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If you are in any doubt about the contents of this document and what action you should take, you should consult your stockbroker, bank manager, solicitor, accountant or other independent financial adviser who, if you are taking such advice in Ireland, should be authorised or exempted pursuant to the Investment Intermediaries Act 1995 (as amended) or the European Communities (Markets in Financial Instruments) Regulations 2007 of Ireland (as amended) or, if you are taking such advice in the United Kingdom, should be authorised pursuant to the Financial Services and Markets Act 2000 of the United Kingdom.

If you have sold or otherwise transferred all your Fyffes Shares, please send this document and the accompanying documents at once to the purchaser or transferee, or to the stockbroker, bank or other agent through whom the sale or transfer was effected for delivery to the purchaser or transferee. The distribution of this document in jurisdictions other than Ireland and the United Kingdom may be restricted by law and therefore persons into whose possession this document comes should inform themselves about and observe such restrictions. Any failure to comply with these restrictions may constitute a violation of the securities laws of any such jurisdiction.

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Recommended Acquisition of

**Fyffes plc**

by

**Swordus Ireland Holding Limited**

a wholly-owned subsidiary of

**Sumitomo Corporation**

by means of a Scheme of Arrangement under Chapter 1, Part 9 of the Companies Act 2014

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Notices convening the Scheme Meetings and EGM, which will be held at the Ballsbridge Hotel, Pembroke Road, Dublin 4, Ireland on 16 January 2017 are set out at the end of this document. The First Scheme Meeting will start at 10 am (Dublin time), the Second Scheme Meeting will start at 10.10 am (Dublin time) (or, if later, as soon thereafter as the First Scheme Meeting, convened for the same date and place, has concluded or been adjourned) and the EGM will start at 10.25 am (Dublin time) (or, if later, as soon thereafter as the Second Scheme Meeting, convened for the same date and place, has concluded or has been adjourned).

Your attention is drawn to the letter from David McCann, Chairman of Fyffes, in Part I of this document, which contains the recommendation of the Fyffes Board that you vote in favour of the resolutions to be proposed at the Scheme Meetings and the EGM.

Whether or not Fyffes Shareholders wish to attend the relevant Scheme Meeting and/or the EGM, they are asked to complete the enclosed Forms of Proxy or Forms of Direction, as the case may be, in accordance with the instructions printed on the forms and return them either by post or by hand as soon as possible but in any event so as to be received by Fyffes' Registrars, Computershare Investor Services (Ireland) Limited, at Heron House, Corrig Road, Sandyford Industrial Estate, Dublin 18, Ireland not less than 48 hours before the relevant meeting (in the case of Forms of Proxy) and by 10 am on 13 January 2017 (in the case of Forms of Direction). If a Form of Proxy for the relevant Scheme Meeting is not lodged by the relevant time, it may also be handed to the Chairman of the relevant Scheme Meeting before the start of the relevant Scheme Meeting. The action to be taken by Fyffes Shareholders is further described on pages 8 and 9 of this document.

Fyffes Shareholders should read the whole of this document, any documents incorporated into it by reference and the accompanying Forms of Proxy and Forms of Direction (as the case may be). This document together with those documents listed in paragraph 11 of Part VII and all information incorporated into this document by reference to another source will be available on Sumitomo's website at [www.sumitomocorp.co.jp](http://www.sumitomocorp.co.jp) and on Fyffes' website at [www.Fyffes.com](http://www.Fyffes.com). The content of such websites is not incorporated and does not form part of this document.

J.P. Morgan is acting as financial adviser exclusively for Sumitomo and no one else in connection with the Acquisition and the matters set out in this document and will not regard any other person as its client in relation to the matters in this document and will not be responsible to anyone other than Sumitomo for providing the protections afforded to clients of J.P. Morgan or its affiliates, nor for providing advice in relation to the Acquisition, the contents of this document or any other matters referred to herein.

Lazard, which is authorised and regulated by the Financial Conduct Authority in the United Kingdom, is acting exclusively as financial adviser to Fyffes and no one else in connection with the matters referred to in this document and will not be responsible to anyone other than Fyffes for providing the protections afforded to clients of Lazard nor for providing advice in connection with the matters referred to in this document. Neither Lazard nor any of its affiliates owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, whether in contract, in tort, under statute or otherwise) to any person who is not a client of Lazard in connection with this document, any statement contained herein or otherwise.

