CLIENT GUIDE

WAY Investment Services

Key information about the WAY Inheritor Loan Plan

A flexible IHT solution that gives you peace of mind

For UK Investors only

WAY Investment Services

WAY Inheritor Loan Plan

A flexible IHT solution that gives you peace of mind

Contents **Page**

Key information about the WAY Inheritor Loan Plan

Please read this carefully and keep this brochure in a safe place for future reference. If you are unclear about any aspect, please refer to your financial adviser in the first instance.

What is the Inheritor Loan Plan?

- By setting up a trust (as the 'settlor') and then making an interest free, repayable on demand, loan to the trustees (as the 'lender'), the Plan allows you to reduce your potential Inheritance Tax (IHT) liability gradually yet still retain access to your original capital whilst ensuring that any future investment growth is held for your beneficiaries in an IHT efficient manner.

What are the main aims of the Plan?

- To freeze the value of the loan capital for IHT in your estate.
- To hold investment growth outside your IHT taxable estate for the benefit of your beneficiaries.
- To allow you full access to the original capital through loan repayments.
- To enable you to reduce your IHT liability further by spending or gifting the repayments.
- To give your trustees control over which beneficiaries should ultimately benefit from the trust capital.

What are my commitments?

- You are UK resident and UK domiciled for tax purposes. If you are unsure, please speak to your financial adviser before proceeding.
- To invest a minimum lump sum of £100,000. There is no upper limit.
- To enter a formal agreement to register and hold all investments in the name of the nominee company, Plato Nominee & Investment Administration Service (Plato). Plato holds the investments on behalf of the trustees when they are purchased. There are segregated accounts established for each trust within the nominee company. This convenient arrangement allows investments to be traded and managed electronically.
- To choose investments from a special range of funds offered by WAY (the 'traditional' Plan) or from a wide selection of unit trusts and OEICs available or acceptable to Plato (the 'managed portfolio' Plan). Only income units or shares may be bought. Your adviser will provide you with all the relevant investment information and recommend which funds are most appropriate for the trust.

What are the risks?

When choosing to invest into the Inheritor Loan Plan, you should be aware of some of the risks:

General

- Since the IHT benefits of an Inheritor Loan Plan rely heavily on investment growth accruing outside your taxable estate and loan repayments being made to you, it is essentially designed for long term IHT planning. If you die soon after establishing the Plan, you are unlikely to have achieved much in the way of reducing your IHT liability.
- Once the Inheritor Loan Trust is constituted on receipt of your loan, it cannot be cancelled. However, you may request the trustees to repay the outstanding loan at any time.

Your Loan

- The Trust contains a clause that limits the trustees' liability to repay your loan to the lower of the outstanding loan and the value of the trust fund at the time repayment is demanded. This means that you (or your estate) may get back less than the amount you originally lent to the trustees.
- Once the loan is repaid, payments to you from the Plan will stop. You are not a beneficiary of the Trust and have no entitlement to capital growth. If you are using loan repayments to supplement your income, you therefore need to take care when deciding on the rate at which you would like repayments to be made. For example, if repayments are made at a rate of 5% a year, your 'income' from the Plan will cease after 20 years.
- If you do not spend the loan repayments you receive, they will form part of your estate for IHT.
- Any outstanding balance of your loan at the time of your death remains in your estate and is potentially liable to IHT. The right to the loan will pass under your will or the intestacy rules.
- On your death, your personal representatives will normally be obliged to call in any unpaid loan. This may not be desirable, especially in the early years of the Plan. You may therefore like to consider making appropriate provision in your will to specifically gift the right to the outstanding loan to your surviving spouse/civil partner or somebody else, who can then continue to receive loan repayments in the future. A possible alternative is to waive your right to loan repayment in favour of the Trust. You should discuss this aspect with your financial adviser.

Investment performance

- The value of the Plan cannot be guaranteed as this will depend on the choice of investments, how well they perform and other influencing factors such as charges, currency movements and future changes in tax legislation. Some investment funds also carry a higher level of risk than others. You and your beneficiaries could therefore get back less than the amount you originally invested. Past investment performance is not necessarily a guide to future investment returns. Any income from the investments can also go down as well as up.
- In addition, the future spending power of money received from the Plan will be reduced by inflation if investment returns do not keep pace.
- You need to live for a reasonable period of time to give the investments sufficient time to grow in value.
- Poor investment performance may mean that the trustees are unable to fully repay the loan and capital growth is not created for the beneficiaries.

