

## **SUPPLEMENT VI**

### **AUDENTIA CAPITAL II SA SICAV-RAIF – CLAIMBNB FUND III TO THE MEMORANDUM OF AUDENTIA CAPITAL II SA SICAV-RAIF**

#### **Relating to the Sub-Fund**

### **AUDENTIA CAPITAL II SA SICAV-RAIF – CLAIMBNB FUND III**

This Supplement is valid only if accompanied by the general section.

This Supplement refers only to Audentia Capital II SA SICAV-RAIF – Claimbnb Fund III (the “**Sub-Fund**” or “**Claimbnb Sub-Fund**”).

#### **1. Reference Currency**

The reference currency of the Claimbnb Sub-Fund is the EUR.

#### **2. Investment Objective and Strategy**

##### **2.1. Litigation Finance**

Litigation finance is a specialty finance business focused on litigation and arbitration. It encompasses the provision of capital and other financial services and occasionally risk transfer solutions to various counterparties seeking redress on a claim. Litigation finance is generally regarded as a high return, uncorrelated asset class.

The potential for high returns is, in part, due to the asymmetric nature of litigation finance. Litigation has three possible outcomes: a win, a loss or settlement. The potential gains from winning a case are damages, which can be many times the amount spent pursuing the case. Losing a case, on the other hand, usually just results in a loss of the sums invested in pursuing the case. This asymmetry is beneficial. Moreover, settlements (which form the majority of litigation outcomes) also tend to result in a positive outcome.

The litigation system itself provides an exit in litigation investments, simply because the adjudicative system ultimately forces matters to come to an end. Those exits are a function of each adjudicative system’s timing and process, and as such they are entirely unrelated to economic cycles or activity.

##### **2.2. Investment Objective**

The investment objective of the Sub-Fund is to achieve an attractive (double digit) return on capital by investing directly and indirectly on a selected portfolio of litigation claims and arbitration (the “litigation claims”).

There is no guarantee that the investment objective of the Sub-Fund will be achieved, and investment results may vary substantially over time.

### **2.3. Investment Strategy**

To achieve its investment objective the Sub-Fund shall acquire, at a discounted price, directly or indirectly via a Special Purpose Vehicle “SPV” a selected portfolio of litigations claims (between 20 to 40) with a 75% average rate of estimated probability of success. In the determination of such success rate, a legal review and favourable opinion from a top-law firm shall be sought by the Sub-Fund prior any investment.

In pursuing its investment objective, the Sub-Fund shall invest in (i) commercial and damages claims (ii) follow-on-Anti-trust claims and (iii) judgement preservation claims, all of them with a major geographical focus in Spain.

Notwithstanding the above, the Sub-Fund may also invest in litigation claims based in the US, Latin America, EU and EEA, ensuring at all times that such jurisdictions provide a strong legal system and judicial Security. Furthermore, the Sub-Fund shall not invest in any litigation claim located or connected to any FATF blacklisted country.

Moreover, the Sub-Fund may also keep, for liquidity management purposes, cash in an interest or non-interest-bearing account.

In view of the nature of the Sub-Fund and underlying assets, the objectives and policies of the Sub-Fund are not limited towards investing in assets which promote environmental or social characteristics. To this end the Sub-Fund does not consider that an ad hoc approach to the analysis of sustainability issues should be adopted, and the Investment Manager shall accordingly not integrate the consideration of sustainability risks in the investment management process in respect of the Fund.

### **2.4. Investment Process**

When selecting litigation claims to be acquired, the AIFM shall follow the below process:

- Preliminary Assessment: litigation claims to be analysed by the Portfolio Manager with assistance and support of the Claims Consultant based on the following criteria: (i) legal viability (ii) defendant’s credit worthiness (iii) credibility on the facts (iv) time to recovery of the investment and (v) minimum return;
- Legal review from a top-law firm shall be sought by the Sub-Fund to confirm the preliminary assessment made. If confirmed a non-binding preliminary offer is made;
- Once the preliminary terms are accepted, documentation for due diligence purposes is requested, so the top-law firm can provide its favourable legal opinion which will be the basis for the analysis of the investment opportunity.
- If the investment opportunity is approved by the AIFM’s Investment Committee with the assistance of the Investment Consultant, execution phase starts with negotiation of the final terms and wording of the investment agreement.
- Execution: (i) acquisition agreement of the future credit rights arising from the claim (ii) Instruct the procurator (through the Investment Consultant), who is the one that collects and receives the amounts from the litigation claim, and can

accept settlement agreements in the name of the claimant.

