

## **KBI Funds ICAV (the "ICAV")**

### **ADDITIONAL INFORMATION FOR INVESTORS IN AUSTRIA**

**This Country Supplement forms part of, and should be read in conjunction with, the Prospectus for the ICAV.**

The ICAV is an umbrella fund with segregated liability between sub-funds and incorporated under the laws of Ireland. The ICAV has notified the Austrian Financial Market Authority (the "**FMA**") of its intention to offer Shares in certain of its Funds to the public in Austria pursuant to sec. 33 of the Austrian Investment Funds Act 1993 ("**IFA 1993**"; now sec. 140 of the Austrian Investment Funds Act 2011 ("**IFA 2011**").

Shares in the following sub-funds of the ICAV (each a "**Fund**" and together the "**Funds**") are distributed to the public in Austria:

1. KBI Water Fund;
2. KBI Developed Equity Fund;
3. KBI Emerging Markets Equity Fund.
4. KBI Energy Solutions Fund;
5. KBI Global Sustainable Infrastructure Fund

#### **Paying agent**

Erste Bank der oesterreichischen Sparkassen AG having its business address at Graben 21, A-1010, Vienna, Austria (the "**Paying Agent**"), has been appointed by the ICAV as the paying agent in Austria in accordance with sec. 141 para.1 IFA 2011. Redemption or conversion requests relating to the Shares of the Funds can be addressed to the Paying Agent and the Paying Agent shall also procure that investors in Austria are able to make payments in relation to subscriptions for Shares in the Funds and receive payments of redemption proceeds and distributions made by the Funds.

#### **Information agent**

The Prospectus, the Key Investor Information Document (KIID) (in the German language), the Instrument, the latest annual report and the semi-annual report, once published, are available free of charge, in paper form and in the English language at the Paying Agent's office as well as on the website [www.fundinfo.com](http://www.fundinfo.com). Certain agreements and other relevant documents as well as additional information to the Shareholders are available at the Paying Agents' office for inspection and/or on the website [www.fundinfo.com](http://www.fundinfo.com).

#### **Tax representative**

KPMG Alpen-Treuhand AG Wirtschaftsprüfungs-und Steuerberatungsgesellschaft with its business address at Porzellangasse 51, 1090 Wien, Austria, has been appointed by the ICAV as the tax representative in Austria.

#### **Publication of issue and redemption prices**

The issue and redemption prices of the Funds are published on [www.fundinfo.com](http://www.fundinfo.com).

## **Charges and Expenses**

Investor's attention is also drawn to the section in the Prospectus entitled "Fees and Expenses". Fees and expenses of the Paying Agent are in the ICAV's view at normal commercial rates and will be borne by the ICAV.

## **Taxation**

**These general comments on taxation contain a brief summary with regard to certain important principles which are of significance in connection with the purchase, holding and sale of units in a foreign investment fund in Austria. The summary does not purport to exhaustively describe all tax aspects and does not deal with specific situations which may be of relevance for individual potential investors. It is not intended to be, nor should it be construed to be, legal or tax advice. The summary furthermore only refers to individuals which are subject to unlimited income tax liability in Austria and which hold units in a foreign investment fund as private assets through an Austrian paying and respectively custodian agent. The disclosure is based on the currently applicable Austrian tax legislation, the case law of the supreme courts hitherto decided and the regulations of the tax authorities, as well as their respective interpretation, all of which may be subject to amendments. Such amendments may also be effected retroactively and may negatively impact on the tax consequences described. It is recommended that potential investors consult with their legal and tax advisors. Tax risks shall in any case be borne by the investors.**

### **1. Definition of a foreign investment fund**

Pursuant to sec. 188 para. 1 IFA 2011, the following qualifies as a foreign investment fund:

- UCITS, the home Member State of which is not Austria;
- AIF in the sense of the Alternative Investment Fund Managers Act ("**AIFMA**"), the home state of which is not Austria; and
- secondarily, any undertaking subject to foreign law, irrespective of its legal form, the assets of which are invested according to the principle of risk-spreading pursuant to either the statute, the articles or actual practice, if one of the following conditions is fulfilled:
  - the undertaking is factually, directly or indirectly, not subject to a tax in a foreign country that is comparable to Austrian corporate income tax;
  - the profits of the undertaking are in a foreign country subject to a tax that is comparable to Austrian corporate income tax, the applicable tax rate of which is less than 15%; or
  - the undertaking is subject to a comprehensive personal or material tax exemption in a foreign country.

Collective real estate investment vehicles pursuant to sec. 42 of the Real Estate Investment Funds Act (*Immobilien-Investmentfondsgesetz*) as well as alternative real estate investment funds pursuant to the AIFMA are not encompassed, which is assumed not to be relevant here.