Taxation

- The tax position of the Plan cannot be guaranteed as tax legislation and the practice of HM Revenue & Customs may be subject to change. Furthermore, your own tax status or that of your trustees could also alter in the future. In these situations, you must rely on the advice of your financial adviser.
- If a fund was to distribute income, the trustees may first offset any trust administration expenses before paying the remainder to the beneficiaries entitled under the Trust.
- Whilst any of the loan is outstanding, the Trust will be regarded as settlor-interested for tax purposes and all trust income will be assessed on you for income tax at your marginal rate.

What are the charges?

- Charges can be categorised as Fund charges, Plan charges, Administration charges, Adviser charges and, where relevant, Professional Trustee charges.
- Fund charges consist primarily of a possible initial charge, when investments are bought, and an internal annual management charge. Relevant information will be provided by your financial adviser.
- WAY will make an initial charge for setting up the Plan, based on the sum invested, and an annual Plan charge, for providing Plan and trustee administrative support. These will be charged automatically to the trustees' cash account.
- WAY Plan charges are reviewed on a regular basis and three months notice will be given to you and trustees of any changes.
- Details of all these charges are shown in the relevant terms of business/fee schedule.
- You must pay any initial adviser charge relating to the recommendation and implementation of the Plan direct to your financial adviser. It cannot be taken from your cheque/remittance representing the loan.
- Once the Trust is set up and the investments have been made, ongoing adviser charges for advice given to the trustees will be payable from the trust fund. Plato will facilitate payment of these by making deductions from the trustees' cash account.
- If you decide to appoint a professional trustee other than WAY's own default trustee service (eg your solicitor, accountant or trust company), you must agree the basis of their charges, which will be payable from the trust fund, prior to their appointment.

What is the structure of the Plan?

- The Plan consists of you creating a WAY Inheritor Loan Trust and then lending a cash sum to your appointed trustees for them to invest in a portfolio of collective investments. The loan is interest free and repayable on demand under a formal loan agreement signed by you and the trustees.
- For a 'traditional' Plan, the trustees will invest the loan in WAY-branded Portfolio Funds whereas under a 'managed portfolio' Plan, they can invest in any of the unit trusts and OEICs available or offered on the Plato service.
- The WAY-branded Portfolio Funds are specially designed to be held within the Trust. Their investment focus is on capital growth, which can maximise Capital Gains Tax (CGT) efficiency for the trustees and beneficiaries alike.
- If your preference is for a 'managed portfolio', capital growth is still likely to be a main investment objective, again for CGT reasons but also to minimise any income tax issues for yourself, bearing in mind all trust income is taxable on you even though you will not receive it. Having to deal with trust income also increases your trustees' administration duties (see 'Who shall I appoint as trustees?' and 'What are the main duties of the trustees?').
- The trustees are the legal owners of the trust assets. Plato and WAY can only act on their instructions regarding the investments and administration of the Plan.
- Under the terms of the Trust, the trustees have the power to appoint capital to a wide range of beneficiaries (the Appointed Class), taking into account always your right to demand full repayment of any outstanding loan at any time. In the meantime, any income received by the trustees, after offsetting expenses, is payable to named Beneficiaries.
- You can ask the trustees to repay the loan in part or in full whenever you like (eg regular loan repayments to provide an 'income'; occasional lump sums when needed; or not take any repayments in the knowledge that the loan can be called in should circumstances change in the future).

- Your only entitlement from the trust is therefore a contractual right to repayment of the loan. Once it is repaid, no further payments can be made to you by the trustees.
- On your death, if the loan has not been fully repaid, the outstanding amount will be in your estate for IHT but any balance (ie capital growth) in the trust fund will be outside and held for the beneficiaries. If the loan has already been repaid and you have spent all repayments, the original capital with have been removed from your taxable estate.

How do I set up the Plan?