Davy Corporate Finance, which is authorised and regulated by the Central Bank of Ireland, is acting exclusively for Fyffes and no one else in connection with the matters referred to in this document and will not be responsible to anyone other than Fyffes for providing the protections afforded to clients of Davy Corporate Finance, or for providing advice in connection with the matters referred to in this document.

This document is dated 20 December 2016

## **IMPORTANT NOTICE**

### **Overseas jurisdictions**

The distribution, release or publication of this document in or into jurisdictions other than Ireland or the United Kingdom may be restricted by law and therefore any persons who are subject to the laws of any jurisdiction other than Ireland or the United Kingdom should inform themselves about, and observe, any applicable requirements. Any failure to comply with the applicable requirements may constitute a violation of the securities laws of such jurisdiction. This document is not intended to and does not constitute, or form part of, any offer to sell or issue or an invitation to purchase or subscribe for any securities or a solicitation of an offer to buy any securities pursuant to this document or otherwise in any jurisdiction in which such offer or solicitation is unlawful. This document has been prepared for the purposes of complying with Irish law, the Takeover Rules and the AIM Rules and ESM Rules and the information disclosed may not be the same as that which would have been disclosed if this document had been prepared in accordance with the laws of jurisdictions outside Ireland.

The attention of Fyffes Shareholders who are resident in, or citizens of, jurisdictions outside Ireland or the United Kingdom, is drawn to the paragraph 15 (headed “Overseas shareholders”) in Part III of this document.

### **Statements made in this document**

The statements contained in this document are made as at the date of this document, unless some other time is specified in relation to them, and service of this document shall not give rise to any implication that there has been no change in the facts set forth in this document since such date. Nothing in this document shall be deemed to be a forecast, projection or estimate of the future financial performance of Fyffes, the Fyffes Group, Sumitomo or the Sumitomo Group except where otherwise stated.

### **Cautionary Statement Regarding Forward-Looking Statements**

This document contains certain forward-looking statements with respect to Sumitomo and Fyffes. These forward-looking statements can be identified by the fact that they do not relate only to historical or current facts. Forward-looking statements often use words such as “anticipate”, “target”, “expect”, “estimate”, “intend”, “plan”, “believe”, “will”, “may”, “would”, “could” or “should” or other words of similar meaning or the negative thereof. Forward-looking statements include statements relating to the following: (i) future capital expenditures, expenses, revenues, economic performance, financial conditions, dividend policy, losses and future prospects; (ii) business and management strategies and the expansion and growth of the operations of the Sumitomo Group or the Fyffes Group; and (iii) the effects of government regulation on the business of the Sumitomo Group or the Fyffes Group.

These forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause the actual results, performance or achievements of any such person, or industry results, to be materially different from any results, performance or achievements expressed or implied by such forward-looking statements. These forward-looking statements are based on numerous assumptions regarding the present and future business strategies of such persons and the environment in which each will operate in the future. You are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof. All subsequent oral or written forward-looking statements attributable to Sumitomo or Fyffes or any persons acting on their behalf are expressly qualified in their entirety by the cautionary statement above. Neither Sumitomo nor Fyffes undertake any obligation to update publicly or revise forward-looking or other statements contained in this document, whether as a result of new information, future events or otherwise, except to the extent legally required.

### **Rule 8 – Dealing Disclosure Requirements**

Under the provisions of Rule 8.3 of the Takeover Rules, if any person is, or becomes, “interested” (directly or indirectly) in 1% or more of any class of “relevant securities” of Fyffes, all “dealings” in any “relevant securities” of Fyffes (including by means of an option in respect of, or a derivative referenced to, any such

“relevant securities”) must be publicly disclosed by not later than 3.30 pm (Irish time) on the business day following the date of the relevant transaction. This requirement will continue until the date on which the “offer period” ends. If two or more persons co-operate on the basis of any agreement, either express or tacit, either oral or written, to acquire an “interest” in “relevant securities” of Fyffes, they will be deemed to be a single person for the purpose of Rule 8.3 of the Takeover Rules.

A disclosure table, giving details of the companies in whose “relevant securities” “dealings” should be disclosed can be found on the Irish Takeover Panel’s website at [www.irishtakeoverpanel.ie](http://www.irishtakeoverpanel.ie).

“Interests in securities” arise, in summary, when a person has long economic exposure, whether conditional or absolute, to changes in the price of securities. In particular, a person will be treated as having an “interest” by virtue of the ownership or control of securities, or by virtue of any option in respect of, or derivative referenced to, securities.