## 2. Income tax

### 2.1 General

A foreign investment fund is deemed to be a transparent entity for tax purposes, so that no taxation occurs on its level. Rather, its income is directly attributed to the investor who is subject to income tax thereon.

Individuals subject to unlimited Austrian income tax liability – *i.e.*, individuals having a domicile (*Wohnsitz*) and/or their habitual abode (*gewöhnlicher Aufenthalt*), both as defined in sec. 26 of the Federal Fiscal Procedures Act (*Bundesabgabenordnung*), in Austria – holding units in a foreign investment fund as private assets are subject to income tax liability on distributed income from the foreign investment fund (sec. 2.2), on income considered equivalent to distributions from the foreign investment fund (sec. 2.3) and on capital gains realized upon a sale of units in a foreign investment fund (sec. 2.4).

In the case of non-reporting investment funds (formerly called "black" investment funds), if the fund is not registered with the OeKB as a reporting fund and/or does not meet the obligatory reporting requirements by a tax representative on time, negative tax consequences may occur (sec. 2.5).

### 2.2 Distributed income

Pursuant to sec. 186 para. 1 IFA 2011, the investor is taxable on distributed income stemming from investment income pursuant to sec. 27 para. 1 of the Income Tax Act (*Einkommensteuergesetz*) ("**ITA**") after deduction of related expenses of the foreign investment fund. Investment income comprises:

- income from the provision of capital pursuant to sec. 27 para. 2 ITA, including dividends and interest;
- income from realised increases in value pursuant to sec. 27 para. 3 ITA, including gains from the sale, redemption and other realisation of assets the income of which is income from the provision of capital, including income from zero coupon bonds and broken-period interest; and
- income from derivatives pursuant to sec. 27 para. 4 ITA, including cash settlements, option premiums received and income from the sale or other realisation of forward contracts like options, futures and swaps and other derivatives such as index certificates.

If after deduction of related expenses the investment income results in a loss, it is to be offset against investment income of the foreign investment fund in subsequent years (primarily with income from realised increases in value and income from derivatives).

Pursuant to sec. 93 para. 1 ITA, in case of an Austrian paying agent, withholding tax (*Kapitalertragsteuer*) ("**WHT**") at a special income tax rate of 27.5% is withheld on distributed income stemming from investment income. The withholding of WHT has the effect of final taxation, which means that no income tax liability exists over and above the amount of WHT withheld. In this case, the investor does not have to include the distributed income of the foreign investment fund in his income tax return. Upon application all income

subject to a special income tax rate pursuant to sec. 27a para. 1 ITA is taxed at the lower progressive income tax rate (option to regular taxation pursuant to sec. 27a para. 5 ITA).

In contrast thereto, the investor is not taxable on distributions of the fund's substance (in the sense of the fund's assets). Sec. 186 para. 6 IFA 2011 provides for a sequential arrangement of distributions, so that for tax purposes primarily investment income from the current and from preceding financial years, secondarily other income in the meaning of the ITA, if any, from the current and from preceding financial years and only then distributions of the fund's substance are deemed to have been made.

Special provisions apply in connection with distributed income stemming from income which does not qualify as investment income.

### **2.3 Income considered equivalent to distributions**

If no actual distributions are effected or if not all of the income of the foreign investment fund is distributed, income considered equivalent to distributions is deemed to have been distributed at the point in time of the publication of the data which is relevant for income tax treatment by Oesterreichische Kontrollbank Aktiengesellschaft pursuant to a timely notification (*cf.* sec. 186 para. 2 sub-para. 1 IFA 2011) within a seven-month-period after f/y/e of the fund.

Income considered equivalent to distributions stemming from investment income corresponds to the total (after deduction of costs having accrued at the level of the foreign investment fund in relation to such income) of (i) non-distributed income from the provision of capital pursuant to sec. 27 para. 2 ITA and (ii) 60% of the positive balance of non-distributed income from realised increases in value pursuant to sec. 27 para. 3 ITA and non-distributed income from derivatives pursuant to sec. 27 para. 4 ITA. Non-distributed income from income pursuant to sec. 27 para. 3 and sec. 27 para. 4 ITA is thus taxed in a privileged way.

Income considered equivalent to distributions stemming from investment income is subject to the special income tax rate of 27.5% by way of withholding of WHT. Upon application all income subject to a special income tax rate pursuant to sec. 27a para. 1 ITA is taxed at the lower progressive income tax rate (option to regular taxation pursuant to sec. 27a para. 5 ITA). If income considered equivalent to distributions is distributed at a later point in time, it is not subject to income tax.

Again, special provisions apply in connection with income considered equivalent to distributions stemming from income which does not qualify as investment income.

