Risk warning notice: professional clients and eligible counterparties

Macquarie

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This notice is a general description of the nature and risks of financial instruments associated with the investment and ancillary services that Macquarie may provide to its professional clients and eligible counterparties. These risk warnings should be taken into account when deciding whether or not to instruct Macquarie in relation to the relevant products or transactions.

This notice is supplementary to the Terms of Business which you may receive from time to time from Macquarie. This notice may be amended by Macquarie from time to time.

In this notice, “Macquarie” means Macquarie Capital (Europe) Limited , Macquarie Bank International Limited, Macquarie Bank Limited (London Branch), and any affiliate, from time to time, of Macquarie Group Limited which is resident in the United Kingdom or the European Union.

1. General

The value of investments and the income from them may fluctuate and go down as well as up. There is no guarantee that you will get back the amount initially invested. The value of investments may be affected by a variety of factors, including economic and political developments, interest rates and foreign exchange rates, as well as issuer-specific events. Past performance is not a guide to future performance.

Investments denominated in currencies other than your base currency carry the risk of exchange-rate movements. A movement in exchange rates may have a separate effect, unfavourable as well as favourable, on your gains and losses. Hedging techniques may, in certain circumstances, be limited or not be successful.

The market for some investments may be restricted or illiquid. There may be no readily available market and from time to time there may be difficulty in dealing in such investments or obtaining reliable information about the value and extent of risks associated with such investments.

2. Equity securities

Buying equity securities (the most common form of which are shares) will mean that you will become a member of the issuer company and participate fully in its economic risk. Holding equity securities will generally entitle you to receive any dividend distributed each year (if any) out of the issuer's profits made during the reference period.

Generally, holdings in equity securities will expose you to more risk than debt securities since remuneration is tied more closely to the profitability of the issuer. In the event of insolvency of the issuer, your claims for recovery of your equity investment in the issuer will generally be subordinated to the claims of both preferred or secured creditors and ordinary unsecured creditors of the issuer.

There is an extra risk of losing money when shares are bought in some smaller companies, such as penny shares. There is a big difference between the buying price and the selling price of these shares. If they have to be sold immediately, you may get back much less than was paid for them. The price may change quickly and it may go down as well as up.

If you buy equity securities you will be exposed to both the specific risks associated with individual securities held (and the financial soundness of their issuers), as well as the systemic risks of the equity securities markets.

3. Derivatives

This notice cannot disclose all the risks and other significant aspects of warrants and/or derivative products such as futures, options, and contracts for differences. You should not deal in these products unless you understand their nature and the extent of your exposure to risk. You should also be satisfied that the product is suitable for you in the light of your circumstances and financial position. Certain strategies, such as a 'spread' position or a 'straddle', may be as risky as a simple 'long' or 'short' position. Although warrants and/or derivative instruments can be utilised for the management of investment risk, some of these products are unsuitable for many investors. Different instruments involve different levels of exposure to risk and in deciding whether to trade in such instruments you should be aware of the following points.

(a) Warrants

A warrant is a time-limited right to subscribe for shares, debentures, loan stock or government securities and is exercisable against the original issuer of the underlying securities.

A relatively small movement in the price of the underlying security results in a disproportionately large movement, unfavourable or favourable, in the price of the warrant. The prices of warrants can therefore be volatile.

It is essential for anyone who is considering purchasing warrants to understand that the right to subscribe which a warrant confers is invariably limited in time with the consequence that if the investor fails to exercise this right within the predetermined timescale then the investment becomes worthless.

You should not buy a warrant unless you are prepared to sustain a total loss of the money you have invested plus any commission or other transaction charges.

Some other instruments are also called warrants but are actually options (for example, a right to acquire securities which is exercisable against someone other than the original issuer of the securities, often called a 'covered warrant').

