertificated Form by means of CREST in accordance with the Regulations. The Trustee may, without the consent of Security Holders, concur with the Issuer in making modifications to the provisions of the Trust Instrument in order to reflect changes in the Regulations or in the applicable law and practice relating to the holding or transfer of Metal Securities in Uncertificated Form. A Security Holder may request that his Metal Securities be held in Certificated Form, in which case such Metal Securities shall be removed from CREST.
- 4.3 The Issuer shall cause to be kept at its registered office, or at such other place outside the United Kingdom as the Trustee may agree, Registers showing the date of issue and all subsequent transfers and changes of ownership of all outstanding Metal Securities and the names and addresses of the Security Holders and the persons deriving title under them. The Trustee and the Security Holders or any of them and any person authorised by any such person shall be at liberty at all reasonable times during office hours to inspect the Registers and to take (free of charge) copies of, or extracts from, the same or any part thereof. In the event of the Trustee requiring to convene a meeting of or to give any notice to, the Security Holders the Issuer shall furnish the Trustee (free of charge) with such copies of, or extracts from, the Registers as it shall require. The Registers may be closed by the Issuer for such periods and at such times (not exceeding in the whole 30 days in any one year) as it may think fit.
- 4.4 Where the Issuer or the Trustee considers it necessary or expedient for the purposes of enforcing the provisions of the Trust Instrument or the purposes of Redeeming any Metal Securities, it is authorised to execute any document or instrument necessary to convert Metal Securities held in Uncertificated Form into Certificated Form and to take delivery of the corresponding certificate(s).

#### **5. METAL ENTITLEMENT**

- 5.1 Each class of Individual Security will have a separate Metal Entitlement as follows:
  - 5.1.1 as at the date on which dealings in the Initial Metal Securities first commenced on the London Stock Exchange the Metal Entitlement of such Individual Securities was as follows:

ETFS Physical Platinum Securities:	0.10 troy oz;
ETFS Physical Palladium Securities:	0.10 troy oz;
ETFS Physical Silver Securities:	1.00 troy oz; and
ETFS Physical Gold Securities:	0.10 fine troy oz.
  - 5.1.2 as at the date on which dealings in the Swiss Gold Metal Securities first commence on the London Stock Exchange the Metal Entitlement of such Individual Securities will be



as follows:

ETFS Physical Swiss Gold Securities: 0.10 fine troy oz.

- 5.2 The Metal Entitlement for each will be calculated daily to nine decimal places with 0.000000005 troy ounces (or fine troy ounces in the case of gold) rounded upwards as follows:

$$ME_{(i,t)} = ME_{(i,t-1)} \times (1 - MF_{(i,t)})^{1/N};$$

where:

- i refers to the relevant class of Individual Security;
- t refers to the applicable day (with t – 1 being the previous day);
- $ME_{(i,t)}$  is the Metal Entitlement for Metal Securities of class i for day t with an initial value as set out in Condition 5.1;
- $MF_{(i,t)}$  is the per annum Management Fee applicable to Metal Securities of class i on day t, expressed as a decimal (so that 49 basis points per annum is expressed as 0.0049 and 39 basis points per annum is expressed as 0.0039);
- N is 365 (or 366 in a leap year).
- 5.3 An ETFS Physical PM Basket Security is comprised of Individual Securities as provided for in Condition 2.3 and accordingly each ETFS Physical PM Basket Security has a Metal Entitlement equal to the aggregate Metal Entitlement of 1/10th of one ETFS Physical Platinum Security, 2/10ths of one ETFS Physical Palladium Security, 12/10ths of one ETFS Physical Silver Security and 4/10ths of one ETFS Physical Gold Security.

## 6. REDEMPTION OF METAL SECURITIES

### 6.1 Redemption Entitlement

Each Metal Security shall carry a right on redemption to delivery in Bullion of an amount equal to the Metal Entitlement (rounded down to the nearest 0.001 troy ounce (or fine troy ounce in the case of gold)) on the applicable Settlement Date provided that if such Metal Security is to be Redeemed by Metal Sale, such Metal Security shall be redeemed by the sale of an amount of Bullion equal to such Metal Entitlement (rounded down to the nearest 0.001 troy ounce (or fine troy ounce in the case of gold)), to the Metal Sale Counterparty in accordance with the Metal Sale Counterparty Agreement and paying to the Security Holder in cash in US dollars the net proceeds of sale actually realised by the Issuer from such sale in accordance with Condition 6.11 (*Metal Sale*) after deduction of the Redemption Fee in accordance with Condition 9 (*Redemption Fee*).

### 6.2 Redemption by Authorised Participants

A Security Holder who is also an Authorised Participant may (subject as provided herein) require the Issuer to Redeem all or part of its holding of Metal Securities by delivery of Bullion in accordance with Condition 6.10 (*Delivery of Bullion upon Redemption*) by lodging with the Registrar a Redemption Form.

### 6.3 Redemption by Other Security Holders

A Security Holder which is not also an Authorised Participant may only require the Issuer to Redeem all or any part of its holdings of Metal Securities if, either:

6.3.1 on any Business Day, there are no Authorised Participants, and the Security Holder lodges on such day a valid Redemption Form; or

6.3.2 the Issuer has announced through a RIS in respect of any Business Day, or until further announcement or generally, that Redemptions by Security Holders who are not Authorised Participants will be permitted and the Security Holder submits on a Business Day a valid notice in the form prescribed for the purpose by the Issuer requesting Redemption of such Metal Securities.

Any such announcement may be general or subject to conditions, and any notice requesting any Redemption which is not in accordance with any such conditions shall not be valid.

Settlement of the Issuer's Redemption Obligations in respect of the relevant Metal Securities will

be effected by a Metal Sale in accordance with Condition 6.11 (*Metal Sale*) unless the Security Holder in its Redemption Form certifies that it is not a UCITS Fund and specifies an unallocated account with a member of the Relevant Association (or, in the case of a Basket Security, one or more unallocated accounts with one or more members of the Relevant Associations) into which the relevant Bullion can be deposited, in which case, unless paragraph 6.11.1(a) applies, Redemption will be effected by delivery of Bullion in accordance with Condition 6.10 (*Delivery of Bullion upon Redemption*). A Security Holder desiring to Redeem Metal Securities pursuant to this Condition must deliver the Metal Securities being Redeemed to the Issuer by either depositing them into an appropriate CREST account in the name of the Issuer or the Registrar and giving correct delivery free of payment instructions in CREST or delivering the certificates in respect of them to the Registrar (or otherwise delivers such Metal Securities to the Issuer by agreement with the Issuer). Redemption Forms will not be treated as having been lodged until the Metal Securities to be Redeemed have been so delivered to the Issuer.

#### 6.4 **Redemption Notice**

A Redemption Form:

- 6.4.1 must specify the number and type of Metal Securities to be Redeemed;
  - 6.4.2 must relate to only one type of Individual Security or Basket Security;
  - 6.4.3 must be signed by, or by an authorised signatory on behalf of, the Security Holder;
  - 6.4.4 except where Metal Sale applies, must specify the Security Holder Account; and
  - 6.4.5 in the case of Redemption of Swiss Gold Metal Securities by Metal Delivery, must specify whether the Security Holder Account is a loco London account or a loco Zurich account, and is irrevocable once it has been lodged with the Registrar.
- 6.5 Upon receipt by the Registrar of a valid Redemption Form from a Security Holder in relation to any Metal Securities, the Issuer shall do all things necessary to give effect to the Redemption Form as required by this Condition 6 (*Redemption of Metal Securities*).
- 6.6 A Redemption Form shall be invalid:
- 6.6.1 if lodged by a Security Holder who is not an Authorised Participant unless on that Business Day, there are no Authorised Participants; or
  - 6.6.2 if it does not satisfy each and all of Conditions 6.4.1 to 6.4.5; or
  - 6.6.3 in the case of Redemption of Swiss Gold Metal Securities by Metal Delivery where the Redemption Form specifies a loco London account, if the Redemption Form does not specify that the Security Holder has previously agreed with the Swiss Gold Custodian the cost of any loco swap or other transfer arrangement to be entered into and to be responsible to the Swiss Gold Custodian for meeting all such costs; or
  - 6.6.4 where notice has been given pursuant to Condition 7.1 (*Compulsory Redemption on Termination*) or Condition 7.2 (*Compulsory Redemption on Issuer Insolvency Event*) to redeem such Metal Securities compulsorily, if the Redemption Form is received or deemed received on or after:
    - (a) where notice has been given in accordance with Condition 7.1, the Final Redemption Notice Date; or
    - (b) where notice has been given under Condition 7.2, the date on which notice was given, and no Metal Securities of the relevant type shall be Redeemed in respect of or under that Redemption Form.
- 6.7 If the Issuer considers that a purported Redemption Form is invalid, it shall notify the Security Holder lodging that Redemption Form of that fact as soon as reasonably possible and shall not be obliged to Redeem pursuant to that Redemption Form any Metal Securities.
- 6.8 A Redemption Form received by the Issuer after 4.30 p.m. (London time) on a Business Day shall be treated as lodged on the immediately following Business Day.
- 6.9 The Issuer may change or vary the procedures for the lodgement of Redemption Forms and these Conditions shall be modified in respect of Redemptions to the extent of any such variation.

## 6.10 Delivery of Bullion upon Redemption

- 6.10.1 Where Metal Securities are required to be redeemed by delivery of Bullion, the Trustee shall instruct the Custodian to transfer Bullion attributable to or forming part of the Secured Property in respect of such Metal Securities in an amount equal to the Metal Entitlement of such Metal Securities, calculated as at the Settlement Date (rounded down to the nearest 0.001 troy ounce, or fine troy ounce in the case of gold), from the Secured Metal Accounts to the relevant Security Holder Account, to be delivered to such account on the Settlement Date.
- 6.10.2 From the relevant Settlement Date, all title to and risks in such Bullion shall pass to the holder of such Metal Securities. Neither the Trustee nor the Issuer shall be responsible or liable for any failure by the Custodian to effect a delivery of Bullion in accordance with the instructions of the Trustee. However, in the event of such failure, the Issuer shall to the extent practicable assign to the redeeming Security Holder its claims in relation to such Bullion in satisfaction of all claims of such Security Holder in respect of the Metal Securities to be redeemed and the Security Holder shall have no further claims against the Issuer or the Secured Property.
- 6.10.3 Without prejudice to Condition 6.10.2, in the case of Redemption of Swiss Gold Metal Securities where the Redemption Form specifies a loco London account, neither the Issuer nor the Trustee shall be responsible for any failure of the Swiss Gold Custodian to effect such delivery of Bullion to such account, nor shall either be responsible for ensuring that the Swiss Gold Custodian enters into any agreement with the Security Holder as described in Condition 6.6.3 or for the terms of any such agreement.
- 6.10.4 The obligations of the Issuer in respect of Metal Securities being Redeemed shall be satisfied by transferring the Metal Entitlement in accordance with the provisions of this Condition 6.10.

## 6.11 Metal Sale

- 6.11.1 Metal Sale will apply:
- (a) if through no fault of the Issuer any Bullion to which the holder of such Metal Security is entitled on Redemption is not successfully delivered and is not claimed by such holder within 30 days of attempted delivery being made (in which event, subject to Condition 6.11.2(a), the Metal Entitlement will be calculated as of the third Business Day following the expiry of such period of 30 days); or
  - (b) in accordance with Condition 6.3 (*Redemption by Other Security Holders*) where there is no Authorised Participant or the Security Holder is not an Authorised Participant and is Redeeming in circumstances where such Redemption is permitted in accordance with Condition 6.3.2.
- 6.11.2 If in accordance with Condition 6.3 (*Redemption by Other Security Holders*) or Condition 6.11.1(a), Metal Sale is applicable to a Redemption of Metal Securities, the Trustee:
- (a) will (on behalf of the Issuer) give notice under the Metal Sale Counterparty Agreement to sell on the Metal Sale Date (or, in the case of Metal Sale pursuant to Condition 6.11.1(a), the first Business Day after the expiry of the period of 30 days therein referred to) to the Metal Sale Counterparty pursuant to the Metal Sale Counterparty Agreement an amount of Bullion attributable to or forming part of the Secured Property in respect of such Metal Securities equal to the aggregate Metal Entitlement of the Metal Securities being redeemed, calculated as at the Settlement Date (or, in the case of Metal Sale pursuant to Condition 6.11.1(a), the third Business Day after the expiry of the period of 30 days therein referred to), rounded down to the nearest 0.001 troy ounce (or fine troy ounce in the case of gold), or settlement on the Settlement Date (or such third Business Day). If such third Business Day is not an LPPM Value Date or an LBMA Value Date or the Custodian determines that de-allocation and, in the cases of platinum and palladium or gold attributable to or forming part of the Secured Property in respect of any ETFs Physical Swiss Gold Securities in the case of a Redemption thereof, credit to the Custodian's account with its Zurich clearing bank of the relevant

Bullion will not be completed on such third Business Day, the proviso to Condition 6.12 (*Settlement Date*) shall apply to such third Business Day in both this paragraph (a) and Condition 6.11.1(a) as it applies to a Settlement Date;

- (b) will instruct the Custodian (on behalf of the Issuer) to deliver such Bullion from the Secured Metal Accounts to the Metal Sale Counterparty Account on the Settlement Date (or other Settlement Date specified in paragraph (a)) against payment of the proceeds of sale realised from the sale of Bullion to an account or accounts nominated by the Trustee; and
- (c) will remit such proceeds in US dollars (less any Redemption Fee in accordance with Condition 9 (*Redemption Fee*) which the Trustee will pay to such account of the Issuer as the Issuer may direct and less the Trustee's fees and expenses (if any)) to the relevant Security Holder through CREST or, in the case of Metal Securities in Certificated Form, by cheque or warrant made payable to the Security Holder and sent by post at the risk of the Security Holder, subject (in the case of Redemption by Metal Sale in accordance with Condition 6.11.1(a)) to the Security Holder having delivered the Metal Securities to be Redeemed to the Issuer by either depositing them into an appropriate CREST account in the name of the Issuer or the Registrar (as directed by the Issuer) and giving correct delivery free of payment instructions in CREST or delivering the certificates in respect of them to the Registrar (or otherwise having delivered such Metal Securities to the Issuer by agreement with the Issuer). If the Security Holder fails to deposit the Metal Securities into an appropriate CREST account and give correct delivery free of payment instructions in CREST or otherwise so deliver the Metal Securities to the Issuer, the Issuer may retain the proceeds otherwise payable until the Security Holder has so deposited or delivered the Metal Securities and then remit such proceeds (without interest, which shall be for the account of the Issuer) to the Security Holder in accordance with this Condition.

6.11.3 If Metal Sale applies the holder of the Metal Securities being Redeemed acknowledges and agrees:

- (a) to accept the proceeds of sale actually realised from the sale of the relevant Bullion (less any Redemption Fee in accordance with Condition 9 (*Redemption Fee*) and less the Trustee's fees and expenses (if any)) in full settlement of the Issuer's Redemption Obligations in respect of such Metal Securities;
- (b) that the Issuer and the Trustee make no representations or warranties as to the price at which Bullion will be sold or the amount of the proceeds of sale realised from the sale of Bullion; and
- (c) that neither the Issuer nor the Trustee shall be liable for any failure by the Metal Sale Counterparty in respect of any sale of Bullion pursuant to any Metal Sale transaction, but in the event of any such failure, the Issuer shall to the extent practicable assign to the redeeming Security Holder its claims in relation to such Bullion in satisfaction of all claims of such Security Holder in respect of the Metal Securities to be Redeemed and the Security Holder shall have no further claims against the Issuer or the Secured Property.

## 6.12 Settlement Date

In relation to any Redemption pursuant to this Condition 6, the Settlement Date (on which Redemption shall be effective) shall be the third Business Day following the applicable Redemption Notice Date, provided that:

- 6.12.1 in the case of the Redemption of ETFS Physical Platinum Securities and ETFS Physical Palladium Securities (and any Basket Securities comprised only of one or both of such classes of Metal Securities) by Metal Sale, if such day is not an LPPM Value Date, the Settlement Date will be the next LPPM Value Date;
- 6.12.2 in the case of the Redemption of ETFS Physical Silver Securities and ETFS Physical Gold Securities (and any Basket Securities comprised only of one or both of such classes of Metal Securities) by Metal Sale, if such day is not an LBMA Value Date, the Settlement

- Date will be the next LBMA Value Date;
- 6.12.3 in the case of the Redemption of ETFS Physical Swiss Gold Securities by Metal Sale, if such day is not an LBMA Value Date, the Settlement Date will be the next Business Day that is an LBMA Value Date;
- 6.12.4 in the case of the Redemption of ETFS Physical PM Basket Securities (and any other category of Basket Securities comprised partly of ETFS Physical Platinum Securities and/or ETFS Physical Palladium Securities and partly of ETFS Physical Silver Securities and/or ETFS Physical Gold Securities) by Metal Sale, if such day is not both an LPPM Value Date and an LBMA Value Date, the Settlement Date will be the next day that is both an LPPM Value Date and an LBMA Value Date;
- 6.12.5 in the case of the Redemption of Swiss Gold Metal Securities by Metal Delivery to a loco London account, if the Swiss Gold Custodian determines that settlement under the loco swap or other transfer arrangement to be entered into as referred to in Condition 6.6.3 will not be completed on the date which would, but for this Condition 6.12.5, be the Settlement Date, the Settlement Date will be such later date on which settlement under such loco swap or other transfer arrangement is completed; and
- 6.12.6 if the Custodian determines that if, for any platinum, palladium or gold attributable to or forming part of the Secured Property in respect of any ETFS Physical Swiss Gold Securities required to effect a Redemption, de-allocation and credit to the Custodian's account with its Zurich clearing bank of the relevant Bullion will not be completed on the date which would, but for this Condition 6.12.6, be the Settlement Date, the Settlement Date will be such later date on which de-allocation and, in the cases of platinum, palladium and gold attributable to or forming part of the Secured Property in respect of any ETFS Physical Swiss Gold Securities, credit to such account of the relevant Bullion is completed.

## **7. COMPULSORY REDEMPTION BY THE ISSUER OR TRUSTEE**

### **7.1 Compulsory Redemption on Termination**

The Issuer may at any time Redeem all Metal Securities, or all Metal Securities of any one or more type, if the Issuer elects to Redeem all Metal Securities, or all Metal Securities of any one or more type, are to be redeemed compulsorily. In such event the Issuer shall give not less than 30 days' notice by RIS announcement of a London Business Day to be a Final Trading Day in respect of such Metal Securities.

### **7.2 Compulsory Redemption on Issuer Insolvency Event**

If an Issuer Insolvency Event has occurred and is continuing, the Trustee may at any time, at its discretion, and shall if so directed in writing by Security Holders holding not less than 25 per cent. by Principal Amount of the Metal Securities (as a whole) then outstanding or by an Extraordinary Resolution of the Security Holders (as a single class), the Trustee having first been indemnified and/or secured and/or funded to its satisfaction, give notice to the Issuer and by RIS announcement to the Security Holders that all the Metal Securities outstanding are to be Redeemed compulsorily and specifying a Business Day (falling not less than two Business Days from the giving of such notice) to be a Compulsory Redemption Notice Date in respect of such Metal Securities.

### **7.3 Compulsory Redemption for Cause**

The Issuer may, in its absolute discretion, at any time give written notice to a Security Holder that any Metal Securities held by that Security Holder are to be redeemed compulsorily and specifying a Business Day (being not less than seven days and not more than fourteen days following the date of the notice) to be the Compulsory Redemption Notice Date in respect of such Metal Securities, if:

- 7.3.1 the Issuer required the Security Holder in accordance with Condition 10 (*Enquiries as to Status of Security Holders*) to certify whether or not it is a Prohibited Benefit Plan Investor and (i) the Security Holder did not by the date specified in the notice given under Condition 10 provide such a certification to the Issuer in the form and executed in the manner required or (ii) the Security Holder certified that it is a Prohibited Benefit Plan



Investor; or

- 7.3.2 the Issuer required the Security Holder in accordance with Condition 10 to certify whether or not it is a Prohibited US Person and (i) the Security Holder did not by the date specified in the notice given under Condition 10 provide such a certification to the Issuer in the form and executed in the manner required or (ii) the Security Holder certified that it is a Prohibited US Person; or
- 7.3.3 the Issuer considers (in its sole discretion) (a) that such Metal Securities are or may be owned or held directly or beneficially by any person in breach of any law or requirement of any country or by virtue of which such person is not qualified to own those Metal Securities, or (b) that the ownership or holding or continued ownership or holding of those Metal Securities (whether on its own or in conjunction with any other circumstance appearing to the Issuer to be relevant) would, in the reasonable opinion of the Issuer, cause a pecuniary or tax disadvantage to the Issuer or any other Security Holders which it or they might not otherwise have suffered or incurred,

**provided that** if the relevant Security Holder in the case of sub-paragraph 7.3.1(i) or sub-paragraph 7.3.2(i) so failed to provide such a certification, or in the case of sub-paragraph 7.3.1(ii) or sub-paragraph 7.3.2(ii) certified that it is a Prohibited Benefit Plan Investor or a Prohibited US Person, in each case in respect of some only of the Metal Securities held by it, a notice given by the Issuer under this Condition shall relate only to those Metal Securities (and not any other Metal Securities held by that Security Holder).

- 7.4 If a Security Holder which is the subject of a notice under Condition 7.3 (*Compulsory Redemption for Cause*) provides to the Issuer at least one Business Day prior to the Compulsory Redemption Notice Date specified pursuant to Condition 7.3 proof required by the Issuer that its Metal Securities have been transferred to a person that is not a Prohibited Benefit Plan Investor or a Prohibited US Person, then the Individual Metal Securities referred to in that notice shall not be redeemed under these Conditions.
- 7.5 If a Security Holder which is the subject of a notice under Condition 7.3 does not provide to the Issuer at least one Business Day prior to the Compulsory Redemption Notice Date specified pursuant to Condition 7.3 proof required by the Issuer that its Metal Securities have been transferred to a person that is not a Prohibited Benefit Plan Investor or a Prohibited US Person, then the Metal Securities referred to in that notice shall not be capable of being transferred by that Security Holder and the Issuer shall not be required to register any purported transfer of those Metal Securities.
- 7.6 The Issuer shall not be required to give any reasons for any decision, determination or declaration taken or made in accordance with this Condition 7 (*Compulsory Redemption by the Issuer or Trustee*). The exercise of the powers conferred by this Condition 7 shall not be questioned or invalidated in any case on the grounds that there was insufficient evidence of direct or beneficial ownership or holding of the Metal Securities, or any other grounds save that such powers shall have been exercised in good faith.