- The AIFM through its Investment Consultant shall monitor and oversee all procedural milestones.

## **2.5. Insurance Cover**

The Sub-Fund's Investors should note that an insurance policy with a Tier I litigation insurance underwriter is in place covering all capital invested, meaning that any shortfall in litigation claim recoveries will be paid out by the insurance company.

## **2.6. Investment Restrictions**

The Claimbnb Sub-Fund is subject to the investment restrictions laid down under section 4.2 of the general section.

In addition, the Sub-Fund shall be subject to, and the AIFM shall invest in accordance with, the following restrictions:

- The Sub-Fund shall not commit to grant, or grant, litigation financing representing more than 30% of its NAV with respect to any single litigation claim.
- The Sub-Fund shall respect the following limits at all times:
  - Investment in commercial & damages claims up to EUR 5M per case
  - Investment in follow-on Anti-Trust claims from EUR up to EUR 7.5M per case
  - Investment in judgement and preservation claims up to EUR 10M per case

The Directors of the Company reserve the right to amend any of the above, restrictions and also to add further restrictions in order to comply with any regulatory requirements applicable to the Sub-fund.

## **Ramp-up Period**

Attending the nature of the underlying assets that the Fund may invest in, the Fund may not comply with the 30% principle stated in this section 2.7 during a transitional period of up to eighteen (18) months as from the first capital call.

## **2.7. Leverage**

From time to time, the Sub-Fund might have recourse to leverage. It is expected that this leverage will not exceed 50% of the total Capital Commitment of the Sub-Fund calculated in accordance with the gross method as set out in article 7 of the AIFMD Regulation and 50% of the total Capital Commitment of the Sub-Fund calculated in accordance with the commitment method as set out in article 8 of the AIFMD Regulation.

## **3. Claims Consultant**

The AIFM has appointed Claimbnb S.L., a company organised and existing under the laws of Spain with registered number B-10753515 and registered office at Calle Alberto Aguilera Nº 54, 8ºC, 28015, Madrid, Spain (the "Consultant"), as its Consultant in

accordance to the Investment Consultant Agreement entered into between the parties (the “Consultant Agreement”) which governs the terms of their relationship.

The Consultant is a well established company for financing legal services and investment in litigation for both individuals and companies. With a multidisciplinary team the Consultant combine national and international experience in leading companies in the world of law, finance and technology. Furthermore, the Consultant has wide experience collaborating with the main investment funds in litigation active in Europe.

#### **4. Term of the Sub-Fund**

The Claimbnb Sub-Fund has been created with a duration of seven (7) years. At Director’s discretion the term of the Sub-Fund shall be extended up to a period of three (3) years.

#### **5. Classes**

##### **A. Available Class**

Currently, Shares of the Claimbnb Sub-Fund are issued in the following Share Classes:

<b>Class</b>	<b>Reference Currency</b>	<b>ISIN Number</b>	<b>Type of Investor</b>	<b>Distribution/Accumulation</b>
Class A	EUR		Well-Informed Investors	Distribution

The Board of Directors may, at any time, create additional Share Classes whose features may differ from those of the Share Classes then existing.

##### **B. Minimum Initial Subscription, Holding, Subsequent Subscription and Redemption Amount**

<b>Class</b>	<b>Minimum Initial Commitment Amount</b>	<b>Minimum Additional Commitment Amount</b>
Class A	EUR 125,000	EUR 25,000

#### **6. Valuation Day**

Each Share Class shall be valued annually. The last Business Day of December will be a Valuation Day.

The Board of Directors may however decide at its discretion to calculate additional Net Asset Value of each Share Class of the Claimbnb Sub-Fund within a financial year. The Board of Directors shall pay due regard to the principle of equal treatment of all Shareholders of each Share Class of the Claimbnb Sub-Fund.

## **7. PRIIPS**

The PRIIPs Regulation entered into force in January 2018 introducing a new type of investor information document, the key information document (the “**KID**”). To the extent that the Shares of the Sub-Fund, are sold to investors that do not qualify as a Professional Investors, the Fund will be required to provide a KID to such investors in good time before those investors subscribe for Shares in the Sub-Fund.