- You must be aged 18 or over and be of full mental capacity to apply for a Plan. You should also be in good health.
- You may only set up a Plan in your own name. If you are married or in a civil partnership, your spouse or civil partner can also take out a Plan.
- If the Plan meets your needs, the next stage is for you to complete a Plan application pack, which includes the trust deed and the loan agreement. This will require involvement of your trustees and your financial adviser as well. A financial adviser will normally act as investment adviser to the trustees. If you have any questions concerning the suitability of the Plan, you must speak to your financial adviser before proceeding any further.
- When progressing through the pack, you must strictly follow the Completion Notes as certain documents must be left undated or partially incomplete for WAY to insert the necessary information later.
- The application process includes setting up a Plan account with Plato for your trustees. The pack also contains the necessary instructions to facilitate the payment of future adviser charges, if any, for advice given to the trustees.
- It is essential that the money you are lending to the trustees comes from assets personally belonging to you. You can make payment by cheque or electronic transfer. Your remittance will be paid into the trustees Plato account.
- The trust is immediately constituted when the trustees receive the loan.
- The completed Plan documentation is sent to WAY for processing. If any of the documents is incomplete or incorrect, we will advise your financial adviser that your application cannot be progressed further until the relevant information is received. WAY will not accept any responsibility for any loss incurred by you or the financial adviser resulting from such delay.
- WAY will calculate the cash sum to be retained by the trustees in the account to cover the estimated total charges for the first year. The amount reserved will depend on the sum invested and the level of charges applying.
- Once your cheque has cleared, the balance will be invested on behalf of the trustees in the portfolio recommended by the adviser using the Plato nominee service.
- You, your trustees and their investment adviser will have online access to view the trust investments and the cash account on the Plato service. As Plan provider and administrator, WAY will also have viewing access but in addition will carry out online transactions on behalf of Plato to set up the Trust, including reinvestment of the loan by the trustees. Thereafter, any investment transactions and cash account movements will be conducted by Plato on instructions from the trustees.

Who shall I appoint as trustees?

- The appointment of trustees is a very important decision and you should discuss this matter with your financial adviser.
- The default trustees for the WAY Inheritor Loan Trust are WAY Tax and Trustee Advisory Services Limited, whose specialist in-house staff will provide a professional trustee service to you and your beneficiaries in administering the trust.
- Trustees must be adults, have legal capacity and be willing to act. They must understand their role, be responsible individuals and should be resident in the UK. In normal circumstances, members of your family or close friends could be suitable people, as may be your solicitor or accountant. It is not recommended to appoint somebody who lives outside the UK as a trustee.
- You and your spouse or civil partner cannot act as trustees.
- If you wish to appoint a trust company or other professional trustee, you should bear in mind that any fees they charge will be payable out of the trust fund.
- You must appoint a minimum of two individual trustees or a trust company. If a trustee is also a beneficiary, one of the trustees must be independent and cannot benefit from the Trust.
- In the case of a 'managed portfolio' Plan, where the role of a trustee is more onerous, it is strongly recommended that you appoint WAY Tax and Trustee Advisory Services Ltd to perform the necessary duties and provide you with peace of mind. Your financial adviser will be able to offer you more guidance in this respect.

How do I complete the trust deed?

- You will need to complete a trust deed and appoint your chosen trustees. This process is detailed in the Completion Document forming part of the Plan Application pack.
- The Inheritor Loan Trust is an interest in possession trust, with discretionary powers, that allows its assets to easily pass down the family generations. The trust deed sets out the terms on which any investment growth arising on the invested loan capital is held for your chosen beneficiaries and the powers of the trustees when managing the trust fund.
- The default trustees for the WAY Inheritor Loan Plan are WAY Tax and Trustee Advisory Services Limited. If you wish to select alternative trustees, please note that you must appoint at least two individuals or a professional corporate trustee can be appointed. Please refer to the previous section.
- There are two types of trust beneficiaries – **named interest in possession beneficiaries and a wide class of potential capital beneficiaries.** In the deed, they are referred to as the 'Beneficiaries' and the Appointed Class respectively:
    - The interest in possession beneficiaries are entitled to receive any income produced by the trust investments, after deduction of trust expenses. You must name these particular beneficiaries and state their share of any trust income. The trustees cannot change the entitlement of an income beneficiary, whose right to income on death passes to their descendants or to the other surviving income beneficiaries.
    - Members of the Appointed Class can only benefit from the trust capital at the discretion of the trustees, who will decide who, how much and when, subject to their liability to repay the outstanding loan. The deed contains a list of the beneficiaries who are automatically included as a capital beneficiary, such as your named income beneficiaries and their families. You can extend this list when completing the trust form if you wish.

How do I complete the loan agreement?