## **7.7 Compulsory Redemptions**

- 7.7.1 If notice is given to redeem Metal Securities compulsorily pursuant to Condition 7.1 (*Compulsory Redemption on Termination*), Condition 7.2 (*Compulsory Redemption on Issuer Insolvency Event*) or Condition 7.3 (*Compulsory Redemption for Cause*):
- (a) Metal Securities the Security Holder of which is an Authorised Participant; and
  - (b) Metal Securities the Security Holder of which has, on or prior to the Final Trading Date (in the case of Redemption pursuant to Condition 7.1) or the Compulsory Redemption Notice Date (in the case of Redemption pursuant to Condition 7.2 or Condition 7.3), certified that it is not a UCITS Fund and specified
    - (i) in relation to any Initial Metal Securities, an unallocated account with a member of the Relevant Association (or, in the case of a Basket Security, one or more unallocated accounts with one or more members of the Relevant Associations) into which the relevant Bullion may be deposited; or
    - (ii) in relation to any Swiss Gold Metal Securities, either an unallocated loco



Zurich account with the Swiss Gold Zurich Sub-Custodian or any other gold bullion clearing bank in Zurich or an unallocated loco London or loco Zurich account with the Swiss Gold Custodian or any other member of the Relevant Association in London, in each case into which the relevant Bullion may be deposited,

shall be Redeemed by Metal Delivery. All other Metal Securities to be so Redeemed shall be Redeemed by Metal Sale. If in the case of Swiss Gold Metal Securities the Security Holder has specified in accordance with paragraph (ii) a loco London account, such specification shall not be valid unless the Security Holder has confirmed to the Issuer (in such manner as the Issuer may require) that the Security Holder has previously agreed with the Swiss Gold Custodian the cost of any loco swap or other transfer arrangement to be entered into and to be responsible to the Swiss Gold Custodian for meeting all such costs. If the Security Holder has not previously agreed with the Swiss Gold Custodian the cost of any such loco swap or other transfer arrangement and to be responsible to the Swiss Gold Custodian for meeting all such costs, such Swiss Gold Metal Securities shall be Redeemed by Metal Sale.

7.7.2 In relation to any Redemption pursuant to Condition 7.1, Condition 7.2, or Condition 7.3, the Compulsory Settlement Date (on which Redemption shall be effective) shall be the second Business Day following the applicable Compulsory Metal Sale Date (in the case of Redemption pursuant to Condition 7.1) or the second Business Day following the applicable Compulsory Redemption Notice Date (in the case of Redemption pursuant to Condition 7.2 or Condition 7.3), provided that:

- (a) in the case of Redemption pursuant to Condition 7.1 where ETFS Physical Platinum Securities, ETFS Physical Palladium Securities, ETFS Physical Swiss Gold Securities or ETFS Physical PM Basket Securities (or any other Basket Security comprised, *inter alia*, of ETFS Physical Platinum Securities or ETFS Physical Palladium Securities) are being Redeemed, the Compulsory Settlement Date for all Metal Securities to be Redeemed shall be two days following the applicable Compulsory Metal Sale Date, which two days both being London Business Days and Zurich Business Days;
- (b) in the case of Redemption pursuant to Condition 7.2 or Condition 7.3, if the Metal Sale Counterparty notifies the Trustee that sale of Bullion of that type (or of each relevant type where more than one type of Metal Security is being Redeemed) cannot be effected on the Relevant Market on that day, then for the purposes of determining the Compulsory Settlement Date, the Compulsory Redemption Notice Date shall be treated as having been postponed to the immediately following Business Day;
- (c) in the case where only ETFS Physical Platinum Securities and/or ETFS Physical Palladium Securities (and any Basket Securities comprised only of one or both of such classes of Metal Securities) are to be Redeemed (whether by Metal Delivery or Metal Sale), if such day is not an LPPM Value Date, the Compulsory Settlement Date will be the next LPPM Value Date;
- (d) in the case where only ETFS Physical Silver Securities and/or ETFS Physical Gold Securities (and any Basket Securities comprised only of one or both of such classes of Metal Securities) are to be Redeemed (whether by Metal Delivery or Metal Sale), if such day is not an LBMA Value Date, the Compulsory Settlement Date will be the next LBMA Value Date;
- (e) in the case where only ETFS Physical Swiss Gold Securities are to be Redeemed (whether by Metal Delivery or Metal Sale), if such day is not an LBMA Value Date, the Compulsory Settlement Date will be the next Business Day that is an LBMA Value Date;
- (f) in any other case, if such day is not both an LPPM Value Date and an LBMA Value Date, the Compulsory Settlement Date will be the next day that is both an LPPM Value Date and an LBMA Value Date;
- (g) in the case of the Redemption of Swiss Gold Metal Securities by Metal Delivery

- to a loco London account, if the Swiss Gold Custodian determines that settlement under the loco swap or other transfer arrangement to be entered into as referred to in Condition 7.7.1 will not be completed on the date which would, but for this paragraph (g), be the Compulsory Settlement Date, the Compulsory Settlement Date will be such later date on which settlement under such loco swap or other transfer arrangement is completed; and
- (h) if the Custodian determines that de-allocation and, in the cases of platinum, palladium or gold attributable to or forming part of the Secured Property in respect of any ETFS Physical Swiss Gold Securities, credit to the Custodian's account with its Zurich clearing bank of the relevant Bullion will not be completed on the date which would, but for this paragraph (h), be the Compulsory Settlement Date, the Compulsory Settlement Date will be such later date on which de-allocation and, in the cases of platinum, palladium and gold attributable to or forming part of the Secured Property in respect of any ETFS Physical Swiss Gold Securities, credit to such account of the relevant Bullion is completed.
- 7.7.3 In relation to any Redemption pursuant to Condition 7.1, Condition 7.2, or Condition 7.3 to be effected by Metal Delivery in accordance with these Conditions, the provisions of Condition 6.10 (*Delivery of Bullion upon Redemption*) shall apply save that references in that Condition to the Settlement Date shall be replaced by references to the Compulsory Settlement Date.
- 7.7.4 In relation to any Redemption pursuant to Condition 7.1, Condition 7.2, or Condition 7.3 to be effected by Metal Sale in accordance with these Conditions, the Trustee:
- (a) will (on behalf of the Issuer) give notice under the Metal Sale Counterparty Agreement to sell on the Compulsory Metal Sale Date (in the case of Redemption pursuant to Condition 7.1) or the Compulsory Redemption Notice Date (in the case of Redemption pursuant to Condition 7.2 or Condition 7.3) to the Metal Sale Counterparty pursuant to the Metal Sale Counterparty Agreement an amount of Bullion attributable to or forming part of the Secured Property in respect of the Metal Securities being Redeemed equal to the aggregate Metal Entitlement of such Metal Securities, calculated as at the Compulsory Settlement Date (rounded down to the nearest 0.001 troy ounce, or fine troy ounce in the case of gold), for settlement on the Compulsory Settlement Date;
- (b) will instruct the Custodian (on behalf of the Issuer) to deliver such Bullion from the Secured Metal Accounts to the Metal Sale Counterparty Account on the Compulsory Settlement Date against payment of the proceeds of sale realised from the sale of Bullion to an account or accounts nominated by the Trustee; and
- (c) will remit such proceeds in US dollars (less any Redemption Fee in accordance with Condition 9 (*Redemption Fee*) which the Trustee will pay to such account of the Issuer as the Issuer may direct and less any fees and expenses of the Trustee incurred in connection with such sale (if any)) to the relevant Security Holder through CREST or, in the case of Metal Securities in Certificated Form, by cheque or warrant made payable to the Security Holder and sent by post at the risk of the Security Holder, in the case of Redemption pursuant to Condition 7.3 to the Security Holder having delivered the Metal Securities being Redeemed to the Issuer by either depositing them into an appropriate CREST account in the name of the Issuer or the Registrar (as directed by the Issuer) and giving correct delivery free of payment instructions in CREST or delivering the certificates in respect of them to the Registrar (or otherwise having delivered such Metal Securities to the Issuer by agreement with the Issuer). If the Security Holder fails to deposit the Metal Securities into an appropriate CREST account and give correct delivery free of payment instructions in CREST or otherwise so deliver the Metal Securities to the Issuer, the Issuer may retain the proceeds otherwise payable until the Security Holder has so deposited or delivered the Metal Securities and then remit such proceeds (without interest, which shall be for the account of the Issuer) to the Security Holder in accordance with this Condition.
- 7.7.5 The provisions of Condition 6.11.3 shall apply to Redemption by Metal Sale pursuant to

Condition 7.1, Condition 7.2, or Condition 7.3 as they do to Redemption by Metal Sale pursuant to Condition 6 (*Redemption of Metal Securities*).

## **8. SETTLEMENT AND REDEMPTION OBLIGATIONS**

- 8.1 Where a Redemption Form has been lodged for the Redemption of Metal Securities, the Security Holder which holds those Metal Securities which are the subject of that Redemption must, by 8.00 a.m. on the Settlement Date, deposit the Metal Securities in question into an appropriate CREST account, give correct instructions in accordance with the Redemption Form if they were in Uncertificated Form, or otherwise deliver the Metal Securities to be Redeemed and any certificates representing them to the Issuer in such manner as the Issuer may agree if they are in Certificated Form and, in the case of Redemption of any Swiss Gold Metal Securities by Metal Delivery to a loco London account, have undertaken to make payment to the Swiss Gold Custodian in such manner as may be agreed between the Security Holder and the Swiss Gold Custodian of the costs referred to in Condition 6.6.3. Once a valid Redemption Form is lodged in respect of Metal Securities, the Metal Securities in respect of which it was given may not be transferred by the Security Holder (except to the Issuer), and the Issuer may refuse to recognise any subsequent transfer of any of those Metal Securities.
- 8.2 Subject as provided in Condition 6.3 (*Redemption by Other Security Holders*), failure by a Security Holder to deposit those Metal Securities into an appropriate CREST account, give correct instructions and/or make payment to the Swiss Gold Custodian as referred to in Conditions 6.6.3 and 8.1 shall not invalidate the Redemption of those Metal Securities. Where settlement of a Redemption of Metal Securities is delayed due to the failure of the Security Holder to deposit the Metal Securities in question into an appropriate CREST account or give correct instructions or otherwise deliver such Metal Securities and any certificates representing them in a manner agreed by the Issuer the Security Holder shall not be entitled to receive any interest in respect of late delivery of the Metal Entitlement or other amounts due. If the Security Holder fails to deliver such Metal Securities to the Issuer (via the CREST system or another method agreed with the Issuer), the Issuer shall be entitled to deliver the Metal Entitlement (or other amount due) to the Trustee (to be held on trust for the Security Holder in accordance with the Trust Instrument), and to cancel the entry in the Register in respect of those Metal Securities.
- 8.3 Where Individual or Basket Securities are Redeemed in accordance with Condition 6 (*Redemption of Metal Securities*) or 7 (*Compulsory Redemption by the Issuer or Trustee*), the Issuer shall be entitled, upon delivery of the Metal Entitlement (rounded down to the nearest 0.001 troy ounce (or fine troy ounce in the use of gold)) or payment of any other amount due (less the Redemption Fee, if applicable) into the applicable Security Holder Account or other payment in accordance with Condition 26 (*Payment Provisions*), to cancel the entry in the Register in respect of those Metal Securities being Redeemed.
- 8.4 The Issuer may, at any time, notify a Security Holder that the Issuer may have to withhold or deduct from the payment that corresponds to the Redemption Form an amount for or on account of, any present or future taxes, duties assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of any relevant jurisdiction or any political sub-division thereof or any authority thereof having power to tax, as required by law (as modified by the practice of any relevant governmental revenue authority) then in effect and such notice shall specify any form or document to be delivered by beneficial owners of Metal Securities that may allow the Issuer to make such payment without any such withholding or deduction or with such withholding or deduction at a reduced rate. If such forms or documents are not provided to the Issuer by the relevant Security Holder or if it is not the beneficial owner of Metal Securities held by such Security Holder and which are to be redeemed, such beneficial owner, then any such payment will be reduced (and the matching obligation of the Issuer to pay or deliver or to procure the payment or delivery of the Metal Entitlement (rounded down to the nearest 0.001 troy ounce (or fine troy ounce in the case of gold)) or other amount due to that Security Holder will also be reduced) by the amount of the withholding or deduction.

## **9. REDEMPTION FEE**

- 9.1 Subject as provided below, it is a condition to the performance by the Issuer of the obligation to redeem Metal Securities that the Issuer may deduct the Redemption Fee from the Metal Entitlement or other amount due to the Security Holder on Redemption and that if it does not the

Security Holder of such Metal Securities shall pay to the Issuer the Redemption Fee in respect of such Redemption in accordance with this Condition 9. The Issuer may offset the amount of the Redemption Fee payable hereunder against the Metal Entitlement or other amount due to the Security Holder on Redemption.

- 9.2 On a Redemption of Metal Securities at the request of an Authorised Participant, the Redemption Fee shall be the amount agreed in the relevant Authorised Participant Agreement to be payable, or such other amount as may be agreed by the Issuer and that Authorised Participant at the time of the Redemption, regardless of the number of Metal Securities being redeemed.
- 9.3 On a Redemption of Metal Securities at the request of a Security Holder who is not an Authorised Participant (where there are no Authorised Participants), the Redemption Fee shall be an amount equal to the cost to the Issuer of satisfying such Redemption request, which shall be notified to the Security Holder at the time of the Redemption being not greater than £500 or such other amount as may be notified through a RIS.
- 9.4 On a Compulsory Redemption of Metal Securities by the Issuer or the Trustee, the Redemption Fee shall be an amount equal to the cost to the Issuer incurred in relation to the Redemption, including the costs of enquiries under Condition 10 (*Enquiries as to Status of Security Holders*) and the cost of giving notices under Condition 7 (*Compulsory Redemption by the Issuer or Trustee*) being not greater than £500 or such other amount as may be notified through a RIS. The Issuer shall notify Security Holders whose Metal Securities are subject to Compulsory Redemption of the amount of those costs, and their allocation to particular Security Holders, at the time of the Redemption.

## **10. ENQUIRIES AS TO STATUS OF SECURITY HOLDERS**

- 10.1 The Issuer may at any time, without any requirement to state a reason, give notice to a Security Holder requiring that Security Holder:
  - 10.1.1 to certify, no later than the date (the “**Investor Notice Expiry Date**”) falling fifteen London Business Days following the date on which the Issuer sends or transmits such requirement to that Security Holder whether that Security Holder is a Prohibited US Person or a Prohibited Benefit Plan Investor (and if that Security Holder is a Prohibited Benefit Plan Investor or Prohibited US Person, to notify the Issuer of the number and type of Metal Securities in respect of which it is a Prohibited Benefit Plan Investor or Prohibited US Person); and
  - 10.1.2 if that Security Holder asserts that it is not a Prohibited US Person or not a Prohibited Benefit Plan Investor (or not a Prohibited Benefit Plan Investor or not a Prohibited US Person in respect of all Metal Securities held by it), to provide to the Issuer by the Investor Notice Expiry Date a certificate in the form and executed in the manner determined by the Issuer that the Security Holder is not a Prohibited US Person or not a Prohibited Benefit Plan Investor (or not a Prohibited Benefit Plan Investor or not a Prohibited US Person in respect of certain Metal Securities held by it, specifying the number and type of Metal Securities in respect of which it is, and is not, a Prohibited Benefit Plan Investor or is, and is not, a Prohibited US Person).
- 10.2 The Issuer shall be entitled, save to the extent that it has made enquiry under this Condition 10, to assume that none of the Metal Securities are held by Prohibited US Persons or Prohibited Benefit Plan Investors.

## **11. ENFORCEMENT**

- 11.1 In addition to any of the powers conferred on the Trustee pursuant to the relevant Security Deed with respect to the Secured Property, the Trustee may at any time after the occurrence of a Defaulted Obligation, at its discretion, and shall, if so directed in writing by the Security Holder to whom such Defaulted Obligation is owed, the Trustee having first been indemnified and/or secured and/or funded to its satisfaction against all Liabilities to which it may thereby render itself liable or which it may incur by so doing, take such proceedings and/or other action as it may think fit against or in relation to the Issuer to enforce any such obligation of the Issuer under the Trust Instrument and the security constituted by the Security Deed(s) in respect of the relevant Metal Securities to which such Defaulted Obligation relates.
- 11.2 If an Issuer Insolvency Event has occurred and is continuing, at its discretion, the Trustee may at

any time, and shall if so directed in writing by Security Holders holding not less than 25 per cent. by Principal Amount of the Metal Securities (as a whole) then outstanding or an Extraordinary Resolution of the Security Holders holding Metal Securities (as a single class), the Trustee having first been indemnified and/or secured and/or funded to its satisfaction, take such proceedings and/or other action as it may think fit against or in relation to the Issuer to enforce any obligations of the Issuer under the Trust Instrument and the security constituted by the Security Deeds in respect of all outstanding Metal Securities.

- 11.3 If the Trustee considers that the Issuer is in material breach of any of the covenants, undertakings and obligations (other than payment or delivery obligations) in the Trust Instrument and has not remedied the same within 30 days of being required to do so by the Trustee, the Trustee may, but shall not be obliged to, give notice to all Security Holders of that fact. Prior to giving any such notice, the Trustee shall provide a copy of the proposed notice to the Issuer (provided the Trustee does not consider it detrimental to the interests of Security Holders to give a copy of any such proposed notice to the Issuer) and shall include with the notice any statement of not more than 1,000 words prepared by the Issuer and provided to the Trustee for the purpose within 7 days of receipt of the copy of the proposed notice referred to herein. In any such notice the Trustee may designate a Period (the "**Breach Redemption Period**") commencing on any London Business Day until the date one month from such London Business Day (inclusive) during which each Security Holder will be entitled to redeem all (but not some only) of the Metal Securities held by it in the same manner as though there were no Authorised Participants. After the expiry of the Breach Redemption Period, the relevant breach shall be deemed waived without prejudice to the right of the Trustee to take action in the event of any subsequent such breach.
- 11.4 If an Issuer Insolvency Event is occurring at the same time as a Defaulted Obligation, a Security Holder holding affected Metal Securities to whom a Defaulted Obligation is owed will not be entitled to require the Trustee to take action in accordance with Condition 11.1 until the expiry of 30 days from the occurrence of the Issuer Insolvency Event, nor shall he be so entitled if, during such period of 30 days, the Trustee has elected, or been required, to take action in accordance with Condition 11.2.
- 11.5 Subject to Condition 11.7, only the Trustee may enforce the provisions of the Trust Instrument or the Security Deeds. Where the Trustee has elected or been directed to enforce the Issuer's obligations under the Trust Instrument and the security constituted by a Security Deed, the right of Security Holders to lodge a Redemption Form with the Registrar shall cease. Valid Redemption Forms lodged before the date the Trustee announces its intention to enforce the security will be Redeemed in the normal manner.
- 11.6 If the Trustee takes any action pursuant to Condition 11.1 with respect to any Metal Securities to which a Defaulted Obligation relates, it shall give notice to the Issuer that such Metal Securities in respect of which such action is taken are, and they shall become, due and payable.
- 11.7 No Security Holder will be entitled to proceed directly against the Issuer unless the Trustee, having become bound so to proceed, fails to do so within a reasonable period and such failure is continuing, in which case any such Security Holder will have only such rights against the Issuer as those which the Trustee is entitled to exercise against or in relation to the Issuer.

## **12. APPLICATION OF MONEYS**

- 12.1 All moneys received by the Trustee pursuant to the realisation of Secured Property in respect of a Metal Security shall be held by the Trustee upon trust, to apply them:
- 12.1.1 FIRST in payment or satisfaction of all amounts then due to the Trustee and unpaid (including to its attorneys, managers, agents, delegates or other person appointed by the Trustee) under the terms of the Trust Instrument, and to payment of any remuneration and expenses of any receiver and the costs of realisation of the security constituted by the relevant Security Deed;
- 12.1.2 SECONDLY in or towards payment or performance *pari passu* and rateably of all amounts then due and unpaid and all obligations due to be performed and unperformed in respect of Individual Securities of that class and any type of Basket Securities to the extent that they are comprised of Individual Securities of that class; and
- 12.1.3 THIRDLY in payment of the balance (if any) to the Issuer (without prejudice to, or liability



in respect of, any question as to how such payment to the Issuer shall be dealt with as between the Issuer and any other person).

### **13. RESTRICTIONS**

- 13.1 So long as any Metal Securities of a particular type are outstanding, the Issuer covenants in the Trust Instrument, *inter alia*:
- 13.1.1 not to incur or permit to subsist in respect of any Pool any indebtedness for borrowed money other than Metal Securities or Further Securities, and not to give any guarantee or indemnity in respect of indebtedness of any person, save in each case with the prior written consent of the Trustee;
  - 13.1.2 other than as permitted under the applicable Security Deed, not to dispose of any of the Secured Property or any interest therein, or to create any mortgage, pledge, charge, lien, or other form of encumbrance or security interest or right of recourse in respect thereof in favour of any person;
  - 13.1.3 save as permitted by Condition 14 (*Further Securities; Other Pools; Consolidation and Division*), not to undertake any business save for the issue and redemption of Metal Securities, the acquisition and disposal of Bullion, entering into the necessary documents and performing its obligations and exercising its rights thereunder;
  - 13.1.4 to use reasonable endeavours to ensure that at all times after the date three months following Listing there are at least two Authorised Participants and until then there is at least one Authorised Participant;
  - 13.1.5 not to issue any Individual or Basket Securities of any type unless it has received Bullion in an aggregate amount equal to the Metal Entitlement calculated as at the Settlement Date;
  - 13.1.6 not to maintain an office or other fixed place of business, nor to establish any permanent establishment, nor be or become tax resident, in the United Kingdom;
  - 13.1.7 not to make any election under US federal income tax laws to be treated otherwise than as an association taxable as a corporation for US federal income tax purposes;
  - 13.1.8 to undertake any business so as to seek to minimise the impact of taxation; and
  - 13.1.9 to procure that the Pools are at all times maintained in a manner so that they are readily distinguishable from each other.
- 13.2 Notwithstanding the foregoing, the Issuer may issue the Notes and make the Loan and perform their respective terms.

### **14. FURTHER SECURITIES; OTHER POOLS; CONSOLIDATION AND DIVISION**

- 14.1 The Issuer may (without the consent of the Security Holders) create and issue additional classes of undated limited recourse secured debt securities constituted by an instrument or deed supplemental to the Trust Instrument and may establish additional pools for the purposes of such securities and the Trustee shall join in such instrument or deed and thereupon such pool shall be a "Pool" for the purposes of the Trust Instrument and such securities shall be "Individual Securities" for such purposes, and the Issuer may further create and issue Basket Securities, the Metal Entitlement of which is calculated by reference to such Individual Securities in accordance with the Trust Instrument (and for which such Metal Securities when in Certificated Form may be surrendered in accordance with the provisions of the Trust Instrument). Any such additional classes of Individual Securities shall have recourse only to the Pool attributable to the relevant classes and not to any other Pool. Other such securities created and issued by the Issuer under this Condition 14.1 may relate to different metal than those in respect of which Individual Securities are initially issued, or be Basket Securities involving different combinations of Individual Securities or with different weightings, or involve different pricing mechanisms. Other such securities created by the Issuer under this Condition 14.1 may be created and issued subject to different terms and conditions in lieu of the Trust Instrument (including but not limited to different pricing mechanisms), to be determined by the Issuer. If other securities created by the Issuer under this Condition 14.1 are subject to different terms and conditions in lieu of the Trust Instrument the Issuer shall publish those new conditions in its RIS announcement or in a prospectus or listing particulars or



supplementary prospectus or supplementary listing particulars and on the Issuer's Website.