Prior to any marketing of the Claimbnb Sub-Fund to a non-professional Investor a KID drawn up in accordance with the PRIIPs Regulation will be provided free of charge to any such Investor and will be available at the registered office of the Fund. Where the KID is made available in a medium other than paper, a KID in paper form shall be provided upon request.

## **8. Capital Commitments**

This Sub-Fund will employ subscription with Capital Commitments. Shareholders will be admitted to the Sub-Fund at a relevant Closing during the Commitment Period pursuant to a Subscription Form to make a Capital Commitment to subscribe for Shares in the Claimbnb Sub-Fund. Capital Commitments will be drawn down pursuant to Capital Calls, on an as needed basis to make investments and pay expenses.

## **9. Commitment Period / First Closing**

The Commitment Period of the Class A Shares will be set via Board Resolution of the Board of Directors of the Company, on the First Closing Date, where prospective investors will be accepted in the Sub-Fund. Thereafter, the Sub-Fund will be able to hold several Closings where prospective investors or investors wishing to increase their Capital Commitments will be admitted to the Sub-Fund pursuant to a Subscription Form to make a Capital Commitment to subscribe for Shares in the Sub-Fund until the Final Closing Date, which will be on or about three years from the First Closing Date. The Board reserves the right to reduce or extend the Commitment Period and fix a different date for the Final Closing Date or the First Closing Date.

## **10. Subsequent closings**

After the First Closing Date, the Board of Directors will have the right, in its sole and absolute discretion, without being limited in time, to admit additional investors, or permit any existing Shareholder to make an additional Capital Commitment.

Each subsequent Shareholder will participate in any investments made by and any Operating and Administrative Expenses incurred before its admission to, the Sub-Fund, pro-rata with the prior Shareholders by contributing, to the Sub-Fund, the sum of (without duplication):

- A. its proportionate share based on the Capital Commitment made by such Shareholder at such Subsequent Closing, of all applicable Capital Contributions that have been made, other than Capital Contributions on account of Management Fee.

and

- B. the Management Fee and any other fees (if applicable) attributable to the new Capital Commitment retroactive to the earlier of the First Closing Date.

The amounts contributed pursuant to clause A will, net of any applicable withholding taxes (which amounts shall be treated as paid and remitted to the applicable person), be refunded or credited to previous Shareholders pro rata in proportion to their Capital Contributions prior to such Subsequent Closing provided that, such refund shall be made by way of repurchasing of Ordinary Shares at their initial subscription price. Such Ordinary Shares repurchased to the existing Investors will be added to their Outstanding Commitments and will be available for drawdown. The amounts contributed pursuant to clause B will be paid to the AIFM. Each Shareholder that acquires Shares or increases its Capital Commitment at a Subsequent Closing shall be deemed to have made Capital Contributions in the amounts determined in accordance with clauses A. and B. above (excluding the interest charge and other additional amounts, if any, referred to therein).

Each subsequent Shareholder shall, in addition to points A and B contribute to the Sub-Fund an equalisation premium as provided below (the "Subscription Premium"). For the avoidance of doubt, the Subscription Premium shall not be considered as part of the Subsequent Shareholder Commitment and, therefore, shall not be treated as a Capital Contribution or taken into account for distributions.

The Subscription Premium payable by a Subsequent Shareholder shall be equal to EURIBOR 12 months, as published on the relevant Capital Call date, plus two hundred and fifty (250) basis points per annum calculated on the average drawdown capital. For the purposes of this section, if the EURIBOR should be negative, the EURIBOR applicable shall then be equal to zero (0).

For the avoidance of doubt, the amounts contributed representing interest or other additional amounts, if any, under this section shall not be deemed a capital contribution hereunder, shall not reduce a Shareholder's Undrawn Capital Commitment.

## **11. Capital Calls**

Shareholders in the Sub-Fund may be required to make a Capital Contribution in accordance with the Memorandum. The Board of Directors may, subject to the notice periods outlined below, do a Capital Call of all or a portion of the available Capital Commitment of the Shareholders of the Sub-Fund.

Shareholders will be notified in writing via email of a drawing of Capital Contribution no less than ten (10) Business Days in advance of the relevant drawdown date. Shareholders will be required to transfer the drawdown amount in favor of the Sub-Fund before the relevant drawdown date.