(b) Off-exchange warrant transactions

Transactions in off-exchange warrants may involve greater risk than dealing in exchange traded warrants because there is no exchange market through which to liquidate your position, or to assess the value of the warrant or the exposure to risk. Bid and offer prices need not be quoted, and even where they are, they will be established by dealers in these instruments and consequently it may be difficult to establish what is a fair price.

(c) Futures

Transactions in futures involve the obligation to make, or to take, delivery of the underlying asset of the contract at a future date, or in some cases to settle the position with cash. They carry a high degree of risk. The 'gearing' or 'leverage' often obtainable in futures trading means that a small deposit or down payment can lead to large losses as well as gains. It also means that a relatively small movement can lead to a proportionately much larger movement in the value of your investment, and this can work against you as well as for you. Futures transactions have a contingent liability, and you should be aware of the implications of this, in particular the margining requirements, which are set out in paragraph 8.

(d) Options

There are many different types of options with different characteristics.

Buying options

Buying options involves less risk than selling options because, if the price of the underlying asset moves against you, you can simply allow the option to lapse. The maximum loss is limited to the premium, plus any commission or other transaction charges. However, if you buy a call option on a futures contract and you later exercise the option, you will acquire the future. This will expose you to the risks described under 3 and 8.

Writing options

If you write an option, the risk involved is considerably greater than buying options. You may be liable for margin to maintain your position and a loss may be sustained well in excess of the premium received. By writing an option, you accept a legal obligation to purchase or sell the underlying asset if the option is exercised against you, however far the market price has moved away from the exercise price. If you already own the underlying asset which you have contracted to sell (when the options will be known as 'covered call options') the risk is reduced. If you do not own the underlying asset ('uncovered call options') the risk can be unlimited. Only experienced persons should contemplate writing uncovered options, and then only after securing full details of the applicable conditions and potential risk exposure.

Traditional options

Certain London Stock Exchange member firms under special exchange rules write a particular type of option called a 'traditional option'. These may involve greater risk than other options. Two-way prices are not usually quoted and there is no exchange market on which to close out an open position or to effect an equal and opposite transaction to reverse an open position. It may be difficult to assess its value or for the seller of such an option to manage his exposure to risk.

Certain options markets operate on a margined basis, under which buyers do not pay the full premium on their option at the time they purchase it. In this situation you may subsequently be called upon to pay margin on the option up to the level of your premium. If you fail to do so as required, your position may be closed or liquidated in the same way as a futures position.

(e) Contracts for differences

Futures and options contracts can also be referred to as contracts for differences. These can be options and futures on the FTSE 100 index or any other index, as well as currency and interest rate swaps. However, unlike other futures and options, these contracts can only be settled in cash. Investing in a contract for differences carries the same risks as investing in a future or an option and you should be aware of these as set out in paragraphs 3 and 4 respectively. Transactions in contracts for differences may also have a contingent liability and you should be aware of the implications of this as set out in paragraph 6.

(f) Off-exchange transactions in derivatives

It may not always be apparent whether or not a particular derivative is arranged on exchange or is an off-exchange derivative transaction. While some off-exchange markets are highly liquid, transactions in off-exchange or 'non-transferable' derivatives may involve greater risk than investing in on-exchange derivatives because there is no exchange market on which to close out an open position. It may be impossible to liquidate an existing position, to assess the value of the position arising from an off-exchange transaction or to assess the exposure to risk. Bid prices and offer prices need not be quoted, and, even where they are, they will be established by dealers in these instruments and consequently it may be difficult to establish what is a fair price.

4. Foreign markets

Foreign markets will involve different risks from the UK markets. In some cases the risks will be greater.
The potential for profit or loss from transactions of foreign markets or in foreign denominated contracts will be affected by fluctuations in foreign exchange rates.

5. Emerging Markets/Higher Risk Countries

(a) General

You should be aware that there are significant additional risks in investing in securities of any issuer located in emerging or developing markets, such as markets in the Middle East, North Africa, Eastern Europe and the Russian Federation (collectively "Higher Risk Countries") which are not typically associated with well-developed markets. Such investments should be considered as highly speculative, involve a high degree of risk and may result in the loss of the entire investment.