- 14.2 The Issuer shall not accept Applications for, or issue, Individual Securities of a new class, or Metal Securities (the amount payable on Redemption of which is calculated by reference to (and when held in Certificated form may be surrendered in exchange for) Individual Securities of a new class) under Condition 14.1 unless it has first executed and delivered to the Trustee a Security Deed creating security by way of fixed charge over the Bullion held in custody attributable to the new class of Individual Securities (and Basket Securities to the extent they comprise Individual Securities of the new class), assigning by way of security for the benefit of the Trustee and the relevant Security Holders the contractual rights of the Issuer of the relevant class under the Custodian Agreements and creating a first floating charge for the benefit of the Trustee and the relevant Security Holders over all of the Issuer's rights in relation to the Secured Property attributable to the applicable Pool, including but not limited to its rights under the Custodian Agreements and the Secured Metal Accounts attributable to that Pool.
- 14.3 The Issuer may consolidate or divide all of the Metal Securities of any type into Metal Securities of the same type but with a proportionately larger or smaller Metal Entitlement and Principal Amount. Such consolidation or division shall be effected by deed or instrument supplemental to the Trust Instrument.
- 14.4 Whenever as a result of consolidation of Metal Securities a Security Holder would become entitled to a fraction of a Metal Security the Issuer will Redeem such fraction of a Metal Security. In such circumstances the provisions of Condition 7.7 (*Compulsory Redemptions*) shall apply in respect of the aggregate fractions of Metal Securities to be redeemed *mutatis mutandis* as though the Redemption were pursuant to Condition 7.1 (*Compulsory Redemption on Termination*) and the date on which the consolidation becomes effective the Final Redemption Notice Date.

#### **15. ISSUER'S ABILITY TO PURCHASE METAL SECURITIES**

There is no restriction on the ability of the Issuer or any of its Affiliates to purchase or repurchase Metal Securities.

#### **16. LISTING**

The Issuer covenants in the Trust Instrument to use its best endeavours to obtain and, so long as any of the Metal Securities remain outstanding, maintain a Listing for the Metal Securities or, if it is unable to do so having used such best endeavours or if the maintenance of such listing is agreed by the Trustee to be unduly onerous, use its best endeavours to obtain and maintain the quotation or listing of the Metal Securities on such other stock exchange as it may (with the prior written approval of the Trustee) decide.

#### **17. WAIVER, AUTHORISATION AND DETERMINATION; MEETINGS OF SECURITY HOLDERS**

- 17.1 The Trustee may, without prejudice to its rights in respect of any subsequent breach, but only if and in so far as, in its opinion, the interests of the Security Holders shall not be materially prejudiced thereby, waive or authorise any breach or proposed breach by the Issuer of any of the covenants or provisions contained in the Trust Instrument or the Security Deeds, or determine that any Defaulted Obligation or Issuer Insolvency Event shall not be treated as such PROVIDED THAT the Trustee shall not exercise any powers conferred on it by this Condition, (a) with respect to a Defaulted Obligation, in contravention of any express direction given by the Security Holder to whom such Defaulted Obligation is owed or (b) with respect to an Issuer Insolvency Event or any other breach or proposed breach by the Issuer of any of the covenants or provisions contained in the Trust Instrument, in contravention of any express direction given by Security Holders holding not less than 25 per cent. by Principal Amount of the Metal Securities (as a whole) then outstanding or an Extraordinary Resolution of the Security Holders (as a single class), but so that no such direction shall affect any waiver, authorisation or determination previously given or made. Any such waiver, authorisation or determination may be given or made on such terms and subject to such conditions (if any) as the Trustee may determine, shall be binding on the Security Holders and, if, but only if, the Trustee, shall so require, shall be notified by the Issuer to the Security Holders as soon as practicable thereafter.
- 17.2 Security Holders in respect of any type or types of Metal Securities have power by Extraordinary Resolution, *inter alia*, to sanction the release of the Issuer from the payment of moneys payable pursuant to the Trust Instrument, to sanction any modification, abrogation or compromise of, or

arrangement in respect of, their rights against the Issuer, to assent to any modification or abrogation of the covenants or provisions contained in the Trust Instrument proposed or agreed to by the Issuer and also to sanction other matters as provided therein. The Trust Instrument contains provisions relating to the convening of meetings by the Issuer or the Trustee and provides that at least fourteen days' notice or, where the meeting is being convened for the purposes of passing an Extraordinary Resolution, at least twenty-one days' notice (exclusive in each case of the day on which the notice is served or deemed to be served and of the day for which the notice is given) of every meeting shall be given to the Security Holders of the relevant type or types. In the case of a meeting adjourned through want of a quorum, other than one convened at the requisition of Security Holders, at least seven days' notice (exclusive as aforesaid) should be given in the same manner as for an original meeting.

**18. EXERCISE OF DISCRETIONS**

The Trustee may exercise its discretions under the Trust Instrument separately in respect of each type of Metal Securities, and any Further Securities in issue from time to time, and shall incur no liability for so doing.

**19. PRESCRIPTION**

The Trust Instrument does not provide for any prescription periods.

**20. REMOVAL, RETIREMENT OR REPLACEMENT OF TRUSTEE**

20.1 The Trustee may retire at any time without assigning any reason upon giving not less than three months' prior written notice to the Issuer and without being responsible for any Liabilities incurred by reason of such retirement. The Security Holders may by Extraordinary Resolution of the Security Holders (as a single class) appoint or remove any trustee or trustees for the time being of the Trust Instrument.

20.2 The Issuer will use its reasonable endeavours to appoint a new Trustee as soon as reasonably practicable after the Trustee gives notice of its retirement or being removed by Extraordinary Resolution. The retirement or removal of any Trustee shall not become effective until a successor trustee is appointed.

**21. GOVERNING LAW AND JURISDICTION**

The Conditions, the Metal Securities and the Trust Instrument are governed by the laws of Jersey. The Security Deeds are governed by the laws of England. Notwithstanding the submission by the Issuer to the jurisdiction of the English courts contained in the Security Deeds, nothing prevents the Trustee from commencing proceedings in any other competent jurisdiction.

**22. TRUSTEE'S LIABILITY**

Save in the case of fraud, wilful misconduct or gross negligence, the Trustee (or any director, officer or employee of the Trustee) shall have no liability under the Trust Instrument for a breach of trust and, save in such circumstances, no Trustee (and no director, officer or employee of the Trustee), in execution of the trusts and powers under the Trust Instrument, shall be liable for any loss arising by reason of any mistake or omission by him or by reason of any other matter or thing including fraud, gross negligence or default of another director, officer or employee or Trustee.

**23. AMENDMENTS TO CONDITIONS**

These Conditions may be amended as set out herein or by written agreement between the Issuer and the Trustee. Any amendment to these Conditions will be notified to Security Holders through a RIS announcement, and unless otherwise agreed by the Trustee shall not take effect until at least 30 days following such announcement, save that a reduction in the Management Fee may take effect on announcement.

**24. AMENDMENTS TO DOCUMENTS**

24.1 The Issuer may by supplemental agreement or supplemental instrument or deed, as applicable, amend or join with the Trustee in amending any of the Trust Instrument, the Security Deeds or the Custodian Agreements, and the Trustee agrees in the Trust Instrument to join in a supplemental agreement or supplemental instrument or deed as applicable accordingly, if one or more of the following applies:

- 24.1.1 in the opinion of the Issuer and the Trustee the amendment is necessary or desirable and is not materially prejudicial to the rights of Security Holders;
  - 24.1.2 in the opinion of the Trustee, the amendment is of a formal, minor or technical nature or to correct a manifest or proven error;
  - 24.1.3 the amendment affects only Basket Securities of one or more particular category or categories, the Issuer or the Trustee determines in its discretion that the amendment would affect the holders of different categories of Basket Securities differently, and the terms of the amendment are authorised by separate Extraordinary Resolutions of the holders of each category of Basket Security affected passed in accordance with the Trust Instrument or by a separate resolution in writing of holders of each category of Basket Security affected holding not less than 75 per cent. by Principal Amount of such category;
  - 24.1.4 Condition 24.1.3 does not apply to the amendment, the amendment affects only Basket Securities and the terms of the amendment are authorised by an Extraordinary Resolution of the holders of the Basket Securities (as a single class) passed in accordance with the Trust Instrument or by a resolution in writing of the holders of the Basket Securities holding not less than 75 per cent. by Principal Amount of the Basket Securities (as a whole);
  - 24.1.5 Conditions 24.1.3 and 24.1.4 do not apply to the amendment, the Issuer or the Trustee determines in its discretion that the amendment would affect the holders of different types of Metal Securities differently and the terms of the amendment are authorised by separate Extraordinary Resolutions of the holders of each type of Metal Security affected passed in accordance with the Trust Instrument or in each case by a separate resolution in writing of holders of such type of Metal Security affected holding not less than 75 per cent. by Principal Amount of the Metal Securities of such type, provided that unless the Issuer or the Trustee determines in its discretion that the amendment would affect the holders of Basket Securities differently from the holders of the relevant class(es) of Individual Securities, holders of Basket Securities shall for this purpose be treated as though they were holders of the Individual Securities by reference to which the Metal Entitlement of their Basket Securities is calculated and not as though they were holders of the Basket Securities;
  - 24.1.6 Conditions 24.1.3 to 24.1.5 inclusive do not apply to the amendment and the terms of the amendment are authorised by an Extraordinary Resolution of the Security Holders (as a single class) passed in accordance with the Trust Instrument or by a resolution in writing of Security Holders holding not less than 75 per cent. by Principal Amount of the Metal Securities (as a whole); or
  - 24.1.7 the terms of the amendment are necessary or desirable in the opinion of the Issuer and the Trustee to comply with any statutory or other requirement of law (including as modified or applied in any respect to the Metal Securities) or any Listing Rules or to rectify any inconsistency, technical defect, manifest error or ambiguity in the terms of such document.
- 24.2 The Issuer shall notify all Security Holders of a proposed amendment as referred to in Condition 24.1.1 by publishing a notice on a RIS at least 30 days' prior to such amendment becoming effective.
- 24.3 The Issuer shall notify all Security Holders of a proposed amendment as referred to in Conditions 24.1.3 to 24.1.6 (inclusive) by publishing a notice on a RIS as soon as practicable after such amendment is proposed and in any event, upon such amendment becoming effective.
- 24.4 Notwithstanding any provision to the contrary in this Condition 24 or in any other Document, the power to assent to any modification or amendment to the provision of any Document referred to in Condition 24.1 which modifies the power to amend such Document shall require a unanimous resolution in writing of holders of the Metal Securities of any type then outstanding.

## **25. NOTICES**

- 25.1 Except as provided below, all notices required or permitted to be given to Security Holders, the Issuer or the Registrar under the Trust Instrument or pursuant to any other Document must be in writing in English.

- 25.2 All notices required or permitted to be given to a Security Holder under the Trust Instrument shall be made by publication through a RIS where required under the terms of such document, but otherwise may be given by publication on the Issuer's Website.
- 25.3 All notices required to be given by the Issuer to Security Holders under the Trust Instrument or otherwise shall be given in writing, except to the extent that the notice relates to a meeting of Security Holders where, in relation to any Metal Securities which are held in Uncertificated Form, the Issuer may from time to time permit notices of Security Holder meetings to be made by means of an electronic communication in the form of an Uncertificated Notice of Meeting in such form and subject to such terms and conditions as may from time to time be prescribed by the Issuer (subject always to facilities and requirements of CREST) and may in similar manner permit supplements, or amendments, to any such Uncertificated Notice of Meeting to be made by like means.
- 25.4 Any Redemption Form given by an Authorised Participant shall be sent by fax to the Issuer's primary fax number, as follows:  
Fax: +44 1534 825 335  
or such other fax number as may be published on the Issuer's Website, and confirmed by email to the following email address:  
Email: info@etfsecurities.com.
- 25.5 Any Redemption Form lodged by an Authorised Participant shall be deemed to have been lodged upon sending, subject to confirmation of uninterrupted and error-free transmission by a transmission report.
- 25.6 Any Redemption Form lodged other than by an Authorised Participant must be delivered by hand, sent by prepaid recorded delivery or sent by registered post (or registered airmail in the case of posting from an address outside the United Kingdom) to the address specified in Condition 25.7.
- 25.7 Any Notice (other than a Redemption Form) to be given to the Issuer shall be sent to the Issuer's primary fax number set out above or delivered by hand, sent by prepaid recorded delivery or registered post (or registered airmail in the case of posting from an address outside the United Kingdom), to the following address:  
Name: ETFS Metal Securities Limited  
Address: Ordnance House  
31 Pier Road  
St. Helier  
Jersey JE4 8PW  
Channel Islands  
Attention: Graeme Ross  
Fax number: +44 1534 825 335  
or such other address as may be published for the Issuer on the Issuer's Website.
- 25.8 Any Notice shall, in the absence of earlier receipt, be deemed to have been received as follows:  
25.8.1 if delivered by hand, at the time of actual delivery; or  
25.8.2 if sent by prepaid recorded delivery or registered post (or registered airmail in the case of posting from an address outside the United Kingdom), on the date it is delivered or its delivery is attempted.

## **26. PAYMENT PROVISIONS**

- 26.1 All monies payable by the Issuer in respect of Metal Securities shall be paid in US dollars in full cleared and immediately available funds. Where no bank account or other settlement details have been provided by a Security Holder, or in other circumstances as provided in the Trust Instrument, cash payments due to Security Holders will be made by cheque or warrant and despatched by post at the risk of the Security Holder.
- 26.2 All monies payable by the Issuer on the Redemption of any Metal Securities shall be paid in full, free and clear of and without any withholding or deduction for or on account of, any present or

future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of any relevant jurisdiction or any political subdivision thereof or any authority thereof having power to tax, unless such deduction or withholding is required by law to which the person making the payment is subject.

- 26.3 Where a day on which a payment would otherwise be due and payable is not a Business Day, such payment shall be due and payable by the payer on the next following Business Day.

## PART 6

### PARTICULARS OF SECURITY DEEDS

The Issuer and the Trustee have entered into the following Security Deeds:

- (a) the Platinum Security Deed dated 18 April 2007 as amended by a deed of amendment dated 11 December 2009;
- (b) the Palladium Security Deed dated 18 April 2007 as amended by a deed of amendment dated 11 December 2009;
- (c) the Silver Security Deed dated 18 April 2007 as amended by a deed of amendment dated 11 December 2009;
- (d) the Gold Security Deed dated 18 April 2007 as amended by a deed of amendment dated 11 December 2009; and
- (e) the Swiss Gold Security Deed dated 11 December 2009,

in each case creating Security over all the Secured Property attributable to the relevant class for the benefit of the Trustee and the Security Holders of the Individual Securities of that class and of the Basket Securities (to the extent they are comprised of Individual Securities of that class).

The Security Deeds contain, *inter alia*, provisions to the following effect:

#### 1. CHARGE

- 1.1 *Charge*: The Issuer charges to the Trustee by way of first fixed charge, as continuing security for the payment or discharge of all sums owing by or obligations of the Issuer to the Trustee or the Security Holders from time to time under the applicable type of Metal Securities, the Trust Instrument or the relevant Security Deed (the "**Secured Liabilities**"), the Bullion held in custody attributable to the relevant class of Individual Security and grants a first ranking floating charge to the Trustee for the benefit of itself and the Security Holders of that type of Metal Securities over all the Issuer's rights, title and interest, present and future, in and to the relevant Secured Property.
- 1.2 *Assignment by way of Security*: The Issuer as further security for the Secured Liabilities assigns absolutely to the Trustee all of its present and future rights, title and interest in the Secured Metal Accounts and the Custodian Agreements insofar as they pertain to the relevant Pool.

#### 2. ENFORCEMENT

- 2.1 The Security created by the Security Deed shall become enforceable if (a) a Defaulted Obligation has occurred and is continuing, or (b) an Issuer Insolvency Event has occurred and is continuing.
- 2.2 In addition to any of the powers conferred on the Trustee pursuant to the Trust Instrument with respect to the Secured Property:
  - 2.2.1 after the occurrence of a Defaulted Obligation, the Trustee may at any time, at its discretion, and shall if so directed in writing by a Security Holder to whom such Defaulted Obligation is owed, the Trustee having first been indemnified and/or secured and/or funded to its satisfaction, take such proceedings and/or other action as it may think fit against or in relation to the Issuer to enforce any such obligations of the Issuer under the Trust Instrument and the Security constituted by the Security Deeds in respect of the Metal Securities to which the Defaulted Obligation relates;
  - 2.2.2 if an Issuer Insolvency Event has occurred and is continuing, the Trustee may at any time, at its discretion, and shall if so directed in writing by Security Holders holding not less than 25 per cent. by Principal Amount of the Metal Securities (as a whole) then outstanding or an Extraordinary Resolution of the Security Holders holding Metal Securities (as a single class), the Trustee having first been indemnified and/or secured and/or funded to its satisfaction, take such proceedings and/or other action as it may think fit against or in relation to the Issuer to enforce any obligations of the Issuer under the Trust Instrument and the security constituted by the Security Deeds in respect of all outstanding Metal Securities; and
  - 2.2.3 where an Issuer Insolvency Event is occurring at the same time as a Defaulted Obligation, a holder of Metal Securities to whom a Defaulted Obligation is owed will not



be entitled to require the Trustee to take action as described in paragraph 2.2.1 above until the expiry of 30 days from the occurrence of the Issuer Insolvency Event nor shall he be so entitled if, during such period of 30 days, the Trustee has elected, or been required, to take action as described in paragraph 2.2.2.

### **3. GOVERNING LAW**

The Security Deeds are governed by the laws of England. Notwithstanding the submission by the Issuer to the jurisdiction of the English courts contained in the Security Deeds, nothing prevents the Trustee from commencing proceedings in any other court of competent jurisdiction.

## PART 7

### DESCRIPTION OF CUSTODIAN AGREEMENTS

The Secured Metal Accounts have been established pursuant to the terms of the Custodian Agreements. The following is a summary of these documents.

#### 1. SECURED METAL ACCOUNTS

- (a) The Custodians will open and maintain the Secured Metal Accounts in the name of the Trustee (as legal mortgagee pursuant to the security granted by the Security Deeds and in its capacity as trustee for the Security Holders). The Secured Metal Accounts shall evidence and record the withdrawals of Bullion from and deposits of Bullion to that account. Each Secured Metal Account will be denominated in respect of platinum, palladium and silver in troy ounces and in respect of gold fine troy ounces.
- (b) The Custodians will provide reports by fax or by e-mail (at the option of the Trustee) to the Trustee by the close of each Business Day (only if there have been any changes). The Custodians retain the right to reverse recording errors with retrospective effect.
- (c) Each of the Custodians acknowledges that, pursuant to the Security Deeds, the Issuer has assigned by way of first legal mortgage to the Trustee for the benefit of itself and the Security Holders all its rights, title and interest, present and future, in and to all Bullion credited to the Secured Metal Accounts and all the rights of the Issuer in respect of the Secured Metal Accounts, including the rights of the Issuer in the Secured Allocated Account Agreements and the Secured Unallocated Account Agreements, such assignment to take effect by way of first fixed security.

#### 2. DEPOSITS

Notice of an intended deposit into the relevant Secured Unallocated Account must be given by the Issuer to the Custodian no later than 3.00 p.m. (London time) one Business Day prior to which the Trustee (in the case of the relevant Secured Allocated Account) or the Issuer (in the case of the relevant Subscription Unallocated Account) wishes the Custodian to credit to such Secured Unallocated Account Bullion debited from either the relevant Secured Allocated Account or the relevant Subscription Unallocated Account.

The Custodians are required to use their commercially reasonable endeavours to complete the transfer of Bullion from the Secured Unallocated Account to the Secured Allocated Account on the day of receipt in the Secured Unallocated Account.

#### 3. WITHDRAWALS

The Custodians may amend the procedures for withdrawing Bullion from the Secured Metal Accounts or impose additional procedures where such amendment is caused by a change in procedures of the Relevant Association.

Once a withdrawal of Bullion from a Secured Allocated Account is requested, such Bullion must be de-allocated for purposes of crediting it to an unallocated Bullion account.

#### 4. INSTRUCTIONS

- (a) The Issuer, the Trustee and each of the Custodians have agreed that only the Trustee shall have the right to give instructions to the Custodians for withdrawal of Bullion from the Secured Metal Accounts, whether by way of de-allocation or by way of collection or delivery, credit or debit.
- (b) If, in the relevant Custodian's opinion, any instructions are unclear or ambiguous, such Custodian shall use reasonable endeavours (taking into account any relevant time constraints) to obtain clarification of those instructions from the Trustee (but not from the Issuer) and, failing that, the Custodian may in its absolute discretion and without any liability on its part, act upon what the Custodian believes in good faith such instructions to be or refuse to take any action or execute such instructions until any ambiguity or conflict has been resolved to the Custodian's satisfaction.

#### 5. CUSTODY SERVICES

The Custodians are appointed as the custodians of the Bullion credited to the Secured Metal Accounts in accordance with the Custodian Agreements. The Custodians will segregate Bullion credited to the Secured Allocated Accounts from any other Bullion which it owns or holds for others by making

appropriate entries in its books and records, and will require any Sub-Custodians it appoints to so segregate such Bullion. Each of the Custodians will identify in its books the Trustee as the legal mortgagee of the Bullion credited to the Secured Metal Accounts.

The Initial Custodian agrees to use commercially reasonable efforts promptly to transport any Bullion held for the Issuer by or for a Sub-Custodian to the Initial Custodian's London vault premises or the Initial Zurich Sub-Custodian's Zurich vault premises at its own cost and risk.

The Swiss Gold Custodian agrees to use commercially reasonable efforts promptly to transport any Bullion held for the Issuer by or for a Sub-Custodian to the Swiss Gold Zurich Sub-Custodian's Zurich vault premises at its own cost and risk.

## **6. SUB-CUSTODIANS**

The Custodians may appoint Sub-Custodians solely for the temporary custody and safekeeping of Bullion until transported to the relevant vault premises. The Secured Allocated Account Agreements requires the relevant Custodian to use reasonable care in the selection of those Sub-Custodians and provides that it shall not be liable for any loss, damage or expense arising directly or indirectly from an act or omission, or insolvency, of any Sub-Custodian it appoints unless the appointment of that Sub-Custodian was made by it negligently or in bad faith. The only Sub-Custodians which the Initial Custodian has currently appointed to perform such duties will be those custodians which are members of the Relevant Association, namely, in addition to the Custodian, the Bank of England (with respect to gold only), The Bank of Nova Scotia (ScotiaMocatta), Deutsche Bank AG, JPMorgan Chase Bank, N.A., UBS AG, Barclays Bank PLC, Johnson Matthey plc (with respect to silver only), Brink's Global Services Inc. and ViaMat International.

The only Sub-Custodians that the Swiss Gold Custodian has currently appointed to perform such duties are Brinks Global Services Inc., ViaMat International, and Group 4 Security Limited.

The Initial Custodian may employ Zurich Sub-Custodians for the custody and safekeeping of platinum and palladium in their Zurich vault premises. The Swiss Gold Custodian may employ Zurich Sub-Custodians for the custody and safekeeping of gold in their Zurich vault premises. The Custodians will use reasonable care in selecting any Zurich Sub-Custodian. As of the date of the Initial Secured Metal Account Agreement, the Zurich Sub-Custodians that the Initial Custodian uses are Brink's Global Services Inc. and ViaMat International. The Swiss Gold Zurich Sub-Custodian is currently UBS AG. Nothing in the clause described in this paragraph limits the Custodians' liability with respect to Bullion held by a Zurich Sub-Custodian. In addition to the requirements referred to in paragraph 5, the Custodians must require any Zurich Sub-Custodian to segregate the Bullion held by it for the Issuer from any bullion which it holds for the relevant Custodian and any other customers of such Custodian by making appropriate entries in its books and records. The Custodians must give to the Zurich Sub-Custodians notices in the form specified in the Secured Metal Account Agreements and ensure that the Zurich Sub-Custodians deliver to the Trustee (with a copy to the Issuer) acknowledgements and undertakings to segregate all Bullion held by them for the Issuer from any which they own or hold for others and to segregate the Bullion held by them for the Issuer from any bullion which they hold for the Custodians and any other customers of the Custodians, and in each case undertaking to make appropriate entries in their books and records.