Capital Contributions will be credited to each Shareholder on the relevant drawdown date as specified in the Capital Call Notice. Drawdowns on Undrawn Capital Commitments shall be effected pro-rata amongst the Shareholders with Undrawn Capital Commitments.

The Board retains absolute discretion in determining the circumstances in which a Capital Call Notice will be issued. Capital Call Notices may be made to purchase eligible investments, to meet funding obligations in relation to existing investments, pay fees of service providers and other costs and expenses of the Sub-Fund (including a pro-rata

portion of the fees, costs and expenses of the Fund).

## **12. Redemption of Shares**

The Sub-Fund is close ended. Shareholders may not be able to voluntarily request a redemption of their Shares.

The Board may decide to redeem Shares in lieu of effecting a distribution. Such a redemption shall be done following the order of priorities according to the date of receipt of the application for redemption.

Shares may also be compulsory redeemed in accordance with “*Compulsory Redemption*” section of the general section of the Memorandum.

## **13. Fees**

### **Management Fee**

The Claimbnb Sub-Fund shall pay the Management Company a fee equal to 2% of the total Capital Commitment of the Sub-Fund. This fee shall be accrued and payable on a quarterly basis in arrears.

### **Depositary Fees**

The Depositary is entitled to receive out of the assets of the Claimbnb Sub-Fund the following fees:

1. <€50M – 0.05%
2. >€50M onwards – 4.5 bps

The above rates are subject to a minimum yearly fee of EUR 20,000 and payable on a quarterly basis. The depositary shall also charge cash flow monitoring fees, reconciliation fees and ad-hoc fees for services rendered and increase any amounts by any VAT payable thereon.

### **Central Administration Agent Fee**

The Central Administration Agent will be entitled for the performance of its services, an administration fee:

- a) <€50M – 5.5bps pa
- b) From €50M until EUR 100M - 4.5bps pa
- c) >€100M onwards – 3bps pa

The above rates are subject to a minimum annual fee of EUR 14,000. The Central Administration Agent shall also charge fees for additional services provided which include but are not limited to registrar and transfer agency, regulatory reporting, KIID preparation, FATCA and CRS reporting.

The Central Administration Agent will accrue on each Valuation Day and will be payable quarterly in advanced. The Central Administration Agent will also be entitled to reimbursement of reasonable out-of-pocket expenses properly incurred in carrying out its duties.

Other fees or charges which may accrue shall be allocated to the Claimbnb Sub-Fund and may be paid from time to time.

#### **Other Administrative Costs**

The AIFM shall also be entitled to fees for its administrative services to the Sub-Fund as follows:

- Up to 25MM EUR →14,5 bps
- From 25MM EUR to 50MM EUR →12bps
- From 50MM EUR to 100MM EUR →9bps

The above fee shall be subject to a minimum of EUR 32,000 per annum, and shall be payable quarterly in arrears.

Furthermore, the AIFM will also be entitled to receive fees to cover expenses that may include Compliance and AML monitoring duties, general administrative costs, translations, certification and apostille of documents, Valuation reports, regulatory and marketing/passporting fees. The AIFM shall be entitled to allocate a portion of the fee specified in this Section in favour of the Scheme to cover regulatory, administrative or any other ongoing costs, inter alia.

#### **14. Distribution Policy**

Class A Shares shall distribute the Net Distributable Proceeds as follows:

- 1) Return of Capital Contributions: first, 100% to Shareholders until such Shareholders have received cumulative distributions equal to such Shareholders' Capital Contributions;
- 2) Preferred Return: second, 100% to Shareholders' until they have received cumulative distributions pursuant to this clause (2) equal to twelve and a half percent (12.5%) cumulative annual preferred rate of return on the Shareholders' Capital Contributions (the "**Preferred Return**").
- 3) 50/50 Split: third, once point 1 and 2 above have been satisfied, any excess return will be distributed on an 50/50 split, with 50% to Shareholders pro-rata to their Capital Contributions and 50% to the Management Company.

#### **15. Specific Risk Factors**

An investment in the Claimbnb Sub-Fund is associated with a certain degree of risk. Prospective investors should consider, amongst others, the following factors before subscribing to the Shares:

##### **a. Binary Outcome**

Each litigation claim and therefore, the performance fee attached to it, carries substantial individual risk because outcome is binary (funders either lose their entire investment or make a multiple of it through success fee), even when the selection process and the due diligence procedure are strong.