Generally, any investment in securities of any issuer located in a Higher Risk Country is only suitable for sophisticated investors who fully understand and appreciate the risks involved. Accordingly, you (also referred to herein as the "Counterparty") should exercise particular care in evaluating the risks involved and must decide for yourself whether, in the light of those risks, investment is appropriate.

This statement is not intended to be exhaustive and there may be other risk factors which the Counterparty should take into account in relation to a particular investment. The Counterparty should also note that the information contained in this statement may become out-dated relatively quickly.

By providing any trading instructions to us after receipt of this statement, you will be taken to have acknowledged and you accept that it has been properly notified by us with respect to the risks listed herein and you acknowledge and accept that any one or more of these risks could lead to loss which could, in certain circumstances, far exceed your initial investments and capital.

Although the prime focus of this statement is to identify some specific risks associated with an investment in securities of issuers in emerging markets and/or Higher Risk Countries, some of these risks apply or could potentially apply to more advanced markets.

(b) Political risks

Factors such as external or internal conflicts, coups and racial and national tensions create political instability in Higher Risk Countries. Political instability can significantly influence an issuer's ability to generate earnings and stock market returns. Furthermore, changes in the political scene may have an impact on the ability to repatriate capital, dividends and profits earned and generally on investment and investment ownership rights. In most Higher Risk Countries it is not possible to say whether political reforms aimed at creating a multi-party democracy and transition from a centrally planned economy to a market economy will be successful. There is the possibility that these goals could be disrupted or even reversed due to political, social, economic, ethnic or religious instability.

Higher Risk Countries are frequently criticized for the lack of transparency and fairness in their electoral processes and the results of such processes may not always be acceptable to the international community. Higher Risk Countries may also be faced with corruption within their governmental, administrative and financial systems and practices.

Higher Risk Countries may face adverse international relations and / or international economic sanctions and / or international attention to their practices with respect to their governmental, administrative, economic and fiscal systems, their practices with respect to the prevention of money laundering and financial crime and their practices on the international effort to combat terrorism. Sanctions may apply to the Higher Risk country as a whole or to natural or legal persons from or affiliated with such Higher Risk Countries.

There is a particular risk in the Higher Risk Countries that guarantees of investor protection may not always be honoured, and that policies encouraging foreign investment may be abandoned, interrupted or reversed. There can be no assurance that any securities or the assets of the issuer of the securities will not be subject to nationalization, requisition or confiscation, or compulsory reorganization by any authority or body and attention is drawn to the fact that certain constitutions within Higher Risk Countries may allow respective national governments to undertake such actions without respective obligations for fair compensation.

(c) Economic risks

The underlying economic infrastructure of many Higher Risk Countries is significantly less developed than in more mature economies and many Higher Risk Countries suffer from major macroeconomic problems including hyperinflation, public deficits, unemployment, overdependence on the performance of one or more particular sector(s) (including the oil and gas sector in a number of Higher Risk Countries, volatile interest rates, shortages of basic raw materials and increased levels of poverty. Economic policies and reforms may be taken for reasons other than long term macroeconomic development and stability. Economic policies and reforms may fail, creating a challenging macroeconomic environment for issuers of any securities and prolonged periods of severe economic disruption potentially also leading to total economic collapse. Poor infrastructure including, without limitation, telecommunications and transport systems, and an inefficient banking sector, can hinder business development. The limited supply of domestic savings, coupled with the absence of mechanisms and institutions through which new capital can easily be raised, may give rise to problems in obtaining funding. There are also high levels of external debt which, if maintained, could weaken the economic situation of Higher Risk Countries. Government policies within Higher Risk Countries may be of an interventionist nature which may impact the operation of the respective capital market including the banking sector and the stock market. Government interest rate policies (aimed for example at controlling inflation or boosting economic growth) will also impact the performance of the respective stock market as higher interest rates may make investments in equities less attractive and vice versa.