## **7. FEES AND EXPENSES**

The Initial Custodian has agreed to charge a fee for its services under the Initial Custodian Agreements at a rate of 0.14 per cent per annum in relation to platinum and palladium, 0.10 per cent. per annum in relation to silver and 0.06 per cent. per annum in relation to gold, in each case of the aggregate amount of Bullion held in the Secured Metal Accounts (with no minimum fee), calculated at the end of each Business Day and payable monthly in arrears, (as determined by the Custodian) in Bullion.

The Swiss Gold Custodian has agreed to charge a fee for its services under the Swiss Gold Custodian Agreements at a rate based on the aggregate US dollar value of Bullion held in the Swiss Gold Secured Metal Accounts (with no minimum fee), calculated at the end of each Business Day and payable monthly or quarterly in arrears (as determined by the Swiss Gold Custodian) in Bullion.

In addition, the Issuer is required to procure the payment on demand of all costs, charges and expenses (including any relevant taxes excluding VAT, duties and legal fees but excluding fees for transportation, storage and insurance of Bullion and any fees and expenses of Sub-Custodians, which are covered by the fee above) incurred by the Custodians in connection with the performance of their duties and

obligations under the Secured Allocated Account Agreements and the Secured Unallocated Account Agreements or otherwise in connection with the Bullion credited to the Secured Metal Accounts.

## **8. VALUE ADDED TAX**

All sums payable under the Custodian Agreements by the Issuer to the Custodians shall be deemed to be inclusive of VAT.

## **9. SCOPE OF RESPONSIBILITY**

- (a) *General:* The Custodians will use reasonable care in the performance of their duties under the Custodian Agreements and will only be responsible for any loss or damage suffered as a direct result of any negligence, fraud or wilful default by them in the performance of their duties, and in which case their liability will not exceed the market value of Bullion lost or damaged at the time that such negligence, fraud or wilful default is discovered by the relevant Custodian.

The Custodians are under no duty or obligation to make or take, or require any Sub-Custodian they appoint to make or take, any special arrangements or precautions beyond those required by any applicable rules of the Relevant Association, the Bank of England or any other applicable regulatory authority or as specifically set out in the relevant agreement.

- (b) *Insurance:* The Custodians will maintain such insurance in connection with their custodial obligations under the Custodian Agreements as they consider appropriate, and they shall be responsible for all costs, fees and expenses in relation thereto. The Issuer may, subject to confidentiality restrictions, be provided with details of these insurance coverage arrangements from time to time upon reasonable prior notice.
- (c) *Force majeure:* The Custodians (or any affiliate) shall not be liable for any delay in performance, or for the non-performance of any of their obligations under the relevant Custodian Agreements by reason of any cause beyond the relevant Custodian's reasonable control. This includes any act of God or war or terrorism or any breakdown, malfunction or failure of transmission, communication or computer facilities, industrial action, acts and regulations of any governmental or supra national bodies or authorities or regulatory or self-regulatory organisation, for any reason, to perform their obligations.
- (d) *Indemnity:* The Issuer shall indemnify each of the Custodians against all costs and expenses, damages, liabilities and losses (other than VAT) which each such Custodian may suffer or incur, directly or indirectly in connection with the Custodian Agreements except to the extent that such sums are due directly to their respective negligence, wilful default or fraud.

## **10. TERMINATION**

### *(a) The Initial Custodian Agreements*

The Trustee (or, in the case of the Initial Subscription Unallocated Account Agreement, the Issuer) and the Initial Custodian may each terminate any Initial Custodian Agreement by giving not less than 90 days' written notice, provided that no Initial Custodian Agreement may be terminated prior to 18 April 2012 unless any of the following circumstances occur, in which case the terminating party must provide the other party with not less than 90 days' written notice of termination:

- (i) the Initial Custodian ceases to offer the services contemplated by the relevant Custodian Agreement to its clients or proposes to withdraw from the Bullion (as defined in the Custodian Agreements) business;
- (ii) it becomes unlawful for the Initial Custodian to be a party to the relevant Custodian Agreement or to offer its services on the terms contemplated by such agreement or it becomes unlawful for the Trustee or the Issuer to receive such services or be a party to such agreement;
- (iii) there is any event which, in the Initial Custodian's sole view, indicates the Issuer's insolvency or impending insolvency; or
- (iv) there is any event which, in the Issuer's sole view, indicates the Initial Custodian's insolvency or impending insolvency.

If arrangements have not been made for the redelivery of the Bullion held in the Initial Secured Metal Accounts within six months of the termination date specified in the termination notice, the Initial Custodian will be entitled to sell such Bullion and account to the Trustee, in the case of the Initial Secured Metal

Accounts, or the Issuer, in the case of the Initial Subscription Unallocated Account, for the proceeds after deducting any amounts due to the Initial Custodian under the Initial Custodian Agreements. Termination shall not affect rights and obligations then outstanding under the Initial Custodian Agreements which shall continue to be governed by the Initial Custodian Agreements until all obligations have been fully performed.

*(b) The Swiss Gold Custodian Agreements*

The Swiss Gold Custodian Agreements shall have a fixed initial term of five years from 11 December 2009 and, following the expiry of that term, may be terminated by either the Issuer or the Custodian giving to the other party(ies) not less than 90 days' written notice unless any of the following circumstances occur in which case any Swiss Gold Custodian Agreement may be terminated immediately upon written notice as follows:

- (i) by the Trustee (or, in the case of the Swiss Gold Subscription Unallocated Account Agreement, the Issuer), if the Swiss Gold Custodian ceases to offer the services contemplated by the relevant Swiss Gold Custodian Agreement to its clients or proposes to withdraw from the bullion custody business;
- ii) by the Trustee (or, in the case of the Swiss Gold Subscription Unallocated Account Agreement, the Issuer) or the Swiss Gold Custodian, if it becomes unlawful for the Swiss Gold Custodian to be a party to the relevant Swiss Gold Custodian Agreement or to offer its services to the Issuer on the terms contemplated by such agreement or it becomes unlawful for the Trustee or the Issuer to receive such services or to be a party to such agreement;
- (iii) by the Swiss Gold Custodian, if there is any event or circumstance which, in the Swiss Gold Custodian's sole view, indicates the Issuer's insolvency or impending insolvency;
- (iv) by the Trustee (or, in the case of the Swiss Gold Subscription Unallocated Account Agreement, the Issuer), if there is any event which, in the Trustee's sole view, indicates the Swiss Gold Custodian's insolvency or impending insolvency;
- (v) by the Trustee (or, in the case of the Swiss Gold Subscription Unallocated Account Agreement, the Issuer) or by the Swiss Gold Custodian, if the Swiss Gold Zurich Sub-Custodian ceases to offer or gives notice of its intention to cease offering the services contemplated by the Swiss Gold Secured Allocated Account Agreement or proposes to withdraw from the bullion custody business and the Swiss Gold Custodian, the Issuer and the Trustee have not been able to identify a mutually agreeable replacement Zurich Sub-Custodian prior to the Zurich Sub-Custodian ceasing to offer such services; or
- (vi) by the Trustee (or, in the case of the Swiss Gold Subscription Unallocated Account Agreement, the Issuer) or by the Swiss Gold Custodian, if either of the other Swiss Gold Custodian Agreements ceases to be in full force and effect at any time.

If arrangements have not been made for the redelivery of the Bullion held in the Swiss Gold Secured Metal Accounts within six months of the termination date specified in the termination notice, the Swiss Gold Custodian will be entitled to sell such Bullion and account to the Trustee, in the case of the Swiss Gold Secured Metal Accounts, or the Issuer, in the case of the Swiss Gold Subscription Unallocated Accounts, for the proceeds after deducting any amounts due to the Swiss Gold Custodian under the Swiss Gold Custodian Agreements. Termination shall not affect rights and obligations then outstanding under the Swiss Gold Custodian Agreements which shall continue to be governed by the Swiss Gold Custodian Agreements until all obligations have been fully performed.

## **11. GOVERNING LAW AND JURISDICTION**

Each Custodian Agreement is governed by, and will be construed in accordance with, English law and the Issuer agrees that the English courts are to have jurisdiction to settle any disputes or claims which may arise out of or in connection with any Custodian Agreement.

## PART 8

### GLOBAL BEARER CERTIFICATES (GERMANY)

The following is a non-binding English language translation of the form of Global Bearer Certificates. The definitive German language text, of which the following is a direct translation, of the form of the Global Bearer Certificates and the Conditions of the Global Bearer Certificates is set out in Annexes 1 and 2 of this document.

#### Model Form of the Global Bearer Certificates

(non-binding translation)

##### Global Bearer Certificate

for

• registered [see Annex 1] [type of Individual / category of Basket] Securities

of

ETFS Metal Securities Limited

Ordnance House, 31 Pier Rd, St Helier, Jersey, Channel Islands, JE4 8PW

divided into securities with a principal amount of • [see Annex 1] each

As underlying stock for this Global Bearer Certificate the Clearstream Banking Aktiengesellschaft, Frankfurt am Main, Federal Republic of Germany (hereinafter referred to as "**Clearstream**"), is holding • registered [type of Individual / category of Basket] Securities [see Annex 1] [type of Individual / category of Basket] Securities (hereinafter referred to as "**Notes**"), of ETFS Metal Securities Limited, Jersey, Channel Islands (hereinafter referred to as the "**Company**"), constituted by a Trust Instrument between the Company and The Law Debenture Trust Corporation p.l.c. as amended/supplemented from time to time (hereinafter referred to as the "**Trust Instrument**") and secured as described therein and divided into securities with a principal amount of • [see Annex 1] each, registered in the name of Vidacos Nominees Limited, London, England, and held in a special Safe Custody Account with Citibank N.A., London, England. Each co-owner of this Global Bearer Certificate is entitled to demand at any time from Clearstream to arrange for the delivery and registration in the relevant Register of Security Holders in his name or in the name of a third party designated by him of such number of Notes as corresponds to his share in this Global Bearer Certificate.

In respect of all further matters, the Conditions attached to this Global Bearer Certificate and forming an essential part thereof shall apply.

Frankfurt am Main, ...

**CLEARSTREAM BANKING**

Aktiengesellschaft



## TEXT OF THE CONDITIONS OF THE GLOBAL BEARER CERTIFICATES

### Conditions of the Certificate

#### (non-binding translation)

1. This Global Bearer Certificate bears the signature of two managing directors, or one managing director and one holder of procuration, of the Clearstream Banking Aktiengesellschaft, Frankfurt am Main, Federal Republic of Germany, (hereinafter referred to as "**Clearstream**").
2. Each co-owner of this Global Bearer Certificate is entitled to demand at any time from Clearstream the delivery and the registration in the relevant Register of Security Holders, in his name or in the name of a third party designated by him of such number of registered • [see Annex 1] [type of Individual / category of Basket] Securities (hereinafter referred to as "**Notes**") of ETFS Metal Securities Limited, Jersey, Channel Islands, (hereinafter referred as "**Company**") constituted by a Trust Instrument between the Company and The Law Debenture Trust Corporation p.l.c. as amended/supplemented from time to time (hereinafter referred to as the "**Trust Instrument**") and secured as described therein and divided into securities with a principal amount of • [see Annex 1] each, as corresponds to his co-ownership share in this Global Bearer Certificate. Such demand shall be made by the co-owner through his depositary bank to Clearstream, stating to whom the Notes shall be delivered, respectively, the address to which the certificate evidencing the registration shall be mailed by the Registrar.

In addition to the delivery, respectively, transfer fee determined by Clearstream pursuant to §315 of German Civil Code, the co-owner shall bear any expenses, taxes, fees or duties arising from such delivery resp. transfer and registration.

The co-owners of this Global Bearer Certificate are not entitled to demand delivery of individual bearer certificates out of this Global Bearer Certificate.

3. As a rule, Clearstream shall convey to the co-owner, through his depositary bank and in proportion to his share in the Global Bearer Certificate, all rights arising from the Notes under the laws of England and Jersey, Channel Islands.

Payments of capital, interests and/or other amounts due will be passed on by Clearstream to the co-owner. Furthermore, any terms and conditions announced by Clearstream shall apply.

All payments to the co-owner shall be made in Euro, in accordance with the foreign exchange control regulations prevailing at the time, unless the co-owner has in time before the due date demanded payment in USD (United States Dollars).

4. As a rule, Clearstream shall not exercise voting rights arising in a noteholder meeting. On demand it shall cause a voting proxy to be issued to the co-owner or a third party indicated by him.

The Company has undertaken to publish the agenda of any noteholder meeting as well as the conditions for participating in the meeting and exercising the voting rights before each meeting.

5. Should the issuance of the Global Bearer Certificate be subject at any time to any taxes, fees or duties in the Federal Republic of Germany or in Jersey, Channel Islands, the co-owners shall bear such taxes, fees or duties in proportion to their shares in the Global Bearer Certificate.

Clearstream is entitled to divide among all co-owners in proportion to their co-ownership shares in the Global Bearer Certificate all taxes, fees and duties to which it may at any time be subject in the Federal Republic of Germany or in Jersey, Channel Islands, by the mere fact that it is holding the Notes.

6. If for any reason the Notes should be replaced by other notes or some other valuable, the co-owner's right to the Notes shall convert into a right to the relevant substitutes. In such event these Conditions shall apply *mutatis mutandis*.
7. Clearstream is entitled to substitute another entity for Citibank N.A., London, England, (hereinafter referred to as "**Custodian**") in its function as Custodian or Vidacos Nominees Limited, London, England, (hereinafter referred to as "**Nominee**") in its function as Nominee. In such event, Clearstream shall not be responsible for more than careful selection. This does not affect Clearstream's right to assume itself the functions of the Custodian or the Nominee. In the case where the Custodian or the Nominee are replaced, any reference to the Custodian or the Nominee in these Conditions shall be deemed to refer to the new Custodian or Nominee.
8. Should the Notes become good delivery on German stock exchanges in a way which would not require Clearstream's assistance in the present form or should the admission of the Notes in the form of co-ownership shares in the Global Bearer Certificate to trading and official quotation on German stock exchanges be withdrawn, Clearstream shall request from the co-owners instructions as provided for in Clause 2. paragraph 1 above. Should such instructions not be given within 3 months from the publication of the relevant request, Clearstream shall be entitled at its discretion to arrange for registration of the Notes in the name of the co-owner or a third party designated in its request and to deposit the relevant Notes at the co-owner's risk and expense with a depository designated in its request. All obligations of Clearstream arising from the Global Bearer Certificate shall cease therewith.
9. All notices concerning the Global Bearer Certificate shall be published in at least one supranational newspaper designated by the German stock exchanges to publish obligatory notices of each German stock exchange on which the Notes in form of co-ownership shares in the Global Bearer Certificate are traded and officially quoted.
10. The co-owners shall bear proportionately any prejudice or damage, whether economic or legal, which may affect the Notes held as underlying stock for the Global Bearer Certificate in consequence of *force majeure*, governmental decrees, war, riots, official action at home or abroad or any other circumstances beyond Clearstream's or the Custodian's control.  
  
Clearstream shall perform all its obligations arising from the Global Bearer Certificate with the due care of a proper merchant. If by reason of *force majeure*, governmental decrees, war, riots, official action at home or abroad or by any other circumstances beyond its control it is prevented from performing its obligations, it shall not be responsible.  
  
The Custodian and the Nominee are responsible towards Clearstream for the due performance of their functions. Any claims against the Custodian or the Nominee shall be pursued by Clearstream on the co-owners' behalf. Beyond that Clearstream shall only be responsible for careful selection of the Custodian and the Nominee.
11. Should any of these conditions be or become fully or partly invalid or impracticable, the other conditions shall remain unaffected. Any such invalid or impracticable condition shall be replaced in accordance with the intent and purpose of this contractual agreement.
12. All legal relations between the co-owner and Clearstream shall be governed by the laws of the Federal Republic of Germany. The exclusive court of venue shall be Frankfurt am Main.
13. Except where required by law, an alteration of these Conditions shall be permitted only insofar as it does not impair the rights of the co-owners.

**Annex 1**

Annex 1 may be amended from time to time if additional types of Notes are issued by ETFS Metal Securities Limited under its multi-type Programme.

<b>Type of Security</b>	<b>Original ISIN</b>	<b>LSE Code (of the Notes)</b>	<b>Principal Amount (of the Notes) USD</b>
ETFS Physical Platinum	JE00B1VS2W53	PHPT	20,00
ETFS Physical Palladium	JE00B1VS3002	PHPD	5,00
ETFS Physical Silver	JE00B1VS3333	PHAG	2,00
ETFS Physical Gold	JE00B1VS3770	PHAU	10,00
ETFS Physical PM Basket	JE00B1VS3W29	PHPM	9,40
ETFS Physical Swiss Gold	JE00B8588CD74	SGBS	10,00

## PART 9

### ADDITIONAL INFORMATION

#### 1. INCORPORATION AND SHARE CAPITAL OF ISSUER

- 1.1 The Issuer was incorporated as a private limited company in Jersey on 22 February 2007 under the Companies (Jersey) Law 1991 (as amended) (the “**Law**”) and changed status to a public company on 30 March 2007 pursuant to a written resolution dated 30 March 2007. The Issuer operates under the Law and secondary legislation made thereunder. The Issuer is registered in Jersey under number 95996.
- 1.2 The Issuer is authorised to issue an unlimited number of no par value shares of one class designated as Ordinary Shares of which two Ordinary Shares of no par value have been issued for a consideration of £1.00 each.
- 1.3 The Issuer does not have any subsidiary undertakings.
- 1.4 All of the Issuer’s issued ordinary shares are owned by ETFSL.

#### 2. MATERIAL CONTRACTS

The following contracts (not being contracts entered into in the ordinary course of business) have been entered into by the Issuer within the two year period immediately preceding the date of this document and are or may be material or have been entered into at any time by the Issuer and (not being contracts entered into in the ordinary course of business) contain provisions under which the Issuer has an obligation or entitlement which is or may be material to the Issuer as at the date of this document:

- 2.1 the Trust Instrument dated 18 April 2007, as amended by a supplemental trust instrument dated 15 April 2008 and a second supplemental trust instrument dated 11 December 2009, a summary of the principal terms of which is set out in Part 5 (*Trust Instrument and the Conditions*);
- 2.2 the following Security Deeds, a summary of the principal terms of which are set out in Part 6 (*Particulars of Security Deeds*):
  - 2.2.1 the Platinum Security Deed dated 18 April 2007 as amended by a deed of amendment dated 11 December 2009;
  - 2.2.2 the Palladium Security Deed dated 18 April 2007 as amended by a deed of amendment dated 11 December 2009;
  - 2.2.3 the Silver Security Deed dated 18 April 2007 as amended by a deed of amendment dated 11 December 2009;
  - 2.2.4 the Gold Security Deed dated 18 April 2007 as amended by a deed of amendment dated 11 December 2009; and
  - 2.2.5 the Swiss Gold Security Deed dated 11 December 2009;
- 2.3 the Initial Secured Allocated Account Agreement, the Initial Secured Unallocated Account Agreement and the Initial Subscription Unallocated Account Agreement, each dated 18 April 2007 between the Issuer and the Initial Custodian, as amended and restated on 15 April 2008 and as further amended on 27 October 2009 and on 11 December 2009 and the Swiss Gold Secured Allocated Account Agreement, the Swiss Gold Secured Unallocated Account Agreement and the Swiss Gold Subscription Unallocated Account Agreement each dated 11 December 2009 between the Issuer and Swiss Gold Custodian, a summary of the principal terms of which is set out in Part 7 (*Description of Custodian Agreements*);
- 2.4 the Initial Metal Sale Counterparty Agreement dated 18 April 2007 between the Issuer, the Trustee and HSBC Bank USA, N.A. as the metal sale counterparty under which, for the purposes of effecting Metal Sales in relation to the Redemption of Initial Metal Securities, the Initial Metal Sales Counterparty agrees, at the request of the Trustee, to purchase such amount of Bullion attributable to or forming part of the Secured Property in respect of such Metal Securities as the Trustee may specify on any Business Day at the Fixing Price in US dollars determined in the London AM Fix on that Business Day for standard settlement in the Relevant Market and to pay an amount equal to the product of such Fixing Price and the amount of Bullion so specified by the Trustee to such account or accounts as the Trustee may nominate for value on the standard Settlement Date. The

- Initial Metal Sale Counterparty Agreement will terminate automatically if the Initial Secured Unallocated Account Agreement is terminated;
- 2.5 the Swiss Gold Metal Sale Counterparty Agreement dated 11 December 2009 between the Issuer, the Trustee and JPMorgan Chase Bank, N.A. as the metal sale counterparty under which, for the purposes of effecting Metal Sales in relation to the Redemption of Swiss Gold Metal Securities, the Swiss Gold Metal Sales Counterparty agrees, at the request of the Trustee, to purchase such amount of Bullion attributable to or forming part of the Secured Property in respect of such Metal Securities as the Trustee may specify on any Business Day at the Fixing Price in US dollars determined in the London AM Fix on that Business Day for standard settlement in the Relevant Market and to pay an amount equal to the product of such Fixing Price and the amount of Bullion so specified by the Trustee to such account or accounts as the Trustee may nominate for value on the standard Settlement Date. The Swiss Gold Metal Sale Counterparty Agreement will terminate automatically if the Swiss Gold Secured Unallocated Account Agreement is terminated;
- 2.6 the following Authorised Participant Agreements, a summary of the principal terms of which is set out in paragraph 3 below:
- 2.6.1 an Authorised Participant Agreement between ETFSL, the Issuer and Bayerische Hypo- und Vereinsbank AG dated 23 April 2008;
- 2.6.2 an Authorised Participant Agreement between ETFSL, the Issuer and Commerzbank AG dated 29 October 2008;
- 2.6.3 an Authorised Participant Agreement between ETFSL, the Issuer and Credit Suisse International dated 15 October 2009;
- 2.6.4 an Authorised Participant Agreement between ETFSL, the Issuer and Fortis Bank Global Clearing N.V. dated 18 April 2007;
- 2.6.5 an Authorised Participant Agreement between ETFSL, the Issuer and Goldman Sachs International dated 3 March 2008, as amended;
- 2.6.6 an Authorised Participant Agreement between ETFSL, the Issuer and HSBC Bank plc dated 18 April 2007;
- 2.6.7 an Authorised Participant Agreement between ETFSL, the Issuer and J.P. Morgan Securities Limited dated 27 January 2010;
- 2.6.8 an Authorised Participant Agreement between ETFSL, the Issuer and Knight Capital Europe Limited dated 21 August 2009;
- 2.6.9 and Authorised Participant Agreement between ETFSL, the Issuer and Madison Tyler Europe Limited dated 20 November 2008;
- 2.6.10 an Authorised Participant Agreement between ETFSL, the Issuer and Merrill Lynch International dated 12 October 2010;
- 2.6.11 an Authorised Participant Agreement between ETFSL, the Issuer and Morgan Stanley & Co. International Limited dated 18 April 2007;
- 2.6.12 an Authorised Participant Agreement between ETFSL, the Issuer and Morgan Stanley Securities Limited dated 11 December 2009;
- 2.6.13 an Authorised Participant Agreement between ETFSL, the Issuer and Susquehanna International Securities Limited dated 28 July 2009;
- 2.6.14 an Authorised Participant Agreement between ETFSL, the Issuer and Susquehanna Ireland Limited dated 28 July 2009; and
- 2.6.15 an Authorised Participant Agreement between ETFSL, the Issuer and Susquehanna Pacific Pty Limited dated 12 August 2009;
- 2.7 a Service Agreement dated 18 April 2007 (as amended) between the Issuer and ETFSL, a summary of the principal terms of which is set out in Part 1 (*General*);
- 2.8 the 5 per cent. unsecured limited recourse extendable note due 2012 issued by the Issuer to ETFSL. The Note is in registered form and on issue had a principal amount of US\$150,000,000. The principal amount of the Note may be increased or decreased from time to time by written

memorandum signed by the Issuer and ETFSL and was increased to US\$350,000,000 with effect from 9 August 2007. Interest on the principal amount of the Note accrues at the rate of 5 per cent. per annum and is payable annually on 31 December and on the maturity date. The Note shall be redeemed in full on the maturity date. ETFSL may not transfer the Note without the prior written consent of the Issuer. The original maturity date of the Note is 17 April 2012 and shall automatically be extended for one or more additional periods of five years, unless an order is made or a resolution is passed for the winding-up or dissolution of the Issuer or the assets of the Issuer are declared *en désastre* or ETFSL gives written notice to the Issuer that it does not wish to extend the maturity date. ETFSL has given notice to the Issuer that it does not wish to extend the maturity date of the Note. The Note is unsecured and ETFSL may only have recourse in respect of the obligations of the Issuer under the Note to the assets of the Issuer which do not constitute the Secured Property. If those assets are insufficient to satisfy in full all claims of ETFSL against the Issuer under the Note, the amount of any shortfall shall be extinguished and ETFSL shall have no recourse to the Secured Property; and

- 2.9 the Intercompany Loan Agreement dated 18 April 2007 between ETFSL as borrower and the Issuer as lender under which the Issuer may, if it determines to do so, make advances to ETFSL. The intention is that the Issuer will lend back to ETFSL the proceeds from the issue of the Note and any increase in the principal amount of the Note. Interest on each advance accrues at the rate of 5 per cent. per annum and is payable annually on 31 December and on the final maturity date under the Intercompany Loan Agreement. Each advance shall be repaid in full on the final maturity date under the Intercompany Loan Agreement. On each date on which the Issuer redeems the Note in part, ETFSL shall prepay the advances under the Intercompany Loan Agreement by the same amount. The final maturity date under the Intercompany Loan Agreement is the same as the original maturity date under the Note and, if the maturity date under the Note is extended, the final maturity date shall be deemed to be extended to such extended maturity date. The Issuer and ETFSL have agreed that the final maturity date under the Intercompany Loan Agreement will not be extended.