- After creating the Trust, you and the trustees will need to complete a Loan Agreement to formalise the basis on which the loan to the trustees is being made. Again, full details can be found in the Completion Document accompanying the Plan Application.
- To be effective for IHT, the loan must be interest free and repayable on demand. As the lender, you can therefore request the trustees to repay the outstanding loan in part or in whole by the trustees at any time. Under normal circumstances, the trustees will encash sufficient units/shares to fund the repayment and remit the proceeds to your bank account. As an alternative, you do have the option to ask for the units/shares to be transferred to you in specie for future encashment outside the trust if you prefer.
- If you wish to receive loan repayments on a regular basis from outset, the loan agreement caters for these being taken in annual instalments.
- If, at a later date, you would like to make an additional loan, this will require the completion of a further loan agreement. However, it will also complicate the overall administration of the Trust for the trustees and setting up a new Inheritor Loan Plan will often be the simplest solution.

Having completed the paperwork, what happens next?

- When all required Plan documentation and your remittance have been received, WAY will date the trust deed and the loan agreement. If WAY Tax and Trustee Advisory Services Limited are appointed as trustees, they will sign both documents at the same time. The trust is now properly constituted and the trustees will invest in the agreed investment funds.
- Certified copies of the trust deed and the loan agreement will be returned to your financial adviser for onward transmission to you. The originals will be kept by the first named trustee.

What are the main duties of the trustees?

- As legal owners of the trust assets, the trustees are obliged to administer the trust fund in the best interests of its beneficiaries and in accordance with the trust deed and relevant trust law.
- They must be seen to exercise their duties seriously, act impartially and with integrity, and must all agree when making decisions.
- They must keep clear and accurate records of all transactions relating to the Trust and are also responsible for dealing with the tax affairs of the Trust.
- They must make loan repayments when you request them. Furthermore, they must keep a log of all repayments made to you as these must cease once the loan has been fully repaid. This is extremely important because if you receive more than the loan, the trustees will be in breach and the overpayment could cause IHT gift with reservation implications.
- From time to time, they must consider whether to exercise their discretionary powers to appoint (or lend) capital to the beneficiaries. However, when doing so, they must always take into account their overriding requirement to repay you (or your personal representatives) the loan balance on demand and must not put their ability to do so at risk.
- Under the Trust, the trustees' liability to repay your outstanding loan is limited to the value of the trust fund if that is lower. For example, if at the time of your death, the value of the trust fund is £50,000 but the outstanding loan balance is £60,000 and your personal representatives demand repayment, the trustees will make a payment of £50,000 to your estate in final settlement.

- This capping of the trustees' liability can protect the trustees from being personally liable for any shortfall where the value of the trust investments is insufficient to repay the loan (eg following a stockmarket crash). However, if any of this shortfall is attributable to the trustees making distributions or loans to beneficiaries before the loan has been fully repaid, they may become personally liable to make good the loss under a breach of trust. Trustees should therefore exercise caution if they plan to pay out or lend capital to any beneficiary while any of the loan is still outstanding.
- Before distributing capital to beneficiaries, the trustees should also ensure they understand any tax implications.
- The Trustee Act 2000 requires that trustees must regularly review the performance and ongoing suitability of the trust investments and take proper advice. They should do this at least once a year with a financial adviser.
- The trustees must also obtain professional advice on any trust matter where this is thought appropriate.
- As well as the above, trustees will perform additional duties such as:
    - operating a cash account on the Plato service to deal with all income and capital transactions relating to the Trust. The trustees must also be able to readily identify how the overall cash balance is split between income and capital. This may entail maintaining separate bookkeeping records.
    - dealing with trust management expenses and making sure that the cash account is always adequate to settle these. The trustees have power to charge expenses to income and/or capital. If further cash is required to prevent the cash account going overdrawn, the trustees must seek the advice of their investment adviser on which holdings should be sold to raise the necessary funds.
    - determining and paying out trust income to the named beneficiaries as per their individual shares.
    - preparing annual trust accounts.
    - completing annual tax returns and paying tax when due.

What are the main tax implications?