Terms in quotation marks are defined in the Takeover Rules, which can be found on the Irish Takeover Panel’s website.

If you are in any doubt as to whether or not you are required to disclose a “dealing” under Rule 8, please consult the Irish Takeover Panel’s website at [www.irishtakeoverpanel.ie](http://www.irishtakeoverpanel.ie) or contact the Irish Takeover Panel on telephone number +353 (0)1 678 9020; fax number +353 (0)1 678 9289.

### **Profit Forecasts, Estimates or Asset Valuations**

The Fyffes Profit Forecast is a profit forecast for the purposes of Rule 28 of the Takeover Rules. The Fyffes Profit Forecast, the assumptions on which the Fyffes Profit Forecast is based and the reports from Fyffes’ reporting accountants, KPMG, and its financial advisers, Lazard and Davy Corporate Finance, as required by Rule 28.1 of the Takeover Rules are set out in Part IX of this document. Each of KPMG, Lazard and Davy Corporate Finance has given and not withdrawn its consent to the publication of its report in this document in the form and context in which it is included.

Other than the Fyffes Profit Forecast, no statement in this document is intended as a profit forecast or estimate for any period and no statement in this document should be interpreted to mean that earnings or earnings per share, for Sumitomo, Bidco or Fyffes, respectively for the current or future financial years would necessarily match or exceed the historical published earnings or earnings per share for Sumitomo, Bidco or Fyffes, respectively. No statement in this document constitutes an asset valuation.

### **Right to switch to a Takeover Offer**

Sumitomo reserves the right to elect, subject to the terms of the Transaction Agreement and with the consent of the Takeover Panel, to implement the Acquisition by way of a Takeover Offer for the entire issued and to be issued share capital of Fyffes as an alternative to the Scheme. In such an event, the Takeover Offer will be implemented on the same terms (subject to appropriate amendments), so far as applicable, as those which would apply to the Scheme and subject to the amendments referred to in paragraph 6 of Part III of this document and in the Transaction Agreement.

### **Publication of this document**

A copy of this document will be made available free of charge (subject to any applicable restrictions with respect to persons resident in Restricted Jurisdictions) on Sumitomo’s website at [www.sumitomocorp.co.jp](http://www.sumitomocorp.co.jp) and on Fyffes’ website at [www.Fyffes.com](http://www.Fyffes.com) by no later than noon time) on the day following the publication of this document.

Pursuant to Rule 30.2(b) of the Takeover Rules, this document will be made available to Fyffes employees at [www.Fyffes.com](http://www.Fyffes.com) and to Sumitomo employees at [www.sumitomocorp.co.jp](http://www.sumitomocorp.co.jp).

### **Rounding**

Certain figures included in this document have been subjected to rounding adjustments. Accordingly, figures shown for the same category presented in different tables may vary slightly and figures shown as totals in

certain tables may not be an arithmetic aggregation of the figures that precede them.

## **General**

The laws of the relevant jurisdictions may affect the availability of the Acquisition to persons who are not resident in Ireland or the United Kingdom. Persons who are not resident in Ireland or the United Kingdom, or who are subject to laws of any jurisdiction other than Ireland or the United Kingdom, should inform themselves about, and observe, any applicable legal or regulatory requirements. Any failure to comply with the applicable legal or regulatory requirements may constitute a violation of the laws and/or regulations of any such jurisdiction. To the fullest extent permitted by applicable law, the companies and persons involved in the Acquisition disclaim any responsibility and liability for the violation of such restrictions by any person.

The Acquisition will not be made available, directly or indirectly, in a Restricted Jurisdiction, and the Acquisition will not be capable of acceptance from within a Restricted Jurisdiction.

The release, publication or distribution of this document in or into certain jurisdictions may be restricted by the laws of those jurisdictions. Accordingly, copies of this document and all other documents relating to the Acquisition are not being, and must not be, released, published, mailed or otherwise forwarded, distributed or sent in, into or from any Restricted Jurisdiction. Persons receiving such documents (including, without limitation, nominees, trustees and custodians) should observe these restrictions. Failure to do so may constitute a violation of the securities laws of any such jurisdiction. To the fullest extent permitted by applicable law, Sumitomo, Bidco and Fyffes disclaim any responsibility or liability for the violations of any such restrictions by any person.

This document does not constitute an offer or invitation to subscribe for or purchase securities in Fyffes, Sumitomo, or any other entity.