(d) Legal and regulatory environment

There does not yet exist in many Higher Risk Countries the legal and regulatory systems necessary for the proper and efficient functioning of a modern, efficient and transparent capital market. This may include the non-existence or limited functioning of market regulators, incomplete legislation and regulations pertaining to the capital markets and no or limited investor compensation schemes. There is therefore a high degree of legal uncertainty as to the nature and extent of investor's rights and the ability to enforce those rights. Many advanced legal concepts which now form significant elements of mature legal systems are not yet in place or, if they are in place, have yet to be tested in courts. It is difficult to predict with a degree of certainty the outcome of judicial proceedings or even the quantum of damages which may be awarded following a successful claim.

In Higher Risk Countries, courts, arbitration courts and agencies may not consider themselves bound by precedents so the Counterparty may find it difficult to pursue legal remedies or enforce judgments of foreign courts. Furthermore, many relevant regulations are unclear in scope, which increases the risk that transactions entered into in good faith and with professional advice, could later be seen to be in breach of such regulations and subject to challenge. There is likely to be rapid change in many Higher Risk Countries as new legislation is implemented.

Before making any investment in securities of an issuer in a Higher Risk Country you should understand the particular legal and regulatory environment and seek appropriate independent legal advice on the regulatory and legal requirements and risks associated with an investment in that country. Macquarie does not provide legal advice. The rules and regulations in Higher Risk Countries may change or be reinterpreted and Macquarie assumes no responsibility for advising you of any such change or re-interpretation.

(e) Investment risks

(i) Settlement procedures and ownership risks

The capital markets in many Higher Risk Countries, and the institutions on which they depend, are undeveloped. Therefore, the procedures for settlement, clearing and registration of security transactions can give rise to technical and practical problems. In the worst cases this could lead to disputes over title to securities. In other cases, inefficient systems may result in delayed payments. Risks may also arise in relation to local custody arrangements; the provision of custody services is a relatively novel practice, and the controls put in place in more mature markets may not be available. In addition, the country-specific law of many Higher Risk Countries (particularly those countries whose legal systems are based on European civil law systems) generally do not recognize the distinction between legal and beneficial ownership with the consequence that nominee arrangements cannot be guaranteed to be effective. This can have significant adverse tax implications for the Counterparty because of uncertainty as to the tax treatment and liability to tax as between the custodian and beneficial owner.

Securities, especially equity securities, are usually registered in book-entry form only and are not evidenced by actual certificates. Title is therefore dependent on the register of stockholders being properly maintained. At worst, the Counterparty could lose the value of their investment because their interest in securities has not been correctly registered or has been removed, or the register itself has been lost or destroyed. In addition the Counterparty may have to make payment on a purchase or delivery on a sale before receipt of securities or, as the case may be, sale proceeds.

In some Higher Risk Countries there is a requirement for each investor to have a unique investor number or identifier. We may require you to provide us with your investor number or identifier at the time you place an order with us and any failure or delay in doing so may result in your order not being placed or not being executed in accordance with your instructions.

Special factors relating to the Russian Federation

You will be exposed to operational and other risks associated with the Russian market infrastructure, including registrars and local depositaries. The registration process can sometimes be cumbersome and time-consuming and can lead to constraints in trading and additional credit risks.

The concept of beneficial ownership is not yet fully developed under Russian law. It may thus be possible that Russian law would not recognize your beneficial ownership of securities, despite these being held in segregated accounts. As a result, you will not be fully protected in the event that a valid order is served on your custodian seeking to freeze, attach or otherwise restrict securities registered as belonging to either your custodian or other sub-custodians. A Russian Court may treat your assets as securities belonging to your custodian or its sub-custodians and as such open to seizure and arrest, leading to loss of your beneficial interest. You should seek appropriate legal advice on these matters.

Typically, ownership of securities under Russian law will only transfer upon settlement and registration of the relevant securities. As a result, your corporate action entitlements and obligations may not correspond with legal ownership of the securities.