- The Plan can be affected by three taxes – inheritance tax (IHT), capital gains tax (CGT) and income tax. Their potential impact is now briefly summarised. You should speak to your financial adviser for further information.
- A possible charge to IHT may occur:
    - on creation of the Trust – this is not relevant as no gift is made at outset.
    - on every ten-year anniversary of the Trust (the periodic charge). In short, there will be no liability if the value of the trust fund at that time (reduced by the amount of any outstanding loan still due to you) plus the cumulative total of any chargeable transfers made by you in the seven years before setting up the Trust and any capital sums paid to the beneficiaries in the last ten years is less than the then nil rate band.
    - whenever capital is distributed to beneficiaries (the exit charge). Basically, if there was no periodic charge on the last ten-year anniversary, no exit charge will arise. Loan repayments made to you by the trustees do not attract exit charges.
- If the trustees realise profits (by selling investments or transferring them out of the Trust), they will be liable to CGT on any gains exceeding their annual exemption. Where investments are transferred to beneficiaries, CGT holdover relief can usually be claimed to defer the tax and then often greatly reducing or even eliminating it when they are eventually disposed of by the beneficiaries.
- Income tax implications will arise when, the trust investments create an income for the trustees. For the period the loan is outstanding during your lifetime, the Trust is treated as 'settlor-interested' for tax purposes and all trust income will be assessed on you even though you will not receive it.

What happens to the Plan when I die?

- Your personal representatives or trustees must inform WAY as soon as possible. Any transactions occurring between your date of death and WAY being so informed cannot be reversed.
- The amount of any outstanding loan will form part of your estate and may be liable to IHT. Unless you have specifically left the right of repayment of the outstanding loan to your surviving spouse/civil partner or somebody else or waived it, your personal representatives will now usually demand full payment so they can distribute the estate according to your will or the laws of intestacy. Any balance left in the trust fund is held for your beneficiaries.
- The trustees can decide whether to distribute the trust fund or retain the assets within the Trust. You will normally have indicated your wishes in a letter to the trustees. If appropriate, they can add your widow(er) or surviving civil partner by deed to the list of beneficiaries who can potentially benefit from the trust capital.

Important Note

This brochure provides you with an overview of the Inheritor Plan and its role as an IHT mitigation arrangement. If you require further clarification on any points or wish to raise any questions, please speak to your financial adviser.

Please note

Information contained in this brochure is based on WAY's understanding of taxation, legislation and HM Revenue & Customs practice as at February 2020, which may change in the future. Every care has been taken to ensure the material is correct. WAY does not offer investment or tax advice and accept no liability for any actions based on the contents of this publication. The investor should obtain professional legal, tax and other appropriate advice on his/her own individual circumstances before entering into a Plan.

Any investments held within the trusts that WIS provides are regulated by the Financial Conduct Authority however its range of inheritance tax mitigation trusts and associated services are not.

Past performance is not necessarily a guide to future performance. The price of units and the income from them can go down as well as up as a result of changes in the value of underlying investments. Changes in rates of foreign exchange may have an adverse effect on the value of and on the income derived from an investment. International investment includes risks related to political and economic uncertainties of foreign countries as well as currency risk. An investor may not get back the amount originally invested.

About WAY Investment Services

WAY Investment Services ('WAY') is part of the WAY Group of companies which was founded in 1996 as an independently owned investment company offering innovative and tax-efficient solutions for UK investors. WAY launched its first wealth preservation and inheritance tax mitigation plan in 2003, and the flexibility of the plan's design made it immediately popular with estate planners.

Today WAY continues to focus on providing solutions that allow investors to pass on wealth to later generations whilst mitigating potential IHT liabilities. Importantly, access to the original investment is also possible.

About the Plato Investment Administration Service

Plato is a nominee service which means that the units or shares in the selected investment funds are registered by Plato on behalf of the trustees. The nominee consolidates all holdings into a single account so that the account holder does not have to open their own account with each investment fund company individually.

Plato also provides an online service that allows valuations of the Inheritor Plan assets to be viewed daily by the settlor, the trustees and/or their financial adviser.

Although Plato nominees register the units/shares as the legal owner, the control over the holdings remains in the hands of the trustees (or the settlor/beneficiaries once assets have been distributed), and the beneficial ownership remains with the beneficiary(ies) subject to the terms of the trust and the trustees' discretion.

Plato is a trading name of Platform One Limited, a company registered in England No 06993268, whose registered address is Peartree Business Centre, Cobham Road, Wimborne, BH21 7PT.

WAY Group has a minority shareholding in Platform One Limited.

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