### 3. AUTHORISED PARTICIPANT AGREEMENTS

- 3.1 The Authorised Participants at the date of this document are the persons who have entered into an Authorised Participant Agreement with the Issuer as described in paragraph 2.6 above.
- 3.2 The Issuer hopes to sign Authorised Participant Agreements with other Authorised Participants and/or market-makers in due course, which may include commitments to make markets on varying terms and which may include commitments to maintain particular maximum spreads and minimum lot sizes.
- 3.3 Pursuant to the terms of the Authorised Participant Agreements, each Authorised Participant represents, warrants and undertakes to the Issuer that:
- 3.3.1 in relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a “**Relevant Member State**”), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the “**Relevant Implementation Date**”), it has not made and will not make an offer of Metal Securities to the public in that Relevant Member State, except that it may, with effect from and including the Relevant Implementation Date, make an offer of Metal Securities to the public in that Relevant Member State:
- (a) in the period beginning on the date of publication of a prospectus in relation to those Metal Securities which has been approved by the competent authority in that Relevant Member State in accordance with the Prospectus Directive or, where appropriate, published in another Member State and notified to the competent authority in that Relevant Member State in accordance with Article 18 of the Prospectus Directive and ending on the date which is 12 months after the date of such publication;
  - (b) at any time to legal entities which are authorised or regulated to operate in the financial markets or, if not so authorised or regulated, whose corporate purpose is solely to invest in securities;
  - (c) at any time to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more



than €43,000,000, and (3) an annual turnover of more than €50,000,000, as shown in its last annual or consolidated accounts; or

- (d) at any time in any other circumstances which do not require the publication by the Issuer of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an “offer of Metal Securities to the public” in relation to any Metal Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Metal Securities to be offered so as to enable an investor to decide to purchase or subscribe for the Metal Securities, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State;

- 3.3.2 it has only communicated or caused to be communicated, and will only communicate or cause to be communicated, any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue or sale of any Metal Securities in circumstances in which section 21(1) of the FSMA does not apply to the Issuer or any Affiliate of the Issuer;
- 3.3.3 it has complied and will comply with all applicable provisions of the FSMA and the United Kingdom financial services regime (including, without limitation, the obligation to treat customers fairly) with respect to anything done by it in relation to any Metal Securities in, from or otherwise involving the United Kingdom;
- 3.3.4 neither it nor any of its Affiliates (including any person acting on behalf of it or any of its Affiliates):
- (a) has knowingly offered or sold or will knowingly offer or sell, except in a transaction exempt from the registration requirements of the Securities Act to a Qualified Purchaser, Metal Securities within the United States or to US Persons, whether before, on or after the relevant Application date; or
- (b) has engaged or will engage in any “directed selling efforts” with respect to Metal Securities; and
- 3.3.5 it will not permit Metal Securities to be offered to, sold to, or purchased by persons resident for income tax purposes in Jersey (other than financial institutions in the normal course of business).

Further restrictions on offers and sales of Metal Securities and on the distribution of this Prospectus are set out in paragraph 8 of this Part 9 (*Additional Information*).

#### 4. ISINS AND PRINCIPAL AMOUNTS OF THE METAL SECURITIES

Five classes of Individual Securities and one category of Basket Securities are described in this Prospectus. The ISINs and Principal Amounts of the Metal Securities are as follows:

Class of Metal Securities	ISIN	Principal Amount
ETFS Physical Platinum	JE00B1VS2W53	US\$20.00
ETFS Physical Palladium	JE00B1VS3002	US\$5.00
ETFS Physical Silver	JE00B1VS3333	US\$2.00
ETFS Physical Gold	JE00B1VS3770	US\$10.00
ETFS Physical PM Basket	JE00B1VS3W29	US\$9.40
ETFS Physical Swiss Gold	JE00B5880074	US\$10.00

#### 5. TAXATION IN THE UK

##### 5.1 General

**The following paragraphs summarise certain limited aspects of the UK taxation treatment of holding Metal Securities. They are based on current UK law and HM Revenue & Customs practice, both of which are subject to change, possibly with retrospective effect. The**

following paragraphs relate to Security Holders who are individuals (i.e. natural persons) acting in a private capacity and who are domiciled, resident and ordinarily resident in the UK for taxation purposes ("UK Individuals"), are within the charge to UK corporation tax and holding Metal Securities as an investment or which are UK open-ended investment companies or authorised unit trust schemes. Accordingly, these paragraphs do not apply to certain categories of Security Holders, such as dealers (whether in Bullion or Metal Securities). The statements in this summary are intended only as a general guide, and should be treated with appropriate caution. Any person who is contemplating acquiring a Metal Security (whether or not pursuant to the Programme), particularly if that person is subject to taxation in any jurisdiction other than the UK, is strongly recommended to consult his professional advisers immediately.

## **5.2 The Issuer**

The Directors intend that the affairs of the Issuer should be managed and conducted so that it should not become resident in the UK for UK taxation purposes. Accordingly, and provided that the Issuer does not carry on a trade in the UK through a permanent establishment situated therein for UK taxation purposes, the Issuer will not be subject to UK corporation tax on income and capital gains arising to it. The Directors intend that the affairs of the Issuer are conducted so that no such permanent establishment will arise insofar as this is within their control, but it cannot be guaranteed that the conditions necessary to prevent any such permanent establishment coming into being will at all times be satisfied.

## **5.3 Withholding Tax**

No payments made by the Issuer to Security Holders in respect of the Metal Securities are required to be made under deduction or withholding for or on account of UK tax.

## **5.4 Corporation Tax on Income and Gains**

In general, a Security Holder which is subject to UK corporation tax will be treated for tax purposes as realising profits, gains or losses in respect of Metal Securities on a basis reflecting the treatment in its statutory accounts, calculated in accordance with the Security Holder's authorised accounting method. These profits, gains or losses, (which will include any profits, gains or losses on a disposal or redemption of Metal Securities) will be treated as income for the purposes of a Security Holder's corporation tax computation.

## **5.5 Capital Gains Tax (Individuals)**

### *Subscriptions made before 1 December 2009*

Provided the Metal Securities are not treated as "deeply discounted securities" for UK tax purposes, any transfer or redemption of a Metal Security by a Security Holder who is a UK individual will be a disposal of that Metal Security for UK capital gains tax purposes which may, subject to any available exemption or relief, give rise to a chargeable gain or allowable loss for those purposes.

The Company has received a non-statutory confirmation from HM Revenue & Customs that, in its view, the Metal Securities are not deeply discounted securities. However, since this confirmation is addressed to the Company and is not binding on HM Revenue & Customs in its dealings with Security Holders, investors may wish to consult their own tax advisors in this respect.

The tax treatment of subscriptions made prior to 1 December 2009 will not be affected by the new definition of "offshore fund" discussed below.

### *Subscriptions made on or after 1 December 2009*

The Company has not been regarded as an "offshore fund" for UK tax purposes for periods before 1 December 2009. However, on 1 December 2009, a new definition of "offshore fund" took effect which has resulted in the Company being treated as an "offshore fund". Accordingly, subscriptions made on or after this date may be treated as investments in an "offshore fund" for UK tax purposes.

If this is the case, and the Metal Securities are not treated as "deeply discounted securities" and no other exemption applies, any gain accruing to an investor upon the sale, redemption or other disposal of Metal Securities acquired on or after 1 December 2009 will be taxed as income and

not as a capital gain unless the Company achieves certification as a "reporting fund". The Company has obtained notification from HM Revenue & Customs that all the Metal Securities have been accepted for entry into the "reporting fund" regime with effect from the accounting period which commenced 1 January 2009. Whilst it is expected that certification as a "reporting fund" will be maintained for all periods this cannot be guaranteed.

Note that under the reporting fund rules the Company is required to report to investors 100 per cent. of the net income attributable to the relevant class of Metal Securities. It is not expected that any such reportable income will arise in respect of any of the Metal Securities.

A copy of the annual report required to be made to investors under the reporting fund rules will be provided by the Company on the following website:  
[http://etfsecurities.com/en/document/etfs\\_document.asp](http://etfsecurities.com/en/document/etfs_document.asp)

#### **5.6 Income Tax (Individuals)**

If the Metal Securities are treated as "deeply discounted securities" for UK tax purposes, and do not qualify as "excluded indexed securities" for those purposes, any profit arising to a Security Holder who is a UK individual on transfer or redemption of a Metal Security will be subject to UK income tax and not to UK capital gains tax. As noted in "Capital Gains Tax (Individuals)" above, the Company has received a non-statutory confirmation from HM Revenue & Customs that the Metal Securities are not deeply discounted securities.

#### **5.7 UK Open-Ended Investment Companies and Authorised Unit Trust Schemes**

Whilst UK open-ended investment companies and authorised unit trust schemes are generally subject to UK corporation tax (although currently at the rate of 20 per cent.) they are exempt from tax on capital gains. Part 2 of The Authorised Investment Funds (Tax) Regulations 2006 (S.I. No. 2006/964) (The "Regulators") provides an exemption for capital profits, gains or losses accruing to UK open-ended investment companies and authorised unit trust schemes on creditor loan relationships and derivative contracts. In this respect capital profits, gains or losses are those which, in accordance with UK generally accepted accounting practice, fall to be dealt with in the statement of total return (under the heading of "net capital gains/losses") in accordance with the relevant Statement of Recommended Practice. These provisions do not however apply to a qualified investor scheme which does not meet the genuine diversity of ownership condition. In addition, with effect from 1 September 2009, Part 2B of the Regulations treats all capital profits, gains and losses (determined in accordance with UK generally accepted accounting practice, as described above) arising to a UK open-ended investment company or authorised unit trust, which meets the genuine diversity of ownership condition, from an "investment transaction" (which includes loan relationships and derivative contracts) as a non-trading transaction and thus not taxable as income. These Parts of the Regulations will determine whether any profits, gains or losses arising to a Security Holder which is a UK open-ended investment company or authorised unit trust scheme in respect of Metal Securities will be exempt from tax.

#### **5.8 Stamp Duty and Stamp Duty Reserve Tax ('SDRT')**

Provided the Register is not kept by or on behalf of the Issuer in the UK, neither stamp duty nor SDRT will be payable on the issue or the subsequent transfer of, or agreement to transfer, a Metal Security in Uncertificated Form.

In the case of Metal Securities held in Certificated Form, provided (i) the Register is not kept by or on behalf of the Issuer in the UK; (ii) any instrument of transfer is not executed in the UK; and (iii) any instrument of transfer does not relate to anything to be done in the UK, neither stamp duty nor SDRT will be payable on the issue or subsequent transfer of a Metal Security.

The redemption of a Metal Security will not give rise to UK stamp duty or UK SDRT.

#### **5.9 Inheritance Tax (Individuals)**

For the purposes of inheritance tax, a Metal Security may form part of the value of the estate of a Security Holder who is an individual and inheritance tax may (subject to certain exemptions and reliefs) become payable in respect of the value of a Metal Security on a gift of that Metal Security by, or the death of, a Security Holder who is an individual. Such a tax charge may be subject to appropriate provisions in any applicable Double Tax Treaty.

## 5.10 The European Savings Directive

EU Savings Directive (the “**Directive**”) came into force on 1 July 2005. The Directive applies, amongst other matters, to payments of interest on debt claims of every kind by a paying agent in an EU Member State for the benefit of individual investors resident in the EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside. A paying agent for these purposes is any economic operator who pays interest to, or secures interest for, the beneficial owner, and could in relation to ETFS Metal Securities include a UK broker effecting the sale of Metal Securities.

Metal Securities are undated secured limited recourse debt obligations of the Issuer. However, as no return in respect of Metal Securities (whether in Bullion form on redemption by an Authorised Participant, in Bullion or US dollars by a Security Holder where there are no Authorised Participants or as a result of a compulsory Redemption under Condition 7.1, Condition 7.2 or Condition 7.3 or as a result of trading on the London Stock Exchange) will constitute a payment of interest for the purposes of the Directive, it is not envisaged that Security Holders or their paying agents will be within the scope of the Directive.

## 6. TAXATION IN JERSEY

### Income tax

The following paragraphs summarise certain aspects of the Jersey taxation treatment of holding Metal Securities. The statements are intended only as a general guide.

The Issuer will be regarded as resident in Jersey under the Income Tax (Jersey) Law 1961 (as amended) (the “**Jersey Income Tax Law**”) but (being neither a financial services company nor a specified utility company under the Jersey Income Tax Law at the date of this Prospectus) will (except as noted below) be subject to Jersey income tax at a rate of 0%.

Security Holders (other than residents of Jersey) should not be subject to any tax in Jersey in respect of the holding, sale, redemption or other disposition of Metal Securities. Redemption payments (other than residents of Jersey) will not be subject to withholding for or on account of Jersey tax.

### Stamp Duty

Under current Jersey law, there are no death or estate duties, capital gains, gift, wealth, inheritance or capital transfer taxes. No stamp duty is levied in Jersey on the issue, transfer, acquisition, ownership, redemption, sale or other disposal of Metal Securities. In the event of the death of an individual sole holder of Metal Securities, duty at rates of up to 0.75 per cent of the value of the Metal Securities held may be payable on registration of Jersey probate or letters of administration which may be required in order to transfer or otherwise deal with Metal Securities held by the deceased individual sole holder thereof.

### Goods and services tax

The Issuer is an “international services entity” for the purposes of the Goods and Services Tax (Jersey) Law 2007 (the “**GST Law**”). Consequently, the Issuer is not required to:

- (a) register as a taxable person pursuant to the GST Law;
- (b) charge goods and services tax in Jersey in respect of any supply made by it; or
- (c) (subject to limited exceptions that are not expected to apply to the Issuer) pay goods and services tax in Jersey in respect of any supply made to it.

### The European Saving Directive

As part of an agreement reached in connection with the European Union directive on the taxation of savings income in the form of interest payments, and in line with steps taken by other relevant third countries, Jersey introduced with effect from 1 July 2005 a retention tax system in respect of payments of interest, or other similar income, made to an individual beneficial owner resident in an EU Member State by a paying agent established in Jersey. The retention tax system applies for a transitional period prior to the implementation of a system of automatic communication to EU Member States of information regarding such payments. During this transitional period, such an individual beneficial owner resident in an EU Member State will be entitled to request a paying agent not to retain tax from such payments but

instead to apply a system by which the details of such payments are communicated to the tax authorities of the EU Member State in which the beneficial owner is resident.

The retention tax system in Jersey is implemented by means of bilateral agreements with each of the EU Member States, the Taxation (Agreements with European Union Member States) (Jersey) Regulations 2005 and Guidance Notes issued by the Policy & Resources Committee of the States of Jersey. Based on these provisions and our understanding of the current practice of the Jersey tax authorities (and subject to the transitional arrangements described above), the Issuer would not be obliged to levy retention tax in Jersey under these provisions in respect of Redemption payments made by it.

## **7. TAXATION IN GERMANY**

The following is a brief summary of some important principles of German tax law that may be of relevance for German investors acquiring, holding, redeeming or selling Metal Securities. The summary does not fully cover all aspects of German tax law that may be of relevance to the Metal Securities. The summary is based on German tax law as of the date of this Prospectus. It should also be noted that the taxation of investors may change at any time as a result of new legislation, court practice or decrees issued by the relevant taxation authorities, potentially with retroactive effect.

**Investors interested in acquiring the Metal Securities should consult their tax advisors with regard to any tax consequences that may be involved in acquiring, holding, redeeming, selling or gratuitously transferring the Metal Securities. Only a tax advisor is able to adequately assess the individual tax situation of a specific investor.**

### **7.1 Taxation of capital gains**

The taxation of capital gains from the sale or the redemption of the Metal Securities depends on when German investors have purchased Metal Securities.

#### **7.1.1 Metal Securities purchased prior to 1 January 2009**

There is some uncertainty as to whether the German tax authorities and/or tax courts will treat the Metal Securities purchased prior to 1 January 2009 as debt instruments or as speculative certificates.

##### **Taxation as speculative certificates**

The Issuer believes that the Metal Securities purchased prior to 1 January 2009 should be treated for German tax law purposes as speculative certificates rather than as debt instruments (financial innovations - *Finanzinnovation*). Treatment for German tax law purposes as financial innovations requires that either repayment of the investment or a capital income therefrom will be granted or carried out. Since the Metal Securities do not confer the right to any capital income and, in general a holder of Metal Securities is not entitled to require the redemption of Metal Securities (except where there are no Authorised Participants, only Authorised Participants have that right), and thus theoretically a total loss of the investment is possible, these requirements are not satisfied and therefore the Issuer believes that the appropriate treatment of the Metal Securities for German tax law purposes should be as speculative certificates.

The German Ministry of Finance on 22 December 2009 has issued a tax circular regarding the taxation of capital income in Germany and the new German flat income tax (*Abgeltungsteuer*) (circular no. IV C 1 – S 2252/08/10004) (the "**Tax Circular**"). Pursuant to this Tax Circular gains or losses from a note, eligible for listings on stock exchanges, that securitizes the right of the holder to request delivery of gold or other commodities from the Issuer and where such right of the holder is backed by physical gold or such other commodities, would be treated by the German tax authorities as gains or losses from a debt instrument in the form of a speculative certificate (*Risikozertifikat*). This shall also apply if the holder of the note, instead of requesting delivery of gold, is entitled to request payment of the relevant amount of cash from the Issuer.

If the German tax authorities and/or tax courts do treat the Metal Securities as speculative certificates as the Issuer believes they should, any capital gains from the sale or redemption of the Metal Securities by German individual investors would be subject to German personal income tax and solidarity surcharge thereon only if the Metal



Securities were redeemed or sold within one year after purchase thereof. If the investor has purchased more than one Metal Security at different times, the Metal Securities first purchased will be deemed to be first sold. Capital gains are fully subject to German income tax they solely or together with capital gains from other speculative instruments (*Gewinne aus privaten Veräußerungsgeschäften*) have reached an amount of Euro 600 or more in one calendar year. Capital gains from speculative investments below this threshold are tax-free. Tax losses realised in such one year period can be set off only against capital gains on other speculative instruments (*Gewinne aus privaten Veräußerungsgeschäften*). If German individual investors hold Metal Securities for longer than one year, capital gains from the sale or the redemption thereof are tax-free, but losses are not tax-deductible. However, for Metal Securities purchased after 14 March 2007 the above holds only true for capital gains realised prior to 1 July 2009. Capital gains from such securities realised after 30 June 2009 are fully taxable pursuant to the provisions of the new flat income tax (*Abgeltungsteuer*) as set out below under 7.1.2.

If the Metal Securities are held as business assets, all capital gains from the sale or redemption of the Metal Securities by German investors will be subject to German personal or corporate income tax and solidarity surcharge thereon. In such case gains will also be subject to German trade tax.

Capital gains realised after 30 June 2009 from Metal Securities purchased after 14 March 2007 and held by German individual investors as private assets (*Privatvermögen*) are subject to withholding tax as set out below under 7.1.2. In all other cases, German withholding tax should not be imposed on any income or gains arising on the Metal Securities.

#### **Taxation as debt instruments**

As referred to above the Issuer believes the Metal Securities purchased prior to 1 January 2009 should be treated as speculative certificates. Nevertheless, the Issuer cannot be certain that the German tax authorities and/or tax courts will not treat the Metal Securities as debt instruments rather than as speculative certificates.

If the German tax authorities and/or tax courts do notwithstanding the principles referred to above treat the Metal Securities as debt instruments, German individual investors and German corporate investors would be subject to German personal or corporate income tax, trade tax and solidarity surcharge on any capital gains from the sale or the redemption of the Metal Securities as set out below for Metal Securities purchased after 31 December 2008 under 7.1.2.

#### **7.1.2 Metal Securities purchased after 31 December 2008**

Due to the introduction of a new flat income tax (*Abgeltungsteuer*) effective as of 1 January 2009, German individual investors and German corporate investors are subject to German personal or corporate income tax and solidarity surcharge on any capital gains from the sale or the redemption of the Metal Securities purchased after 31 December 2008.

As stated above the German tax authorities pursuant to the Tax Circular would treat gains or losses from a note, eligible for listings on stock exchanges, that securitizes the right of the holder to request delivery of gold or other commodities from the Issuer and where such right of the holder is backed by physical gold or such other commodities, as gains or losses from a debt instrument in the form of a speculative certificate (*Risikozertifikat*), and therefore, if received by German individual investors holding the notes as private assets (*Privatvermögen*) be subject to the German flat income tax (*Abgeltungsteuer*). This shall also apply if the holder of the note, instead of requesting delivery of gold, is entitled to request payment of the relevant amount of cash from the Issuer.