Trades in the Russian Federation will either settle through the Depository Clearing Company (“DCC”) or via the registrar. All trades that settle via the DCC usually settle on a delivery versus payment (“DVP”) basis, however, where you do not have a cash account linked to your securities account, the trade will settle on free of payment (“FOP”) basis. Trades that are to settle through the registrar will settle on a FOP basis.

The standard settlement period for DCC trades is T+3. However, the settlement period for registrar trades may be longer, because settlement of the trade requires the physical re-registering of the securities at the local registrar, which could be located anywhere in Russia. Depending on where the registrar is located and the expected time for registration of the securities, Macquarie may need to advise you of a change of expected settlement date from the date that was specified in the original trade confirmation.

In addition to the extended settlement period for registrar-traded securities, registrar-traded securities will settle on a FOP basis, with the seller of the securities required to deliver the securities to the buyer prior to the buyer transferring the cash amount representing the purchase price. This will expose the seller of the securities to additional credit risk on the buyer. Where you are the seller, this means that you will be taking additional credit risk on Macquarie. Where you are the buyer of securities, you must make full payment of the purchase price for the purchased securities to the seller (i.e. Macquarie) in accordance with the settlement instructions provided by Macquarie (which will typically be within 2 days of the delivery of the securities).

Corporate Actions

There is no centralized source of disclosure of corporate actions in many High Risk Countries. The obligation of the issuers may be limited to press announcements. There is therefore the risk of an announcement not being noticed, especially where the issuer has selected the press route as the sole route for public notification of such corporate actions. We will bear no responsibility or liability for failure on our behalf to locate or identify such relevant events.

Corporate actions in Russia typically are subject to a ‘record date’. Due to the fact that in Russia the ‘record date’ may precede substantially the event and / or where the registration of securities ownership, due to delays or otherwise, occurs many days after the trade date, your ability to participate in the event may not correspond with your holding in our records or the holdings that appear on your statement or may include some of the trades that were effected by you prior to the ‘record date’. Similar conditions may apply in other Higher Risk Countries as well.

(ii) Repatriation of funds

The laws of certain Higher Risk Countries can in some cases prohibit the repatriation of funds invested therein. Therefore, there can be no guarantee that all such funds will be capable of being remitted to the Counterparty. Although certain Higher Risk Countries have specific legislation which currently provides assurances of the rights of foreign investors to remit profits and dividends from their Investments, such rights may be subject to restrictions. The legislation of Higher Risk Countries may change or be reinterpreted to prevent repatriation.

(iii) Exchange rates and controls

Securities of Higher Risk Countries and issuers based in Higher Risk Countries are, with few exceptions, denominated in foreign currency (e.g. Roubles in Russia) which may not be externally convertible into other currencies, although, subject to restrictions, certain such currencies are convertible within their own country of origin. The value of investments measured in USD or in other hard currency such as the Euro can fluctuate significantly due to volatile exchange rates and high inflation. Also, the relatively unpredictable operation of the banking systems of the Higher Risk Countries may affect the transfer of funds in and out of the country and the convertibility of the relevant currency into other currencies, including the requirement for advance notice to the respective financial and monetary authorities for the repatriation of funds. Exchange rate fluctuations may occur between the trade date for the transaction and the date on which Counterparty acquires the relevant currency to meet settlement obligations. Accordingly, the purchase price measured in the local currency may be greater than at the trade date.

Because certain Higher Risk Countries operate certain exchange controls affecting the transfer of funds in and out of the country and the convertibility of their currencies, particular care must be taken to ensure that exchange control formalities are complied with and all relevant licences obtained, including where required the registration of initial investments. Currency regulations are frequently changing and it is possible that the ability of the Counterparty to convert local currency into hard currency may be impaired.