##### **b. Lack of operating history**

There can be no assurance that the Claimbnb Sub-Fund will achieve its investment



objectives. The past investment performance of the Board of Directors may not be construed as an indication of the future results of an investment in the Claimbnb Sub-Fund.

**c. Lack of liquidity**

The Investments to be made by the Sub-fund may be highly illiquid. The eventual liquidity of all Investments will depend on the success of the realisation strategy proposed for each investment. Such strategy could be adversely affected by a variety of factors. Losses may be realised before gains on dispositions. The return of capital and the realization of gains, if any, will generally occur only upon the partial or complete disposition of an investment. Prospective Investors should therefore be aware that they may be required to bear the financial risk of their investment for an undetermined period of time.

**d. Investment selection and performance**

The Sub-fund is dependent on whether or not the investments and financings which it undertakes will be successful or will pay returns. Assessing the value, strengths and weaknesses of litigation is complex and the outcome is not certain. Should the investments, in which the Sub-Fund is or becomes involved prove to be unsuccessful or produce returns below those expected, the ability of the Sub-fund to meet its commitments towards investors could be materially adversely affected.

**e. Regulation**

Changes in laws, regulation or ethical rules could further reduce or limit opportunities for the Sub-fund to make investments or could result in the reduction or extinction of the value of investment already concluded by the Sub-fund in such jurisdictions, and such changes are regularly proposed by Sub-funds opposed to litigation proliferation and others.

**f. Reliance on lawyers**

The Sub-fund is particularly reliant on lawyers to litigate claims and defences with due skill and care. If they are not able to do this, or do not do this for other reasons, it is likely to have a material adverse effect on the value of the Investments. Whilst the Sub-fund will evaluate the lawyers involved in any investment, there is no guarantee that the outcome of a case will be in line with the lawyers' assessment of the case or in line with the expected skills and care from the lawyers.

**g. Legal professional duties**

The Sub-fund will not own or control a claim it has indirectly funded, and as a result the Sub-fund will not be the client of the law firm representing the owner of the claim that is the subject of an investment or financing of the Sub-fund. Accordingly, that law firm may be required to act in accordance with its client's wishes rather than those of the Sub-fund or may be subject to an overriding duty to the courts.

**h. Net Asset Value considerations**

The Net Asset Value per Share of the Sub-Fund is expected to fluctuate over time with the performance of such Sub-Fund's investments. A Shareholder may not fully recover his initial investment when he chooses to redeem his Shares or upon compulsory redemption if the Net Asset Value per Share at the time of such

redemption is less than the subscription price paid by such Shareholder.

**i. Changes in applicable law**

The Sub-Fund must comply with various legal requirements, including requirements imposed by the securities laws, company laws, and local laws in various jurisdictions. Should any of those laws change over the term of the Sub-Fund, the legal requirements to which the Sub-Fund and the Shareholders may be subject could differ materially from current requirements.

**j. Reliance on the AIFM**

The Sub-Fund's success will depend largely on the services of the AIFM, its officers, employees and agents, and, in part, on the continuing ability of the AIFM to hire and retain knowledgeable personnel. There can be no assurance that the AIFM will be able to retain the employees who may be critical to the performance of its obligations or to implement successfully the strategies that the Sub-Fund intends to pursue. There can also be no assurance that the strategies that the AIFM, assisted by the Investment Consultant, wishes to pursue in this regard will result in a profit for the Sub-Fund.

**k. Force majeure**

The Sub-Fund's underlying assets may be damaged or lost, due to events such as disasters, pandemics, bad weather, mechanical failures, human error, environmental accidents, pandemics, war, terrorism, piracy, political circumstances and hostilities in foreign countries, labour strikes and boycotts, changes in tax rates or policies, arrests and governmental expropriation of the Sub-Fund's or the SPVs' assets. Although it may be possible to insure against these types of events, no assurance can be given that the occurrence of any such event will not materially affect the Sub-Fund.

**The foregoing list of risk factors does not purport to be a complete explanation of the risks involved in an investment in the Claimbnb Sub-Fund. Prospective investors should read the entire Memorandum and fully evaluate all other information that they deem to be necessary for determining whether to invest in the Claimbnb Sub-Fund. Prospective investors should ensure that they fully understand the contents of this Memorandum and, if in any doubt, should consult their own professional advisers.**