### **2.4 Sale of units**

Pursuant to sec. 186 para. 3 IFA 2011, the sale of units in a foreign investment fund (which also encompasses the return of units by the investor to the foreign investment fund) leads to income from realised increases in value pursuant to sec. 27 para. 3 ITA. It is subject to a special income tax rate of 27.5% by way of withholding of WHT. Upon application all income subject to a special income tax rate pursuant to sec. 27a para. 1 ITA is taxed at the lower progressive income tax rate (option to regular taxation pursuant to sec. 27a para. 5 ITA).

The tax basis equals the difference between the sales price and the acquisition costs of the units (ancillary acquisition costs, such as additional subscription fees, are not taken into account). The deduction of expenses in connection with the sale is not possible (in contrast thereto, at the level of the foreign

investment fund additional acquisition costs and selling expenses are taken into consideration). In order to avoid double taxation or double non-taxation, the acquisition costs are (i) increased by previously taxed income and (ii) decreased by distributions.

Losses from a sale of units in a foreign investment fund can only be offset against investment income which is subject to a special income tax rate pursuant to sec. 27a para. 1 ITA (this equally applies in case of an exercise of the option to regular taxation). Offsetting such losses against interest income from bank accounts and other non-securitized claims *vis-à-vis* credit institutions (except for cash settlements and lending fees) or against income from private foundations, foreign private law foundations and other comparable legal estates (*Privatstiftungen, ausländische Stiftungen oder sonstige Vermögensmassen, die mit einer Privatstiftung vergleichbar sind*) is not possible (*cf.* sec. 27 para. 8 ITA).

## **2.5 Non-reporting investment funds**

Apart from the reporting investment funds described above, there also exist non-reporting investment funds. Non-reporting investment funds are either not registered with Oesterreichische Kontrollbank Aktiengesellschaft or missed the deadline for the obligatory annual report (former reporting funds) by a tax representative (this is an Austrian certified public accountant or any person proving similar professional qualifications). This results in the following negative consequences (*cf.* sec. 186 para. 2 sub-para. 3 IFA 2011):

- Distributions from the foreign investment fund are fully taxable.
- Income considered equivalent to distributions from investment income of the foreign investment fund is to be estimated in the amount of 90% of the difference between the first and last redemption price established in the calendar year, but at least in the amount of 10% of the last redemption price established in the calendar year. Income considered equivalent to distributions determined in such a way is deemed to have been distributed on 31 December of each year.

Pursuant to sec. 186 para. 2 sub-paras. 3 and 4 IFA 2011, the investor may furnish proof of the actual distributions and the actual income considered equivalent to distributions to the paying agent, who, as the case may be, has to refund or retroactively debit WHT and/or correct the acquisition costs of the units in the foreign investment fund (for purposes of a later sale of such units).

### **3. Tax treaties Austria/Switzerland and Austria/Liechtenstein**

According to the CRS regulations the tax treaties have become obsolete and were cancelled by effect of 1<sup>st</sup> January 2017.

### **4. Inheritance and gift tax**

Austria does not levy inheritance or gift tax.

Certain gratuitous transfers of assets to private law foundations and comparable legal estates are, however, subject to foundation transfer tax pursuant to the Foundation Transfer Tax Act (*Stiftungseingangssteuergesetz*) ("**FTTA**") if the transferor and/or the transferee at the time of transfer have a domicile, their habitual abode, their legal seat or their place of management in Austria. Exemptions from tax liability apply to transfers *mortis causa* of financial assets within the meaning of sec. 27 para. 3 and para. 4 ITA (except for participations in corporations) if income therefrom is subject to income tax at a flat rate pursuant to sec. 27a(1) of the Austrian Income Tax Act. The tax basis is the fair market value of the assets transferred minus any debts and liabilities at the time of the asset transfer. The tax rate is in general 2.5%, but 25% in special cases. Special provisions apply within the scope of the tax treaty between Austria and Liechtenstein.

In addition, there is a notification obligation for gifts of cash, receivables, shares in corporations, participations in partnerships, businesses, movable tangible assets and intangible assets if the donor and/or the donee have a domicile, their habitual abode, their legal seat or their place of management in Austria. Not all gifts are encompassed by the notification obligation: In the case of gifts between certain related parties, a threshold of EUR 50,000 per year applies; in all other cases, a notification is obligatory if the fair market value of the gifted assets exceeds EUR 15,000 within five years. Furthermore, gratuitous transfers to foundations falling under the FTTA as described above are exempt from the notification obligation. Intentional violation of the notification obligation may trigger fines of up to 10% of the fair market value of the gifted assets.

In addition, the gratuitous transfer of units in a foreign investment fund may trigger income tax at the level of the transferor pursuant to sec. 27 para. 6 ITA.

**Dated 16 July 2021**