**If you have any questions relating to this document or how to complete and return the Forms of Proxy or Forms of Direction please call Fyffes' Registrars, Computershare Investor Services (Ireland) Limited on +353 1 431 9826 between 9.00 am and 5.00 pm Monday to Friday (other than bank holidays in Ireland).**

## CONTENTS

	<i>Page</i>
Expected Timetable of Principal Events	7
Action to be Taken	8
Part I – Letter from the Chairman of Fyffes	10
Part II – Letter from Sumitomo	16
Part III – Explanatory Statement	22
Part IV – The Scheme of Arrangement	33
Part V – Conditions to and further terms of the Acquisition and the Scheme	42
Part VI – Financial information	48
Part VII – Additional Information	50
Part VIII – Definitions	71
Part IX – Profit Forecast	80
Notice of the First Scheme Meeting	87
Notice of the Second Scheme Meeting	89
Notice of Extraordinary General Meeting	91

## Expected Timetable of Principal Events

<i>Event</i>	<i>Time</i>	<i>Date</i>
Latest time for receipt of Forms of Proxy for the First Scheme Meeting <sup>1*</sup>	10.00 am	14 January 2017
Latest time for receipt of Forms of Proxy for the Second Scheme Meeting <sup>1*</sup>	10.10 am	14 January 2017
Latest time for receipt of Forms of Proxy for the Extraordinary General Meeting	10.25 am	14 January 2017
Voting Record Time	6.00 pm	14 January 2017
First Scheme Meeting	10.00 am	16 January 2017
Second Scheme Meeting <sup>2*</sup>	10.10 am	16 January 2017
Extraordinary General Meeting <sup>3*</sup>	10.25 am	16 January 2017

**The following dates are provided by way of indicative guidance only, are subject to change and will depend, amongst other things, on the date on which antitrust (and other) Conditions to the Scheme are satisfied or, if capable of waiver, waived and on the date on which the Court sanctions the Scheme and confirms the associated Reduction of Capital. Fyffes will give adequate notice of all of these dates, when known, by issuing an announcement through a Regulatory Information Service. Further updates or changes to other times or dates indicated below shall, at Fyffes' discretion, be notified in the same way. Please also see note (4) below.**

Intended date to present petition to the High Court to issue motion for directions to fix Court Hearing date	23 January 2017
Intended date for Court Hearing (of the petition to sanction the Scheme)	22 February 2017
Expected last day of dealings in Fyffes Shares	22 February 2017
Dividend Record Time	6.00 pm 22 February 2017
Scheme Record Time	6.00 pm 22 February 2017
Effective Date of the Scheme	23 February 2017
Cancellation of the ESM listing of Fyffes shares by the Irish Stock Exchange and the cancellation of the AIM listing of Fyffes shares by the London Stock Exchange	23 February 2017
Despatch of cheques and crediting of CREST accounts for cash consideration due under the Scheme	within 14 days of the Effective Date

### Notes:

- (1) If the Forms of Proxy for the Scheme Meetings are not returned by the relevant time, they may be handed to the Chairman of the relevant Scheme Meeting before the start of that meeting and will still be valid.
- (2) To commence at 10.10 am, or, if later, immediately after the conclusion or adjournment of the First Scheme Meeting.
- (3) To commence at 10.25 am, or, if later, immediately after the conclusion or adjournment of the Second Scheme Meeting.
- (4) These dates are indicative only and will depend, among other things, on the date upon which: (i) the conditions of the Scheme are satisfied or (if capable of waiver) waived; and (ii) the sanction of the Scheme and confirmation of the reduction of capital involved therein by the High Court and the delivery of an office copy of the Court Order and the minute required by Section 86 of the Act to the Registrar of Companies and the registration of such Court Order and minute by the Registrar of Companies.

All times shown in this document are Dublin times unless otherwise stated.



## Action to be Taken

### Meetings to be held on 16 January 2017

The Scheme requires approval by Fyffes Shareholders at a Scheme Meeting (the “**First Scheme Meeting**”) to be held at 10 am on 16 January 2017. Sumitomo and certain persons connected to it (the “**Sumitomo Class Shareholders**” as defined in this document) will not be entitled to vote their Sumitomo Class Shares at the First Scheme Meeting, but will instead vote at a second Scheme Meeting (the “**Second Scheme Meeting**”) to be held for such Sumitomo Class Shareholders at 10.10 am on 16 January 2017 (or, if later, as soon as the First Scheme Meeting has concluded or has been adjourned).