The tax rate in respect of such capital gains for German individual investors who hold the Metal Securities as private assets (*Privatvermögen*) is 25 per cent. (plus 5.5 per cent. solidarity surcharge thereon and, if applicable, church tax). However, taxpayers are entitled to apply for a tax assessment on the basis of their net taxable income. In this case the personal income tax will be levied on the gross income. No expenses



related to the capital gains except for a lump-sum tax allowance of EUR 801 for individuals and EUR 1602 for married couples subject to German joint taxation will be deductible. If the Metal Securities are held in custody with a German credit institution or financial service institution (including a German permanent establishment of a foreign institution) as disbursing agent (*inländische auszahlende Stelle*), a flat withholding tax (*Abgeltungsteuer*) at a rate of 25 per cent. (plus 5.5 per cent. solidarity surcharge thereon and, if applicable, church tax) is deducted. Payment of the flat withholding tax satisfies any income tax liability of the investor in respect of such income (unless the investor elects to have the tax assessment of such income). Losses from the sale or redemption of the Metal Securities can be set off only against other capital income (*Einkünfte aus Kapitalvermögen*) of the investor.

If the Metal Securities are held as business assets, all capital gains from the sale or redemption of the Metal Securities by German investors will be subject to German personal or corporate income tax and solidarity surcharge thereon based on the applicable tax rate for the investor. In such case gains will also be subject to German trade tax. Withholding tax on such gains is deducted at the rates mentioned above but does not satisfy any income tax liability of the investor in respect of such gains.

## **7.2 Applicability of the Investment Tax Act (*Investmentsteuergesetz*)**

The Issuer believes that there exists good arguments that investors in Metal Securities will not be subject to the German Investment Tax Act. Since the Metal Securities do not, among other things, provide for regular redemption for investors in the Metal Securities they should not constitute a participation of an investor in a foreign investment fund or a foreign unit of foreign investment funds.

## **7.3 Gift or inheritance tax**

A transfer of the Metal Securities by way of gift or on death will be subject to German inheritance or gift tax if the investor, or their heir, donee or other beneficiary, is a German resident for German gift or inheritance tax purposes according to the specific rules of the German Gift and Inheritance Tax Act. This may in particular be the case if the investor, heir, donee or other beneficiary is:

- (i) an individual having at the time of the donation or death its residence or habitual abode in Germany or if the individual is a German citizen who has not been living abroad for more than 5 years without having a residence in Germany; or
- (ii) a corporation having its seat or central place of management in Germany,  
or the Metal Securities constitute business assets attributable to a permanent establishment or a permanent representative in Germany.

## **7.4 Other taxes**

No stamp, issue, registration or similar direct or indirect taxes or duties will be payable in Germany in connection with the issue, delivery or execution of the Metal Securities, the Global Bearer Certificates or any interest therein. No net asset tax is currently levied in Germany.

## **7.5 The European Savings Directive**

On 3 June 2003, the Council of the European Union has adopted directive 2003/48/EC on the taxation of savings income in the form of interest payments. Under this directive, Germany is, as of 1 July 2005, required to provide the tax authorities of other member states with details of certain payments of interest paid or secured by a paying agent established in Germany to or for the benefit of an individual resident in that other member state. These details include but are not limited to details of the respective person considered the beneficial owner.

Metal Securities are undated secured limited recourse debt obligations of the Issuer. However, as no return in respect of Metal Securities (whether in the form of cash on redemption, or as a result of trading on stock exchanges) should constitute a payment of interest for the purposes of the directive, the Issuer believes that investors in Metal Securities or their paying agents will not be within the scope of the directive.

## **8. TAXATION IN FRANCE**

The following summary describes the principal French tax treatment applicable to the holding of the Metal Securities by a French investor residing in France or outside of France following an offer of the Metal Securities in France.

This information is of a general nature and does not purport to be a comprehensive description of all French tax considerations that may be relevant to a decision to acquire, to hold and to dispose of the Metal Securities. In some cases, different rules can be applicable. Furthermore, the tax rules can be amended in the future, possibly implemented with retroactive effect, and the interpretation of the tax rules may change.

This summary is based on the French tax legislation, treaties, rules, and administrative interpretations and similar documentation, in force as of the date of this Prospectus and on the legal qualification of the Metal Securities as bond instruments, without prejudice to any amendments introduced at a later date, even if implemented with retroactive effect.

Any persons interested in acquiring the Metal Securities should consult their tax advisers with regard to any tax consequences that may be involved in acquiring, holding, redeeming, selling or gratuitously transferring the Metal Securities. Only a tax adviser is able to adequately assess the individual tax situation of a specific investor. It should be noted that the Metal Securities are intended for professional or institutional investors only.

### **8.1 Investors residing in France**

#### ***Taxation of individuals***

##### *Taxation of capital gains*

Capital gains derived from the disposal of the Metal Securities are subject to capital gains tax at the rate of 18 per cent.. However, gains realised in a given calendar year are only subject to this tax if the total proceeds resulting from the disposal of securities realised by the taxpayer and his/her household exceeds a certain threshold in such year. For 2010, the threshold is Euro 25,830.

In addition, certain capital gains are subject to social contributions which amount in aggregate to 12.1 per cent.. In contrast to the above capital gains tax, social contributions are due regardless of the amount of the gain (in other words, they do not benefit from the above threshold, which was different before 2010).

If a French investor disposes of the Metal Securities at a loss, such loss may be offset against capital gains of the same nature made during the year of the loss or the ten following years, subject to filing obligations and provided that the above sales threshold (i.e. currently Euro 25,830) was exceeded in the year in which the loss was realised.

##### *Taxation of bond redemption premium (Prime de remboursement)*

Bond redemption payments made to an individual residing in France are taxed according to the standard progressive income tax schedule, whose top rate is currently 40 per cent. The above-mentioned social contributions of 12.1 per cent. are also applicable.

#### ***Taxation of companies subject to French corporate income tax***

##### *Taxation of capital gains*

Capital gains from the disposal of the Metal Securities are subject to corporate income tax at the standard rate of 33 1/3 per cent., to which 3.3 per cent. surtax is added upon certain circumstances. Capital losses are, in principle, treated as ordinary losses which may be set off against operational profits and any remaining balance carried forward in accordance with standard rules (i.e., unlimited carry forward save specific circumstances).

##### *Taxation of bond redemption premium (Prime de remboursement)*

Bond redemption premiums are taxed at the above-mentioned standard corporate income tax rate (or the reduced rate applicable to small companies where the relevant conditions are met). Furthermore, Article 238 septies E of the French general tax code (FGTC) may possibly apply. According to the provisions of Article 238 septies E, if the estimated value of the redemption premium exceeds the purchase value by 10 per cent. and the issue price is less than 90 per cent.

of the estimated redemption value, such premium due to indexation of the principal is partially taxed before maturity on an annual basis, even though this premium is only collected on disposal or redemption on maturity.

## **8.2 Investors residing outside of France**

### *Taxation of capital gains*

In principle, capital gains realised by investors residing outside of France upon the sale or disposal of Metal Securities are not subject to capital gains tax in France. The same applies to companies, provided that the Metal Securities are not booked in a permanent established or fixed base in France.

## **8.3 The European Savings Directive**

EU Council Directive 2003/48/EC on the taxation of savings income (the Directive) applies, amongst other matters, to payments of interest or other income on debt claims of every kind made by a paying agent in an EU Member State for the benefit of individual investors resident in another Member State in the EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside (although, for a transitional period Luxembourg and Austria are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchanges with certain countries and territories). A paying agent for these purposes is any economic operator who pays interest or other similar income to, or secures interest or other similar income for, the beneficial owner, and could in relation to Metal Securities include a French broker effecting the sale of Metal Securities on a stock market. A number of non-EU countries and territories (including Switzerland) have agreed to adopt similar measures (a withholding system in the case of Switzerland).

## **9. TAXATION IN THE NETHERLANDS**

### **9.1 General**

The information set out below is a summary of certain material Dutch tax consequences of the acquisition, ownership and disposition of Metal Securities and it does not purport to be a comprehensive description of all the tax considerations that may be relevant to a decision to purchase Metal Securities. This summary does not describe any tax consequences arising under the laws of any state, locality or taxing jurisdiction other than The Netherlands. This summary is based on the tax laws of The Netherlands as in effect on the date of this Prospectus, as well as regulations, rulings and decisions of The Netherlands or of its taxing and other authorities available on or before such date and now in effect. All of the foregoing is subject to change, which change could apply retroactively and could affect the continued validity of this summary. Because it is a general summary, holders of Metal Securities should consult their own tax advisors as to the Dutch or other tax consequences of the purchase, holding and disposition of Metal Securities including, in particular, the application to their particular situations of the tax considerations discussed below, as well as the application of state, local, foreign or other tax laws. The Issuer believes that it is not a resident nor that it is deemed to be a resident of The Netherlands nor that it has a presence in The Netherlands for Dutch tax purposes, and the following summary assumes that the Issuer will not be treated as a resident or deemed resident of The Netherlands nor as having a presence in The Netherlands for Dutch tax purposes.

### **9.1 Withholding tax**

Payments of the Issuer with regard to the Metal Securities will be free from withholding or deduction for or on the account of any taxes of whatsoever nature imposed, levied, withheld or assessed by The Netherlands or any political subdivision or taxing authority thereof or therein.

### **9.2 Tax on income and capital gains**

#### *General*

The description of taxation set out in this section of this Prospectus is not intended for any holder of Metal Securities, who:

- (i) is an individual and for whom the income or capital gains derived from Metal Securities are attributable to employment activities the income from which is taxable in The Netherlands;
- (ii) is an entity that is a resident or deemed to be a resident of The Netherlands and that is, in whole or in part, not subject to or exempt from Dutch corporate income tax;
- (iii) is an investment institution (*beleggingsinstelling*) as defined in the Dutch Corporate Income Tax Act 1969
- (iv) has, directly or indirectly, a substantial interest or a deemed substantial interest as defined in the Netherlands Income Tax Act 2001 (*Wet inkomstenbelasting 2001*) in the Issuer.

### **Residents of The Netherlands**

#### *Individuals*

An individual who is resident or deemed to be resident in The Netherlands, or who opts to be taxed as a resident of The Netherlands for purposes of Dutch taxation (a “**Dutch Resident Individual**”) and who holds Metal Securities is subject to Dutch income tax on income and/or capital gains derived from Metal Securities at the progressive rate (up to 52 per cent. rate for 2010) if:

- (i) the holder derives profits from an enterprise or deemed enterprise, whether as an entrepreneur (*ondernemer*) or pursuant to a co-entitlement to the net worth of such enterprise (other than as an entrepreneur or a shareholder), to which enterprise Metal Securities are attributable; or
- (ii) the holder derives income or capital gains from Metal Securities that are taxable as benefits from “miscellaneous activities” (*resultaat uit overige werkzaamheden*, as defined in the Netherlands Income Tax Act 2001), which include the performance of activities with respect to the Metal Securities that exceed regular, active portfolio management (*normaal, actief vermogensbeheer*).

If conditions (i) and (ii) mentioned above do not apply, any holder of Metal Securities who is a Dutch Resident Individual will be subject to Dutch income tax on a deemed return regardless of the actual income and/or capital gains benefits derived from Metal Securities. This deemed return has been fixed at a rate of 4 per cent. (rate for 2010) of the average of the individual’s yield basis (*rendementsgrondslag*) at the beginning of the calendar year and the individual’s yield basis at the end of the calendar year, insofar as this exceeds a certain threshold (*heffingvrij vermogen*). The individual’s yield basis is determined as the average of the fair market value of certain qualifying assets (including the Metal Securities) held by the Dutch Resident Individual less the fair market value of certain qualifying liabilities, on January 1 and December 31 of the relevant year. The deemed return of 4 per cent. will be taxed at a rate of 30 per cent. (rate for 2010).

An amendment has been adopted by the Dutch Parliament, pursuant to which, as of 2011, the individual's yield basis for calculating the deemed return will be the yield basis at the beginning of the relevant calendar year and no longer the average of his yield basis at the beginning and at the end of the relevant year.

#### *Entities*

An entity that is resident or deemed to be resident in The Netherlands (a “Dutch Resident Entity”) will generally be subject to Dutch corporate income tax with respect to income and capital gains derived from Metal Securities. The Dutch corporate income tax rate for 2010 is 20 per cent. for the first €200,000 of taxable amount, and 25.5 per cent. for taxable amount exceeding €200,000. Although the 20 per cent. tax rate for the full first €200,000 of taxable amount is a temporary measure, a bill by the Dutch government submitted to Dutch parliament on 21 September 2010 would, if enacted, keep the Dutch corporate income tax rate for the first €200,000 of taxable amount unchanged at 20 per cent. and reduce the tax rate for a taxable amount exceeding €200,000 to 25 per cent. as of 1 January 2011.

#### *Non-residents of The Netherlands*

A person who is neither a Dutch Resident Individual nor Dutch Resident Entity (a “Non-Dutch Resident”) who holds Metal Securities is generally not subject to Dutch income or corporate income tax on income and capital gains derived from Metal Securities, provided that:

- (i) such Non-Dutch Resident does not derive profits from an enterprise or deemed enterprise, whether as an entrepreneur (ondernemer) or pursuant to a co-entitlement to the net worth of such enterprise (other than as an entrepreneur or a shareholder) which enterprise is, in whole or in part, carried on through a permanent establishment or a permanent representative in The Netherlands and to which enterprise or part of an enterprise, as the case may be, Metal Securities are attributable or deemed attributable;
- (ii) in the case of a Non-Dutch Resident who is an individual, such individual does not derive income or capital gains from Metal Securities that are taxable as benefits from “miscellaneous activities” in The Netherlands (*resultaat uit overige werkzaamheden in Nederland*); and as defined in the Netherlands Income Tax Act 2001), which include the performance of activities with respect to the Metal Securities that exceed regular, active portfolio management (*normaal, actief vermogensbeheer*); and
- (iii) such Non-Dutch Resident is neither entitled to a share in the profits of an enterprise nor co-entitled to the net worth of such enterprise effectively managed in The Netherlands, other than by way of the holding of securities or, in the case of an individual, through an employment contract, to which enterprise Metal Securities or payments in respect of Metal Securities are attributable.

If a holder of a Metal Security is not a resident or a deemed resident in The Netherlands, but is a resident in another country the following may apply. If a double taxation convention is in effect between The Netherlands and the country in which such holder of a Metal Security is resident, such holder may, depending on the terms of and subject to compliance with the procedures for claiming benefits under such double taxation convention, be eligible for a full or partial exemption from Netherlands taxes (if any) on (deemed) income or capital gains in respect of a Metal Security provided such holder is entitled to the benefits of that treaty.

### **9.3 Gift, estate, or inheritance tax**

No Dutch gift, estate or inheritance taxes will be levied on the transfer of Metal Securities by way of gift by or on the death of a holder, who is neither a resident nor deemed to be a resident of The Netherlands for the purpose of the relevant provisions, unless:

- (i) the transfer is construed as an inheritance or bequest or as a gift made by or on behalf of a person who, at the time of the gift or death, is or is deemed to be a resident of The Netherlands for the purpose of the relevant provisions; or
- (ii) such holder dies while being a resident or deemed resident of the Netherlands within 180 days after the date of a gift of Metal Securities.

For purposes of Dutch gift, estate and inheritance tax, an individual who is of Dutch nationality will be deemed to be a resident of The Netherlands if he has been a resident in The Netherlands at any time during the ten years preceding the date of the gift or his death. For purposes of Dutch gift tax, an individual will, irrespective of this nationality, be deemed to be resident of The Netherlands if he has been a resident in The Netherlands at any time during the 12 months preceding the date of the gift.

### **9.4 Value added tax**

No Netherlands value added tax will be payable by a holder of Metal Securities in consideration for the issue of Metal Securities (other than value added taxes on fees payable in respect of services not exempt from Netherlands value added tax).

### **9.5 Other taxes or duties**

No Netherlands registration tax, custom duty, transfer tax, stamp duty or any other similar tax or duty, other than court fees, will be payable in The Netherlands by a holder of Metal Securities in respect of or in connection with the acquisition, ownership and disposition of the Metal Securities.

### **9.6 The European Savings Directive**

The EU Council Directive 2003/48/EC on the taxation of savings income Savings Directive (“the **Directive**”) came into force on 1 July 2005. The Directive applies, amongst other matters, to payments of interest or other income on debt claims of every kind made by a paying agent in an EU Member State for the benefit of individual investors resident in another member state in the



EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside. However, for a transitional period, Belgium, Luxembourg and Austria are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries and territories). The Belgian Government has elected to end the transitional period applicable to Belgium and therefore operates the information exchange regime with effect from 1 January 2010. A paying agent for these purposes is any economic operator who pays interest or other similar income to, or secures interest or other similar income for, the beneficial owner and could in relation to Metal Securities include a Dutch broker effecting the sale of Metal Securities. A number of non-EU countries and territories including Switzerland have agreed to adopt similar measures (a withholding system in the case of Switzerland).

On 15 September 2008 the European Commission issued a report to the Council of the European Union on the operation of the Directive, which included the Commission's advice on the need for changes to the Directive. On 13 November 2008 the European Commission published a more detailed proposal for amendments to the Directive, which included a number of suggested changes. If any of those proposed changes are made in relation to the Directive, they may amend or broaden the scope of the requirements described above.

## **10. TAXATION IN ITALY**

The information set out below is a summary of certain limited aspects of the Italian tax consequences of the acquisition, ownership and disposition of Metal Securities by a Security Holder who is not an Authorised Participant and it does not purport to be a comprehensive description of all the tax considerations that may be relevant to a decision to purchase Metal Securities. This summary does not describe any tax consequences arising under the laws of any state, locality or taxing jurisdiction other than Italy. This summary is based on the tax laws of Italy as in effect on the date of this Prospectus, as well as regulations, rulings and decisions of its taxing and other authorities available on or before such date and now in effect. All of the foregoing is subject to change, which change could apply retroactively and could affect the continued validity of this summary. Because it is a general summary, holders of Metal Securities should consult their own tax advisers as to the Italian or other tax consequences of the purchase, holding and disposition of Metal Securities including, in particular, the application to their particular situations of the tax considerations discussed below, as well as the application of state, local, foreign or other tax laws. This summary assumes that the Issuer is not a tax resident nor deemed to be a tax resident of Italy.

### **10.1 Tax on income and capital gains**

Provided the Metal Securities qualify broadly as derivative instruments for the purposes of Italian tax law, which they are expected to do, then the following consequences apply to a Security Holder who is not an Authorised Participant, in respect of the net cash proceeds received from a redemption or sale of the Metal Securities over the sum paid by such a holder on their subscription or purchase:

- (i) proceeds from the sale or redemption of the Metal Securities received by a holder which is (a) an Italian resident corporation or similar commercial entity, (b) an Italian individual engaged in entrepreneurial activities to which the Metal Securities are effectively connected, or (c) a permanent establishment in Italy of a non-Italian resident to which the Metal Securities are effectively connected, as well as unrealised gains reported in the statutory financial statement, may have to be included in the relevant holder's taxable income subject to corporate income tax (*IRES*, currently applicable at a rate of 27.5 per cent.) and, in certain cases, depending on the status of such holder, may also have to be included in its taxable base for regional tax purposes, (*IRAP*, currently applicable at a rate of 3.9 per cent.. *IRAP* rate may be increased in certain Italian regions, also in accordance with the provisions of Law Decree no. 93 of 27 May 2008, which has been converted into Law no. 126 of 24 July 2008) and are therefore subject to the general Italian corporate tax regime, or to personal income taxation (as business income), as the case may be, according to the ordinary rules;
- (ii) according to article 5 of Legislative Decree no. 461 of 21 November 1997, capital gains



realised by Italian resident individuals, not engaged in entrepreneurial activities to which the Metal Securities are effectively connected, and by certain other non commercial entities upon the sale for consideration or redemption of the Metal Securities are subject to a substitute tax (*imposta sostitutiva*) currently at the rate of 12.5 per cent. Under the tax return regime, which is the standard regime for taxation of capital gains realised by Italian resident individuals not engaged in an entrepreneurial activity, *imposta sostitutiva* on capital gains is applicable, on a cumulative basis, on all capital gains, net of any incurred capital loss, realised in a fiscal year pursuant to all disposals of Metal Securities and other financial instruments triggering a capital gain or loss that is subject to the same tax regime, carried out during any given fiscal year. These individuals and non commercial entities must report the overall capital gains realised in any tax year, net of any relevant incurred capital loss, in the annual income tax return to be filed with the Italian tax authorities for such year and pay *imposta sostitutiva* on such gains. Capital losses in excess of capital gains may be carried forward against capital gains realised in any of the four succeeding tax years;

- (iii) as an alternative to the tax return regime, according to article 6 of Legislative Decree no. 461 of 21 November 1997, Italian resident individuals not engaged in entrepreneurial activities to which the Metal Securities are effectively connected and certain other non commercial entities may elect to pay the *imposta sostitutiva* separately on the capital gains realised upon each sale or redemption of the Metal Securities (under a so called “*Risparmio Amministrato*” regime, which is managed through the provision of non discretionary asset management services to a taxpayer). Such a separate taxation of each capital gain is allowed subject to: (a) the Metal Securities being deposited with an Italian bank, a *Società di Intermediazione Mobiliare* (SIM) or with one of certain other authorised financial intermediaries, (b) each relevant capital gain being realised through such intermediary, and (c) an express election for the *Risparmio Amministrato* regime being timely made in writing by the relevant Metal Security holder. The financial intermediary, on the basis of the information provided by the taxpayer, accounts for *imposta sostitutiva* in respect of capital gains realised on each sale or redemption of Metal Securities (as well as in respect of capital gains realised at revocation of its mandate and upon other specific circumstances which are deemed to trigger an assignment under this regime), net of any incurred capital loss, and is required to pay the relevant amount of tax to the Italian fiscal authorities on behalf of the taxpayer, deducting a corresponding amount from proceeds to be credited to the Metal Securities holder. Under the *Risparmio Amministrato* regime, where a sale or redemption of Metal Securities results in a capital loss, such loss may be used to reduce the subsequent capital gains realised in the same tax year and up to the following fourth. All gains that have been subject to the *Risparmio Amministrato* regime do not have to be included in the yearly income tax return of the holder of Metal Securities;
- (iv) also as an alternative to the tax return regime, according to article 7 of Legislative Decree no. 461 of 21 November 1997, the increase or decrease in the fair market value of the Metal Securities, as well as the gains or losses realised upon the sale for consideration or redemption of the same securities by Italian resident individuals not engaged in entrepreneurial activities to which the Metal Securities are effectively connected, and by certain other non commercial entities, who have elected for the so called *Risparmio Gestito* regime (namely, a regime managed by an authorised intermediary providing discretionary management services), will be included in the computation of the annual increase in value of the managed assets accrued, even if not realised, at year end which is subject to a 12.5 per cent. *imposta sostitutiva*, applied directly by the authorised asset manager. Under the *Risparmio Gestito* regime, any depreciation of the managed assets accrued at year end may be carried forward and deducted against future increase in value of the managed assets in the four succeeding years. All gains that have been subject to the *Risparmio Gestito* regime do not have to be included in the yearly income tax return of the holder of Metal Securities;
- (v) the increase or decrease in the fair market value of the Metal Securities, as well as the gains or losses realised upon the sale for consideration or redemption of the same securities by Italian resident collective investment funds and hedge funds are included in the determination of the yearly Net Asset Value (the “NAV”) accrued appreciation or depreciation of each fund that is subject to a substitute tax (*imposta sostitutiva*) currently at a rate of 12.5 per cent.;

- (vi) the increase or decrease in the fair market value of the Metal Securities, as well as the gains or losses realised upon the sale for consideration or redemption of the same securities by Italian resident pension funds (subject to the regime provided for by articles 14, 14-ter and 14-quater, paragraph 1, of Legislative Decree 21 April 1993, no. 124 as further substituted by Legislative Decree no. 252 of 5 December 2005) are included in the determination of the yearly NAV accrued appreciation or depreciation of the assets under management that is subject to a substitute tax (*imposta sostitutiva*) currently at a rate of 11 per cent.;
- (vii) non-Italian resident Security Holders without a permanent establishment in Italy to which the Metal Securities are effectively connected are not subject to income tax in Italy on the proceeds realised on the sale of the Metal Securities, provided that:
  - the Metal Securities have not been deposited in Italy; or
  - the Metal Securities have been deposited in Italy and are traded on an regulated market; or
  - the Metal Securities have been deposited in Italy but are not traded on an regulated market and the other beneficial owner of the proceeds from the Metal Securities:
    - (i) complies with certain filing requirements; and (ii) is a resident of a country which allows a satisfactory exchange of information with the Italian tax authorities and certain filing requirements have been complied with by the holder. At the date hereof, the countries which allow a satisfactory exchange of information with the Italian tax authorities are identified by Ministerial Decree of 4 September 1996, as subsequently amended and supplemented. However, according to article 168-bis(1) of Presidential Decree No. 917 of 1986 (Italian Income Tax Code, IITC) a decree still to be issued is proposed to introduce a new list to replace the current one.