(iv) Investment restrictions, default and currency risk

Foreign investment in Securities of issuers in Higher Risk Countries is or may become, in certain cases, legally restricted or may become restricted for reasons beyond Macquarie’s or the Counterparty’s control or understanding. Such actions can affect liquidity, prices of securities and the overall value of the investment. Sometimes these restrictions are contained in constitutional documents of a company which may not be easily obtainable. The Counterparty acknowledges that ownership of certain Securities in certain Higher Risk Countries is restricted by citizenship, nationality, residency or other requirements which ultimately may purport to implement the policies of certain governments.

The Counterparty acknowledges that it is familiar with the risks inherent in purchasing securities in Higher Risk Countries or related to emerging markets, including, without limitation, the risks inherent in purchasing synthetic investments in Higher Risk Countries and that it accepts such risks. In particular the Counterparty understands that the governments in some Higher Risk Countries have a history of defaulting on their obligations and that their currencies may have experienced periods of instability and hyperinflation, all of which could lead to the loss of the entire value of investments in the Counterparty’s account or possession.

6. Contingent liability investment transactions

Contingent liability investment transactions, which are margined, require you to make a series of payments against the purchase price, instead of paying the whole purchase price immediately.

If you trade in futures contracts for differences or sell options, you may sustain a total loss of the margin you deposit with your firm to establish or maintain a position. If the market moves against you, you may be called upon to pay substantial additional margin at short notice to maintain the position. If you fail to do so within the time required, your position may be liquidated at a loss and you will be responsible for the resulting deficit. Even if a transaction is not margined, it may still carry an obligation to make further payments in certain circumstances over and above any amount paid when you entered the contract.

Save as specifically provided by the FCA, we may only carry out margined or contingent liability transactions with or for you if they are traded on or under the rules of a recognised or designated investment exchange. Contingent liability investment transactions which are not so traded may expose you to substantially greater risks.

7. Limited liability transactions

The amount you can lose in limited liability transactions will be less than in other margined transactions, which have no predetermined loss limit. Nevertheless, even though the extent of the loss will be subject to the agreed limit, you may sustain the loss in a relatively short time. Your loss may be limited, but the risk of sustaining a total loss to the amount agreed is substantial.

8. Collateral

If you deposit collateral as security with us, the way in which it will be treated will vary according to the type of transaction and where it is traded. There could be significant differences in the treatment of your collateral, depending on whether you are trading on a recognised or designated investment exchange, with the rules of that exchange (and the associated clearing house) applying, or trading off-exchange. Deposited collateral may lose its identity as your property once dealings on your behalf are undertaken.

Even if your dealings should ultimately prove profitable, you may not get back the same assets which you deposited, and may have to accept payment in cash.

9. Commissions

Before you begin to trade, you should obtain details of all commissions and other charges for which you will be liable. If any charges are not expressed in money terms (but, for example, as a percentage of contract value), you should obtain a clear and written explanation, including appropriate examples, to establish what such charges are likely to mean in specific money terms. In the case of futures, when commission is charged as a percentage, it will normally be as a percentage of the total contract value, and not simply as a percentage of your initial payment.

10. Suspensions of trading

Under certain trading conditions it may be difficult or impossible to liquidate a position. This may occur, for example, at times of rapid price movement if the price rises or falls in one trading session to such an extent that under the rules of the relevant exchange trading is suspended or restricted. Placing a stop-loss order will not necessarily limit your losses to the intended amounts, because market conditions may make it impossible to execute such an order at the stipulated price.

11. Clearing house protection

On many exchanges, the performance of a transaction by us (or a third party with whom we deal on your behalf) is `guaranteed' by the exchange or clearing house. However, this guarantee is unlikely in most circumstances to cover you, the customer, and may not protect you if we or another party defaults on its obligations to you. There is no clearing house for traditional options, normally for off-exchange instruments.

12. Insolvency

In the event of our insolvency or default, or that of any other brokers involved with your transaction, positions may be liquidated or closed out without your consent. In certain circumstances, you may not get back the actual assets which you lodged as collateral and you may have to accept any available payments in cash.