The tax treatment of the Metal Securities described above has been confirmed by the Italian tax authorities decision No. 72/E of 12 July 2010 dealing with the Italian tax treatment of investment in secured exchange commodities. Nevertheless, should the Italian tax authority and/or tax courts take the view that, regardless of the previous position taken by the Italian tax authority in its decision No. 72/E, the Metal Securities are to be characterised as debt instruments representing so-called “atypical securities” pursuant to Article 8 of Law Decree no. 512 of 30 September 1983 (as subsequently amended) a different tax treatment would apply. In fact, interest and other proceeds deriving from “atypical securities” issued by non-Italian resident issuers are subject to a 27 per cent. withholding tax applied by the Italian resident intermediary intervening in the payment save where held by a commercial partnership, a commercial private and public institution resident in Italy for tax purposes or by an Italian permanent establishment of a non-Italian resident entity. Instead these entities must include the proceeds in their taxable business income, under the same terms as described under paragraph (b)(i) above.

## 10.2 Inheritance and gift taxes

Law no. 286 of 24 November 2006, which has converted into law, with amendments, Law Decree no. 262 of 3 October 2006, has introduced inheritance and gift tax to be paid at the transfer of assets (such as the Metal Securities) and rights by reason of death or gift.

As regards the inheritance and gift tax to be paid at the transfer of the Metal Securities by reason of death or gift, the following rates apply:

- (i) transfers in favour of spouses and direct descendants or direct relatives are subject to a registration tax of 4% on the value of the inheritance or the gift exceeding Euro 1,000,000.00 for each transferor;
- (ii) transfers in favour of brothers and sisters are subject to a registration tax of 6% on the value of the inheritance or the gift exceeding Euro 100,000.00 for each transferor;
- (iii) transfers in favour of relatives up to the fourth degree or relatives-in-law to the third degree, are subject to a registration tax of 6% on the entire value of the inheritance or the gift;
- (iv) any other transfer is subject to a registration tax of 8% on the entire value of the inheritance or the gift; and

- (v) transfers in favour of seriously disabled persons are subject to a registration tax at the relevant rate as described above on the value of the inheritance or the gift exceeding Euro 1,500,000.00 for each transferor.

Moreover, an anti-avoidance rule is provided by Law no. 383 of 18 October 2001 for any gift of assets (such as the Metal Securities) which, if sold for consideration, would give rise to capital gains subject to the *imposta sostitutiva* provided for by Legislative Decree no. 461 of 21 November 1997. In particular, if the donee sells the Metal Securities for consideration within five years from the receipt thereof as a gift, the donee is required to pay the relevant *imposta sostitutiva* on capital gains as if the gift had never taken place.

### **10.3 Value added tax**

No Italian value added tax will be payable by a holder of Metal Securities in consideration for the issue or transfer of Metal Securities.

### **10.4 Securities Transfer Tax**

According to Article 37 of Law Decree no. 248 of 31 December 2007, as converted with amendments into Law no. 31 of 28 February 2008, the transfer of the Metal Securities is not subject to Italian transfer tax.

### **10.5 The European Savings Directive**

The EU Savings Directive (the “**Directive**”) came into force on 1 July 2005. The Directive applies, amongst other matters, to payments of interest on debt claims of every kind made by a paying agent in an EU Member State for the benefit of individual investors resident in the EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside. A paying agent for these purposes is any economic operator who pays interest to, or secures interest for the beneficial owner, and could in relation to Metal Securities include an Italian broker effecting the sale of Metal Securities. Metal Securities are undated secured limited recourse debt obligations of the Issuer. However, as no return in respect of Metal Securities (whether in the form of cash or Bullion on redemption, or as a result of trading on the ETFplus market of the Borsa Italiana S.p.A) should constitute a payment of interest for the purposes of the Directive, it is not envisaged that holders or their paying agents will be within the scope of the Directive.

## **11. TAXATION IN SWEDEN**

### **11.1 General**

The following summary of certain tax issues that may arise as a result of holding Metal Securities is based on current Swedish tax legislation and is intended only as general information for Security Holders who are resident or domiciled in Sweden for tax purposes. This description does not deal comprehensively with all tax consequences that may occur for Security Holders, nor does it cover the specific rules where Metal Securities are held by a partnership or are held as current assets in a business operation. Special tax consequences that are not described below may also apply for certain categories of taxpayers, including investment companies, mutual funds and persons who are not resident or domiciled in Sweden. It is recommended that prospective applicants for Metal Securities consult their own tax advisers for information with respect to the special tax consequences that may arise as a result of holding Metal Securities, including the applicability and effect of foreign income tax rules, provisions contained in double taxation treaties and other rules which may be applicable. Moreover, this summary assumes that the Issuer is not a tax resident nor deemed to be a tax resident of Sweden.

### **11.2 Taxation of individuals resident in Sweden**

#### ***Capital gains and losses***

Individuals and the estates of deceased Swedish individuals, who sell their Metal Securities, are subject to capital gains taxation. The current tax rate is 30 per cent. of the gain. The capital gain or loss is equal to the difference between the sales proceeds after deduction of sales costs and the acquisition cost of the Metal Securities. The acquisition cost is calculated according to the so called average method. This means that the costs of acquiring all Metal Securities of the same

type and class are added together and calculated collectively, with respect to changes to the holding.

As a general rule, 70 per cent. of a capital loss is deductible against any other taxable income derived from capital. However, if the Metal Securities should be treated as foreign listed receivables, any capital loss will be fully deductible in the capital income category. Following a decision from the Swedish Supreme Administrative Court (based on an ECJ case), capital losses on foreign listed receivables are fully deductible. This applies retroactively.

Should the total of "income from capital" be negative, a reduction of the tax on income from employment and from business, as well as the tax on real estate, is allowed. The tax reduction allowed amounts to 30 per cent. of any deficit not exceeding SEK 100,000 and 21 per cent. of any deficit in excess of SEK 100,000. Any deficits may not be carried forward to a subsequent fiscal year.

### **11.3 Taxation of Swedish legal entities**

#### ***Capital gains and losses***

Limited liability companies and other legal entities, except for the estates of deceased Swedish individuals, are taxed on all income (including income from the sale of Metal Securities) as income from business activities at a flat rate of 26.3 per cent. Regarding the calculation of a capital gain or loss and the acquisition cost, see "Taxation of individuals resident in Sweden" above.

Capital loss attributable to Metal Securities is in full deductible against any other taxable income from business activities. Capital losses that are not deducted against taxable income within a certain year may normally be carried forward and offset against taxable income the following fiscal year without any limitation in time.

### **11.4 Withholding tax**

No deduction or withholding for or on account of Swedish tax is required to be made on payments from the Issuer to Security Holders on Redemption of Metal Securities.

### **11.5 Inheritance and gift taxes**

No Swedish gift or inheritance tax will be levied on the transfer of Metal Securities by way of gift by or on the death of a Security Holder.

### **11.6 Value added tax**

No Swedish value added tax will be payable by a Security Holder in consideration for the issue of Metal Securities.

### **11.7 Other taxes or duties**

No Swedish registration tax, custom duty, transfer tax, stamp duty or any other similar tax or duty will be payable in Sweden by a holder of a Metal Security.

### **11.8 The European Savings Directive**

The EU Savings Directive (the "**Directive**") came into force on 1 July 2005. The Directive applies, amongst other matters, to payments of interest on debt claims of every kind made by a paying agent in an EU Member State for the benefit of individual investors resident in the EU.

In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside. A paying agent for these purposes is any economic operator who pays interest to, or secures interest for the beneficial owner, and could in relation to Metal Securities include a broker effecting the sale of Metal Securities.

Metal Securities are undated secured limited recourse debt obligations of the Issuer. However, as no return in respect of the Metal Securities (whether in the form of cash or Bullion on redemption, or as a result of trading on the London Stock Exchange, the Exchange Traded Commodities SEK of the OMX Nordic Exchange, or any other stock exchange or market) should constitute a payment of interest for the purposes of the Directive, it is not envisaged that Security Holders or their paying agents will be within the scope of the Directive.

## **12. TAXATION IN SPAIN**

### **12.1 General**

A brief summary is provided below of the Spanish tax regime applicable to the investments arising from this offer, for which purpose only current legislation and general factors which may affect investors are taken into account. No regional legislation which may be of application to a particular investor is considered.

The Metal Securities are not expressly dealt with in the Spanish legislation and no express opinion has been issued by the Spanish tax authorities or courts as to their status for tax purposes.

The Issuer believes that the Metal Securities would be considered interestgenerating debt securities for the purposes of Personal Income Tax and Corporate Income Tax and that the special tax regime applicable to participants in tax haven Collective Investment Institutions should not apply to the Metal Securities.

Nevertheless, the Spanish tax authorities and courts could adopt a different approach, since it is an uncertain matter and there is no guarantee, therefore, that such Courts or Tax Authorities will adopt the position of the Issuer. A different position from that of the Issuer, if adopted by the Tax Authorities or Courts (for instance, but not only, as regards the application of the tax regime of participants in tax haven Collective Investment Institutions), could lead to the application of a tax treatment radically different from that described herein.

Holders of and potential investors in Metal Securities should consult their own tax advisors as to the Spanish or other tax consequences of the purchase, holding and disposition of Metal Securities including, in particular, the application to their particular situation of the tax considerations discussed below, as well as the application of state, local, foreign or other tax laws. Particularly, taking into account the tax uncertainties arising.

This summary assumes that all Metal Securities issued as at the date of this Prospectus or to be issued will be admitted to trading on the Main Market of the London Stock Exchange which is part of its Regulated Market for listed securities (being securities admitted to the Official List).

The tax regime in Spain applicable to the Metal Securities may change from time to time.

Finally, it should be pointed out that the tax treatment described here is of a general nature and, therefore, among other aspects, does not describe the tax consequences for certain categories of taxpayer including, but not limited to entities falling under the attribution of income regime, financial institutions, Collective Investment Institutions, Cooperatives, etc. which may be subject to specific rules.

### **12.2 Taxation of income from the Metal Securities**

#### ***12.2.1 Natural or legal persons resident in Spain***

##### *Personal Income Tax: Natural persons*

The income obtained by individuals holders of the Metal Securities who have the status of taxpayers for the purposes of Spanish Personal Income Tax, due to the purchase, holding and disposition of same, will be considered income from movable capital obtained due to the supply of funds to third parties upon the terms of Article 25.2 of Law 35/2006, of November 28, on the Personal Income Tax Law. Such income would be included in the savings tax base and, in cases of losses, their integration on the savings tax base and their offsetting will be subject to the rules foreseen in that respect in the Personal Income tax legislation.

In principle, any income derived from the purchase, holding and disposition of the Metal Securities will be subject to withholding tax of 19 per cent. on account of the Personal Income Tax of the holder, in case there is any person or entity obliged to levy said withholding tax in accordance with the general rules of the levying of withholding taxes.

Pursuant to Law 26/2009, of December 23, on Spanish General Budget for the year 2010, established that, from January 1 2010, the savings net income tax rates will be taxed 19 per cent. For amounts up to €6,000 and 21 per cent. for amount including and in excess of €6,000.01.



#### *Corporate Income Tax: Entities*

The tax regime for Spanish-resident entities holders of Metal Securities is included in the Royal Legislative Decree 4/2004, of March 5, that approves the Revised Text of the Corporate Income Tax Law ("Royal Legislative Decree 4/2004") and the Royal Decree 1777/2004, of July 30, that approves the Corporate Income Tax Ruling ("Royal Decree 1777/2004").

According to article 10.3 of the Royal Legislative Decree 4/2004, the taxable income will be calculated in accordance with the accounting treatment of such income by the relevant entity. The tax adjustments to the accounting treatment which may be of application should be taken into account when calculating the taxable base.

The income obtained from the purchase, holding and disposition of the Metal Securities, by entities which are considered taxable persons for Corporate Income Tax purpose will not be subject to withholding tax on account of Corporate Income Tax, in accordance with the provisions of Article 59.s) of Royal Decree 1777/2004.

#### **12.2.2 *Natural or legal persons not resident in Spain***

The income obtained from the purchase, holding and disposition by holders of Metal Securities who are taxpayers pursuant to the Spanish Non-Residents Income Tax will be taxed pursuant to the Refunded Text of the Non-Residents Income Tax Law, passed by Royal Legislative Decree 5/2004, of March 5 (hereinafter "Non-Residents Income Tax Law").

##### *Income obtained through a permanent establishment*

The income from the Metal Securities obtained through a permanent establishment in Spain will be taxed in accordance with the rules of Chapter III of the Non-Residents Income Tax Law, subject to the provisions of any relevant double tax treaties.

Such income will not be subject to withholding tax on account of Non-Residents Income Tax upon the same terms set out above for taxable persons under Spanish Corporate Income Tax (entities resident in Spain).

##### *Income obtained without a permanent establishment*

The Issuer believes that income realized by investors residing outside Spain and without a permanent establishment within the Spanish territory (individuals and legal entities) would not be considered as Spanish income and, therefore, would not be subject to taxation and withholding tax in Spain under the Non-Residents Income Tax Law.

#### **12.3 Value Added Tax**

The general rules foreseen in the Spanish Value Added Tax legislation would apply to the purchase, holding and disposition of the Metal Securities.

#### **12.4 Transfer Tax**

The purchase, holding and disposition of the Metal Securities would not be taxed under the Spanish Transfer Tax.

#### **12.5 Inheritance and Gift Tax**

The transfer of the Metal Securities as a result of an inheritance or gift situation would be subject to the general rules of the Spanish Inheritance and Gift Tax, subject to the application of any relevant double tax treaties.

If the beneficiary of any inheritance or gift were a Spanish legal entity or a non resident entity with a permanent establishment in Spain, income obtained would be subject to taxation under the Spanish Corporate Income Tax or the Non-resident Income Tax, subject to the application of any relevant double tax treaties.

However, in principle, non-Spanish resident individuals and non-Spanish entities without a permanent establishment in the Spanish territory would not be subject to the Spanish Inheritance and Gift tax on the acquisition of the Metal Securities.



## **12.6 The European Savings Directive**

EU Council Directive 2003/48/EC on the taxation of savings income (the Directive) applies, amongst other matters, to payments of interest or other income on debt claims of every kind made by a paying agent in an EU Member State for the benefit of individual investors resident in another Member State in the EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside (although, for a transitional period, certain countries (not Spain) are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries and territories).

A paying agent for these purposes is any economic operator who pays interest or other similar income to, or secures interest or other similar income for, the beneficial owner, and could in relation Metal Securities include a Spanish broker or financial entity that would intervene in the sale or reimbursement or redemption of Metal Securities. A number of non-EU countries and territories including Switzerland have agreed to adopt similar measures (a withholding system in the case of Switzerland).

The Issuer believes that the Metal Securities are, from a Spanish point of view, affected by the obligations foreseen in the Directive and its corresponding transposition into the Spanish legislation.

## **13. TAXATION IN DENMARK**

### **13.1 General**

The following is a brief summary of some important principles of Danish tax law that may be of relevance for Danish holders of Metal Securities. The summary does not fully cover all aspects of Danish tax law that may be of relevance to holders. The summary is based on Danish tax law as of October 2010. The summary deals only with taxation in Denmark and not with foreign tax rules.

It should also be noted that the taxation of Metal Securities may change at any time as a result of new legislation, court practice or decrees issued by the relevant taxation authorities, potentially with retroactive effect. Investors interested in acquiring Metal Securities should consult their tax advisors with regard to any tax consequences that may be involved in acquiring holding, redeeming, selling or gratuitously transferring the Metal Securities.

Only a tax advisor is able to adequately assess the individual tax situation of a specific investor.

Under Danish Law, financial instruments including Metal Securities are governed by the Tax Treatment of Gains and Losses on Debt Claims, Debts and Financial Instruments Act. Basically, this means that gains and losses on Metal Securities are taxed separately from the underlying assets applying a mark-to-market principle.

### **13.2 Metal Securities liable to corporate tax**

Under Danish law, financial instruments including Metal Securities are governed by the Tax Treatment of Gains and Losses on Debt, Claims, Debts and Financial Instruments Act. Basically, this entails that gains and losses on the financial instruments are taxed separately from the underlying assets, applying a mark-to-market principle. Both losses and gains are included in the taxable income. Net gains are taxed at a flat rate of 25 per cent. The ability to utilize net losses is limited. Basically, the utilization requires that a previous gain has been realized.

### **13.3 Individual holding Metal Securities**

Under Danish law, financial instruments including Metal Securities are governed by the Tax Treatment of Gains and Losses on Debt, Claims, Debts and Financial Instruments Act. Basically, this entails that gains and losses on the financial instruments are taxed separately from the underlying assets, applying a mark-to-market principle. Both losses and gains are included in the taxable income. Net gains are taxed as capital income at a marginal tax rate of 56.5 per cent for an individual. The ability to utilize net losses is limited. Basically, the utilization requires that a previous gain has been realized.

### **13.4 Investors holding Metal Securities via a pension scheme**

The investor will be taxed according to the mark-to-marked principle. The Danish individual investor will be taxed at a rate of 15 per cent. on the return pursuant to section 2 of the Pension returns Tax Act.

### **13.5 Individual covered by the corporate tax regime ("*Virksomhedsskatteordningen*")**

It is not possible for an individual to hold Metal Securities through the corporate tax regime (*Virksomhedsskatteordningen*).

### **13.6 Withholding Taxes**

Generally, no withholding tax is levied on outbound interest payments. However, as of 2 April 2004, Denmark has introduced taxation on intergroup interest payments from a Danish company to a controlling foreign company. However, in substance, this will only apply if the foreign company is a financial company situated in (i) a tax haven, or (ii) a jurisdiction with which Denmark does not have a double taxation treaty. Anti-avoidance provisions have been introduced which exclude the possibility of using back-to-back loan structures to avoid the withholding tax. The interest payments are in these, case subject to a final tax of 30 per cent..

Generally, no withholding tax is levied on outbound debt claims. However, Denmark has introduced taxation on intergroup debt claims payments from a Danish company to a controlling foreign company. However, in substance, this will only apply if the foreign company is a financial company situated in (i) a tax haven, or (ii) a jurisdiction with which Denmark does not have a double taxation treaty. The debt claims payments are in these, case subject to a final tax of 30 per cent..

### **13.7 VAT**

No Danish value added tax applies.

### **13.8 Inheritance/Gift tax**

Upon inheritance a tax must be paid if the deceased person's home is within Danish jurisdiction or if real estate is situated in Denmark. The tax calculation basis is the estate value exceeding, in 2010, DKK 2,595,100 (corresponding to approximately EUR 348,176). The tax rate for relatives is 15 per cent. and for other beneficiaries 36.25 per cent. A non-separated spouse is not taxed on the inheritance.

Gifts are as a starting point taxed the same way as proceeds from inheritance. Gifts to a spouse are tax free. Gifts exceeding, in the year 2010, DKK 58,700 per year (corresponding to approximately EUR 7,875) to certain relatives are taxed at rate of 15 per cent. whilst gifts to others are taxed at 36.25 per cent. The receiver or the donor must be a Danish tax subject in order for these thresholds/amounts to apply.

### **13.9 EU Savings Directive**

EU Council Directive 2003/48/EC on the taxation of savings income applies amongst other matters, to payments of income on debt claims of every kind made by a paying agent in an EU member state for the benefit of individual investors resident in another Member State in The EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside to operate a withholding system in relation to such payments. A paying agent for these purposes is any economic operator who pays interest or other similar income to, or secures interest or other similar income for the beneficial owner, and could in relation to Metal Securities include a Danish broker effecting the sale of Metal Securities.

**THE ABOVE SUMMARIES IN PARAGRAPHS 5 TO 13 (INCLUSIVE) ARE NOT INTENDED TO CONSTITUTE A COMPLETE ANALYSIS OF ALL TAX CONSEQUENCES RELATING TO THE OWNERSHIP OF METAL SECURITIES. PROSPECTIVE SECURITY HOLDERS SHOULD CONSULT THEIR OWN TAX ADVISERS CONCERNING THE CONSEQUENCES OF THEIR OWN PARTICULAR SITUATION.**

## **14. SOURCES**

The statements under the heading "Platinum Group Metals — Platinum" in Part 2 (*Precious Metals Market Overview*) have been sourced from the Johnson Matthey, Platinum 2010.

The table under the heading “Platinum Group Metals — Platinum” in Part 2 (*Precious Metals Market Overview*) have been sourced from the Johnson Matthey, Platinum 2010.

The statements under the heading “Platinum Group Metals — Palladium” in Part 2 (*Precious Metals Market Overview*) have been sourced from the Johnson Matthey, Platinum 2010.

The table under the heading “Platinum Group Metals — Palladium” in Part 2 (*Precious Metals Market Overview*) has been sourced from the Johnson Matthey, Platinum 2010.

The statements under the heading “Silver” in Part 2 (*Precious Metals Market Overview*) have been sourced from the World Silver Survey 2010 published by GFMS Limited.

The table under the heading “Silver” in Part 2 (*Precious Metals Market Overview*) has been sourced from the World Silver Survey 2010 published by GFMS Limited.

The statements under the heading “Gold” in Part 2 (*Precious Metals Market Overview*) have been sourced from GFMS Limited and World Gold Council (<http://www.gold.org>).

The table under the heading “Gold” in Part 2 (*Precious Metals Market Overview*) has been sourced from GFMS Limited and World Gold Council (<http://www.gold.org>).

The statements under the heading “The Precious Metals Market — Good Delivery” in Part 2 (*Precious Metals Market Overview*) have been sourced from the London Platinum Palladium Market (LPPM) and London Bullion Market Association’s (LBMA) Good Delivery Rules.

The table under the heading “The Precious Metals Market — Good Delivery” in Part 2 (*Precious Metals Market Overview*) has been created from the London Platinum Palladium Market (LPPM) and London Bullion Market Association’s (LBMA) Good Delivery Rules.

The data used to create the charts under the heading “Historic Precious Metals Prices” in Part 2 (*Precious Metals Market Overview*) has been sourced from Bloomberg LP and the London Platinum Palladium Market’s website, <http://www.lppm.org.uk>.

The data used to create the chart under the heading “Correlation of Precious Metals with Other Asset Classes — Five Year Correlations” in Part 2 (*Precious Metals Market Overview*) has been sourced from Bloomberg LP.

The information referred to in this paragraph 14 above has been accurately reproduced and, so far as the Issuer is aware and is able to ascertain from information published by the referenced third party source, no facts have been omitted which would render the reproduced information inaccurate or misleading.

## **15. GENERAL**

- 15.1 The Issuer’s auditors are Deloitte LLP of Lord Coutanche House, 66-68 Esplanade, St Helier, Jersey JE4 8WA, Channel Islands. The Issuer was formed on 22 February 2007 and its accounting reference date is 31 December. The annual reports of the Issuer for the year ended 31 December 2008 as published by the Issuer through the Regulatory News Service of the London Stock Exchange on 5 June 2009 and for the year ended 31 December 2009 as published by the Issuer through the Regulatory News Services of the London Stock Exchange on 30 April 2010 are incorporated in this document by reference and are available at the Issuer’s website at <http://www.etfsecurities.com/msl> and at the registered office of the Issuer as set out in paragraph 16 of Part 9 (*Additional Information*).
- 15.2 There has been no material adverse change in the financial position or prospects of the Issuer since 31 December 2009.
- 15.3 The Issuer is not and has not been involved in any governmental, legal or arbitration proceedings which may have or have had during the 12 months preceding the date of this document a significant effect on the Issuer’s financial position or profitability nor, so far as the Issuer is aware, are any such proceedings pending or threatened by or against the Issuer.

- 15.4 All Individual Securities and Basket Securities in issue at the date of this document have been admitted to the Official List and admitted to trading on the Main Market of the London Stock Exchange, which is part of its Regulated Market for listed securities and is a regulated market for the purposes of Directive 2004/39/EC (the Markets in Financial Instruments Directive). Applications have been made to the UK Listing Authority for all Individual Securities and Basket Securities issued within 12 months of the date of this document to be admitted to the Official List and to the London Stock Exchange for all such Metal Securities to be admitted to trading on the Main Market.
- 15.5 The Initial Metal Securities have been admitted to listing on the Regulated Market (General Standard) (*Regulierter Markt [General Standard]*) of the Frankfurt Stock Exchange (*Frankfurter Wertpapierbörse*) since 8 May 2007, NYSE Euronext Paris since 9 May 2007, Euronext Amsterdam since 9 May 2007 and the ETFplus market of the Borsa Italiana S.p.A since 20 June 2007.
- The Swiss Gold Metal Securities have been listed on the Regulated Market (General Standard) (*Regulierter Markt [General Standard]*) since 2010.
- No application has been or is currently being made for the Metal Securities to be admitted to listing or trading on any other exchange or market but the Issuer may cause such application to be made in respect of the Metal Securities of any or all types on any such exchanges or markets in its discretion.
- 15.6 The Issuer intends to publish annual financial statements and Pricing Supplements as required by Listing Rules and to publish the Metal Entitlement of the Metal Securities on the Issuer's Website as described under the heading "Metal Entitlement — Publication of Metal Entitlement" in Part 3 (*Description of Metal Securities*). Save as aforesaid the Issuer does not intend to provide post-issuance information.
- 15.7 The Bullion to be held in the Secured Metal Accounts has characteristics that demonstrate capacity to produce funds to service any payments due and payable on the Metal Securities.

## 16. DOCUMENTS AVAILABLE FOR INSPECTION

For the duration of the Programme or so long as any Metal Securities remain outstanding, copies of the following documents will be available for inspection during normal business hours on any weekday (Saturdays, Sundays and public holidays excepted) at the registered office of the Issuer:

- 16.1 the Memorandum and Articles of Association of the Issuer;
- 16.2 the Trust Instrument;
- 16.3 the Security Deeds;
- 16.4 the Custodian Agreements;
- 16.5 the Metal Sale Counterparty Agreements;
- 16.6 the Services Agreement;
- 16.7 the Authorised Participant Agreements;
- 16.8 the Registrar Agreement;
- 16.9 the annual reports of the Issuer for the year ended 31 December 2008 and for the year ended 31 December 2009 ; and
- 16.10 the agreement between the Issuer, Clearstream Banking Aktiengesellschaft and HSBC Trinkaus & Burkhardt AG dated 25 April 2007, including the form of Global Bearer Certificates and text of the conditions of the Global Bearer Certificates.

## 17. JERSEY LAW CONSENTS

A copy of this document has been delivered to the Jersey Registrar of Companies in accordance with Article 5 of the Companies (General Provisions) (Jersey) Order 2002, and he has given, and has not withdrawn, his consent to the circulation of this document.

The Issuer has obtained a certificate under the Collective Investment Funds (Jersey) Law, 1988, as amended, (the "**CIF Law**") to enable it to issue Metal Securities. The Jersey Financial Services Commission is protected by the CIF Law against liability arising from the discharge of its functions

thereunder. The Jersey Financial Services Commission has given, and has not withdrawn, its consent under Article 3 of the Collective Investment Funds (Unclassified Funds)(Prospectuses)(Jersey) Order 1995 to the marketing of Metal Securities by means of this document.

Each of ETFSL, R&H Fund Services (Jersey) Limited and the Registrar is registered under the Financial Services (Jersey) Law 1998, as amended (the "**Financial Services Law**") to enable it to issue Metal Securities. The Jersey Financial Services Commission is protected by the Financial Services Law against liability arising from the discharge of its functions thereunder.

It must be distinctly understood that, in giving these consents, neither the Jersey Registrar of Companies nor the Jersey Financial Services Commission takes any responsibility for the financial soundness of the Issuer or for the correctness of any statements made, or opinions expressed, with regard to it.

## **18. SELLING RESTRICTIONS**

### **18.1 United States**

The Issuer has imposed the restrictions described below on the Programme so that the Issuer will not be required to register the offer and sale of Metal Securities under the Securities Act, so that the Issuer will not have an obligation to register as an investment company under the Investment Company Act and related rules and to address certain ERISA, US Internal Revenue Code and other considerations.

Metal Securities have not been and will not be registered under the Securities Act or any other applicable law of the United States. Metal Securities are being offered and sold only outside the United States to non-US persons in reliance on the exemption from registration provided by Regulation S under the Securities Act or in transactions otherwise exempt from the registration requirements of the Securities Act.

In addition the Issuer has not been and does not intend to become registered as an investment company under the Investment Company Act and related rules. Metal Securities and any beneficial interest therein may not be reoffered, resold, pledged or otherwise transferred in the United States or to US Persons other than Qualified Purchasers. If the Issuer determines that any Security Holder is a Prohibited US Person (being a US Person who is not a "qualified purchaser" as defined in the Investment Company Act), the Issuer may redeem the Metal Securities held by that Security Holder in accordance with the provisions of Condition 7.3 (*Compulsory Redemption for Cause*) set out in Part 5 (*Trust Instrument and the Conditions*).

The Metal Securities may not be purchased with plan assets of any "employee benefit plan" within the meaning of section 3(3) of the United States Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), subject to Part 4. Subtitle B of Title I of ERISA, any "plan" to which section 4975 of the United States Internal Revenue Code of 1986, (the "Code") applies (collectively, "**Plans**"), any entity whose underlying assets include "plan assets" of any of the foregoing Plans within the meaning of 29 C.F.R. Section 2510.3-101 or section 3(42) of ERISA, as they may be modified, by reason of a Plan's investment in such entity, any governmental or church plan that is subject to any U.S. Federal, state or local law that is similar to the prohibited transaction provisions of ERISA or Section 4975 of the Code (any such employee benefit plan, plan or entity, a "**Prohibited Benefit Plan Investor**"). If the Issuer determines that any Security Holder is a Prohibited Benefit Plan Investor, the Issuer may redeem the Metal Securities held by that Security Holder in accordance with the provisions of Condition 7.3 (*Compulsory Redemption for Cause*) set out in Part 5 (*Trust Instrument and the Conditions*).

### **18.2 Jersey**

Metal Securities may not be offered to, sold to, or purchased by persons resident for income tax purposes in Jersey (other than financial institutions in the normal course of business).

Further restrictions on offers and sales of Metal Securities and on the distribution of this Prospectus are set out in paragraph 3 of this Part 9 (*Additional Information*).

**ANNEX 1**

**FORM OF THE GLOBAL BEARER CERTIFICATES (GERMANY)**

**INHABER-SAMMELZERTIFIKAT**

für

[siehe Anhang 1] [Klasse der Individual-Securities / Kategorie der Basket-Securities]

Namensschuldverschreibungen

der

**ETF Metal Securities Limited**

Ordnance House, 31 Pier Rd, St Helier, Jersey, Channel Islands, JE4 8PW

eingeteilt in Teilschuldverschreibungen im Nennbetrag von je • [siehe Anhang 1]

Für dieses Inhaber-Sammelzertifikat hält die Clearstream Banking Aktiengesellschaft mit Sitz in Frankfurt am Main, Bundesrepublik Deutschland (im Folgenden "**Clearstream**" genannt), als Deckung • [siehe Anhang 1] [Klasse der Individual-Securities / Kategorie der Basket-Securities] Namensschuldverschreibungen (im Folgenden "**Schuldverschreibungen**" genannt) der ETF Metal Securities Limited, Jersey, Channel Islands (im Folgenden "**Gesellschaft**" genannt). Die durch den Treuhandvertrag vom 18. April 2007 zwischen der Gesellschaft und der The Law Debenture Trust Corporation p.l.c. in seiner jeweils geänderten/ergänzten Fassung (im Folgenden "**Treuhandvertrag**") begründeten Schuldverschreibungen sind, wie im Treuhandvertrag näher dargelegt, besichert und in Namensteilschuldverschreibungen mit einem Nennbetrag von je • [siehe Anhang 1], eingeteilt. Die Schuldverschreibungen sind auf Vidacos Nominees Limited, London, England, eingetragen und in einem bei der Citibank N.A., London, England, unterhaltenen Sonderdepot verwahrt. Jeder Miteigentümer dieses Sammelzertifikats ist berechtigt, jederzeit von der Clearstream die Auslieferung und Registrierung einer seinem Miteigentumsanteil entsprechenden Stückzahl von [Klasse der Individual-Securities / Kategorie der Basket-Securities] Schuldverschreibungen der Gesellschaft auf seinen Namen oder den Namen eines von ihm benannten Dritten in das maßgebliche Schuldverschreibungsregister der ETF Metal Securities Limited, Jersey, Channel Islands, zu verlangen.

Im übrigen gelten die diesem Inhaber-Sammelzertifikat beigefügten Zertifikatsbedingungen, die Bestandteil dieser Urkunde sind.

Frankfurt am Main, den ...

Clearstream Banking  
Aktiengesellschaft



## ANNEX 2

### TEXT OF THE CONDITIONS OF THE GLOBAL BEARER CERTIFICATES (GERMANY)

#### Zertifikatsbedingungen

1. Dieses Inhaber-Sammelzertifikat trägt die Unterschriften zweier Vorstandsmitglieder oder eines Vorstandsmitgliedes und eines Prokuristen der Clearstream Banking Aktiengesellschaft, Frankfurt am Main, Bundesrepublik Deutschland, (im Folgenden **"Clearstream"** genannt).

2. Jeder Miteigentümer dieses Inhaber-Sammelzertifikats ist berechtigt, jederzeit von der Clearstream die Auslieferung und Registrierung einer seinem Miteigentumsanteil entsprechenden Stückzahl von • [siehe Anhang 1] [Klasse der Individual-Securities / Kategorie der Basket-Securities] Namensschuldverschreibungen (im Folgenden **"Schuldverschreibungen"** genannt) der ETFS Metal Securities Limited, Jersey, Channel Islands, (im Folgenden **"Gesellschaft"** genannt) auf seinen Namen oder den Namen eines von ihm benannten Dritten in das maßgebliche Schuldverschreibungsregister zu verlangen. Die durch den Treuhandvertrag zwischen der Gesellschaft und der The Law Debenture Trust Corporation p.l.c. in seiner jeweils geänderten/ergänzten Fassung (im Folgenden **"Treuhandvertrag"**) begründeten Schuldverschreibungen sind, wie im Treuhandvertrag näher dargelegt, besichert und in Namensteilschuldverschreibungen mit einem Nennbetrag von je • [siehe Anhang 1] eingeteilt. Einen entsprechenden Auftrag hat der Miteigentümer der Clearstream über seine Depotbank zu erteilen, wobei die Lieferadresse bzw. die Adresse, an welche die Urkunde bezüglich der Eintragung in das Schuldverschreibungsregister durch den Registrar versandt werden soll, angegeben sein muss.

Außer der von der Clearstream im Rahmen des § 315 des Bürgerlichen Gesetzbuches bestimmten Gebühr für die Auslieferung bzw. Übertragung hat der Miteigentümer etwaige mit der Auslieferung bzw. Übertragung und Umschreibung entstehende sonstige Kosten, Steuern, Gebühren oder Abgaben zu tragen.

Die Auslieferung von Einzelstücken aus diesem Inhaber-Sammelzertifikat kann von den Miteigentümern nicht verlangt werden.

3. Die Clearstream vermittelt dem Miteigentümer über dessen Depotbank nach Maßgabe seines Anteils am Inhaber-Sammelzertifikat grundsätzlich alle Rechte aus den Schuldverschreibungen, soweit sie ihr nach Maßgabe des englischen Rechts bzw. des Rechts von Jersey, Channel Islands, zustehen.

Zinsen, Ausschüttungen, Kapital und etwaige sonstige Barzahlungen leitet die Clearstream an den Miteigentümer weiter.

Im übrigen gelten die von der Clearstream gegebenenfalls bekanntzugebenden Fristen und Bedingungen.

Sämtliche Zahlungen an den Miteigentümer erfolgen nach Maßgabe der jeweils geltenden Devisenvorschriften in Euro, es sei denn, dass der Miteigentümer rechtzeitig vor Fälligkeit Zahlung in USD (United States Dollars) verlangt hat.

4. Ein etwaiges Stimmrecht anlässlich einer Gläubigerversammlung wird die Clearstream grundsätzlich nicht ausüben. Sie wird dem Miteigentümer oder einem von diesem benannten Dritten auf Verlangen eine Vollmacht zur Ausübung des Stimmrechts erteilen lassen.

Die Gesellschaft hat sich verpflichtet, die Tagesordnung von Gläubigerversammlungen sowie die Voraussetzungen zur Teilnahme an der Gläubigerversammlung und zur Ausübung des Stimmrechts im Vorfeld einer solchen Gläubigerversammlung bekanntzugeben.

5. Sollte die Ausgabe des Inhaber-Sammelzertifikats zu irgendeinem Zeitpunkt in der Bundesrepublik Deutschland oder auf Jersey, Channel Islands, irgendwelchen Steuern, Gebühren oder Abgaben unterliegen, so haben die Miteigentümer diese Steuern, Gebühren oder Abgaben nach Maßgabe ihrer Anteile am Inhaber-Sammelzertifikat zu tragen.

Die Clearstream ist berechtigt, Steuern, Gebühren oder Abgaben, denen sie zu irgendeinem Zeitpunkt in der Bundesrepublik Deutschland oder auf Jersey, Channel Islands, allein auf Grund der Tatsache unterworfen wird, daß sie die Schuldverschreibungen hält, auf alle Miteigentümer nach Maßgabe ihrer Anteile am Inhaber-Sammelzertifikat umzulegen.

6. Treten aus irgendeinem Grunde an die Stelle der Schuldverschreibungen andere Schuldverschreibungen oder ein sonstiger Vermögenswert, so wandelt sich das Recht der Miteigentümer auf die Schuldverschreibungen in ein Recht auf den Ersatzgegenstand. Die Zertifikatsbedingungen gelten dann sinngemäß.
7. Die Clearstream ist berechtigt, die Citibank N.A., London, England, (im Folgenden "**Verwahrer**" genannt) in ihrer Funktion als Verwahrer oder die Vidacos Nominees Limited, London, England, (im Folgenden "**Nominee**" genannt) in ihrer Funktion als Nominee durch eine andere Person zu ersetzen. Die Haftung der Clearstream beschränkt sich hierbei auf die sorgfältige Auswahl. Unberührt bleibt die Befugnis der Clearstream, die Funktion des Verwahrers oder des Nominees selbst wahrzunehmen. Im Fall der Ersetzung des Verwahrers oder des Nominees gelten alle Bezugnahmen auf den Verwahrer bzw. den Nominee in diesen Bedingungen als Bezugnahmen auf den neuen Verwahrer bzw. Nominee.
8. Werden die Schuldverschreibungen in einer die Mitwirkung der Clearstream in dieser Form nicht mehr erfordernden Weise an deutschen Wertpapierbörsen lieferbar oder wird die Zulassung der Schuldverschreibungen in Form von Miteigentumsanteilen am Inhaber-Sammelzertifikat zum Handel und zur amtlichen Notierung an deutschen Wertpapierbörsen zurückgenommen, so wird die Clearstream die Miteigentümer auffordern, ihr einen Auftrag gemäß Ziffer 2. Abs. 1 zu erteilen. Wird dieser Auftrag nicht innerhalb einer Frist von 3 Monaten seit Veröffentlichung der Aufforderung erteilt, so ist die Clearstream nach ihrem Ermessen berechtigt, die Eintragung der Schuldverschreibungen auf den Namen des Miteigentümers oder eines in der Aufforderung benannten Dritten zu veranlassen und die Schuldverschreibungen bei einer in der Aufforderung angegebenen Stelle für den Miteigentümer auf dessen Kosten und Gefahr zu hinterlegen. Damit erlöschen die Pflichten der Clearstream aus dem Inhaber-Sammelzertifikat.
9. Alle das Inhaber-Sammelzertifikat betreffenden Bekanntmachungen werden in mindestens je einem überregionalen Börsenpflichtblatt der deutschen Wertpapierbörsen veröffentlicht werden, an denen die Schuldverschreibungen in Form von Miteigentumsanteilen am Inhaber-Sammelzertifikat gehandelt und amtlich notiert werden.
10. Die Miteigentümer tragen anteilig alle wirtschaftlichen und rechtlichen Nachteile und Schäden, die den für das Inhaber-Sammelzertifikat als Deckung gehaltenen Bestand an Schuldverschreibungen infolge höherer Gewalt, Regierungserlassen, Krieg, Aufruhr, Verfügungen von hoher Hand im In- oder Ausland oder anderer Umstände treffen sollten, die die Clearstream oder der Verwahrer nicht zu vertreten haben.

Die Clearstream wird alle Verpflichtungen aus dem Inhaber-Sammelzertifikat mit der Sorgfalt eines ordentlichen Kaufmannes erfüllen. Wird sie durch höhere Gewalt, Regierungserlasse, Krieg, Aufruhr, Verfügungen von hoher Hand im In- oder Ausland oder andere Umstände, die sie nicht zu vertreten hat, an der Erfüllung ihrer Verpflichtungen gehindert, so trifft sie keine Verantwortung.

Der Verwahrer und der Nominee sind der Clearstream gegenüber zur ordnungsgemäßen Wahrnehmung der ihnen obliegenden Aufgaben verpflichtet. Etwaige Ansprüche gegen den Verwahrer oder den Nominee wird die Clearstream zugunsten der Miteigentümer geltend machen. Darüber hinaus haftet die Clearstream nur für die sorgfältige Auswahl des Verwahrers und des Nominees.
11. Sollte irgendeine dieser Bestimmungen ganz oder teilweise rechtsunwirksam oder undurchführbar sein oder werden, so bleiben die übrigen Bestimmungen hiervon unberührt. Für unwirksame oder undurchführbare Bestimmungen soll eine dem Sinn und Zweck dieses Vertragsverhältnisses entsprechende Regelung gelten.
12. Alle Rechtsbeziehungen zwischen dem Miteigentümer und der Clearstream unterliegen dem Recht der Bundesrepublik Deutschland. Ausschließlicher Gerichtsstand ist Frankfurt am Main.
13. Eine Änderung dieser Zertifikatsbedingungen ist nur zulässig, soweit durch sie die Rechte der Miteigentümer nicht beeinträchtigt werden, es sei denn, dass sie durch gesetzliche Vorschriften bedingt ist.

**Anhang 1**

Sofern ETFS Metal Securities Limited weitere Schuldverschreibungen im Rahmen ihres Programms begibt, kann Anhang 1 jederzeit geändert werden.

<b>Name</b>	<b>Ursprüngliche ISIN (der Schuldverschreibung)</b>	<b>LSE Code (der Schuldverschreibung)</b>	<b>Nennbetrag USD</b>
ETFS Physical Platinum	JE00B1VS2W53PHPT	20,00	
ETFS Physical Palladium	JE00B1VS3002	PHPD	5,00
ETFS Physical Silver	JE00B1VS3333	PHAG	2,00
ETFS Physical Gold	JE00B1VS3770	PHAU	10,00
ETFS Physical PM Basket	JE00B1VS3W29	PHPM	9,40
ETFS Physical Swiss Gold	JE00B588CD74	SGBS	10,00

## ANNEX 3

### FORM OF PRICING SUPPLEMENT

Pro Forma Supplement for an issue by ETFS Metal Securities Limited under the Programme for the issue of ETFS Metal Securities

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#### PRICING SUPPLEMENT

Dated [•] 200[•]

#### ETFS METAL SECURITIES LIMITED

*(Incorporated and registered in Jersey under the Companies (Jersey) Law 1991 (as amended) with registered number 95996)*

**(the “Issuer”)**

#### Programme for the Issue of ETFS Metal Securities

##### Issue of

**[number] [class] [Individual/Basket] Securities  
(the “ETFS Metal Securities”)**

This Pricing Supplement (as referred to in the prospectus (the “**Prospectus**”) dated r 2010 in relation to the above Programme) relates to the issue of the ETFS Metal Securities referred to above. The ETFS Metal Securities have the terms provided for in the trust instrument dated 18 April 2007, as amended, between the Issuer and The Law Debenture Trust Corporation p.l.c. as trustee constituting the ETFS Metal Securities. Terms used in this Pricing Supplement bear the same meaning as in the Prospectus. The particulars in relation to this issue of ETFS Metal Securities are as follows:

Issuer:	ETFS Metal Securities Limited
Issue Date:	[•]
Class or Category of ETFS Metal Securities to which this Pricing Supplement applies:	[•]
ISIN	[•]
Price per ETFS Metal Security:	[•] troy ounces Platinum/ [•] troy ounces Palladium/ [•] troy ounces Silver/ [•] fine troy ounces Gold
Aggregate Number of ETFS Metal Securities to which this Pricing Supplement applies:	[•]

Following the issue of ETFS Metal Securities to which this Pricing Supplement applies, the following ETFS Metal Securities will be in issue:

<b>Class of Individual Securities or Category of Basket Securities</b>	<b>Number</b>
ETFS Physical Platinum	[•]
ETFS Physical Palladium	[•]
ETFS Physical Silver	[•]
ETFS Physical Gold	[•]
ETFS Physical PM Basket	[•]
ETFS Physical Swiss Gold	[•]