In addition to approval at the Scheme Meetings, implementation of the Scheme also requires various approvals by Fyffes Shareholders at an extraordinary general meeting (the “**EGM**”) to be held at 10.25 am on 16 January 2017, or, if later, immediately after the conclusion or adjournment of the Second Scheme Meeting. Once effective, the Scheme will be binding on all Fyffes Shareholders, including those who did not vote, or who voted against it, at the Scheme Meetings.

### Sign and return the accompanying forms

It is important that as many votes as possible are cast at the First Scheme Meeting so that the High Court may be satisfied that there was a fair representation of Fyffes Shareholder opinion. You are therefore encouraged to sign and return the enclosed Forms of Proxy or Forms of Direction, as the case may be, as soon as possible and in any event so as to be received by Fyffes’ Registrars, Computershare Investor Services (Ireland) Limited at Heron House, Corrig Road, Sandyford Industrial Estate, Dublin 18, Ireland, as follows:

- Fyffes Shareholders (other than Sumitomo Class Shareholders) who hold their shares in their own name have been sent a YELLOW Form of Proxy for the First Scheme Meeting and a PINK Form of Proxy for the EGM. These should be signed and returned so as to be received no later than 10 am and 10.25 am, respectively, on 14 January 2017. The YELLOW Form of Proxy for the First Scheme Meeting (but NOT the PINK Form of Proxy for the EGM) may also be handed to the Chairman of the First Scheme Meeting before the start of the meeting on 16 January 2017 and will still be valid.
- Sumitomo Class Shareholders have been sent a PURPLE Form of Proxy for the Second Scheme Meeting and a PINK Form of Proxy for the EGM. These should be signed and returned so as to be received no later than 10.10 am and 10.25 am, respectively, on 14 January 2017. The PURPLE Form of Proxy for the Second Scheme Meeting (but NOT the PINK Form of Proxy for the EGM) may also be handed to the Chairman of the Second Scheme Meeting before the start of the meeting on 16 January 2017 and will still be valid.
- Participants in the Fyffes STIP, Fyffes APSS and Fyffes SIP have been sent a GREEN Form of Direction for the First Scheme Meeting and a BLUE Form of Direction for the EGM. These should be signed and returned so as to be received no later than 10 am on 13 January 2017.

If you hold your Fyffes Shares in your own name, the completion and return of a Form of Proxy either for the relevant Scheme Meeting or for the EGM will not prevent you from attending and voting at either meeting (or any adjournment thereof) in person if you wish to do so. If you wish to amend or revoke your Forms of Proxy after you have returned them to the Registrars, you should contact the Registrars at the address given above. If you hold your Fyffes Shares in your own name and you wish to attend either of the relevant Scheme Meetings or the EGM, you should retain the attendance card at the bottom of the relevant Form of Proxy or Form of Direction, as the case may be, as this will facilitate your attendance at the relevant Meeting.

If you are a participant in the Fyffes STIP, Fyffes APSS and Fyffes SIP, unless you hold other Fyffes Shares in your own name, you will not be entitled to attend any of the Meetings.



**Voting via the Internet**

Alternatively, you may submit your Forms of Proxy or Forms of Direction, as the case may be, via the internet by accessing the Registrars' website [www.eproxyappointment.com](http://www.eproxyappointment.com). To log in you will require your control number, shareholder reference number (SRN) and unique PIN which you will find printed at the top of the Forms of Proxy or Forms of Direction that you have been sent with this document. The PINs will expire at the same time as the deadline for receipt of the relevant Forms of Proxy or Forms of Direction, as the case may be.

**Recommendation**

Your Fyffes Board unanimously recommends that you vote in favour of all resolutions at the Scheme Meetings and the EGM.

**Enquiries**

If you have any queries in relation to action to be taken, please contact Fyffes' Registrars, Computershare Investor Services (Ireland) Limited, on +353 1 431 9826 between 9.00 am and 5.00 pm Monday to Friday (other than bank holidays in Ireland). For legal reasons, the Registrars will not be able to provide advice on the merits of the Acquisition itself or give financial or tax advice.

## Part I – LETTER FROM THE CHAIRMAN OF FYFFES PLC



*(Fyffes plc, registered in Ireland under the Act with registered number 73342)*

*Directors:*

D McCann (*Chairman*)  
D McCourt  
C Bos  
T Murphy  
J O'Dwyer  
J O'Hara  
R Johnston

*Registered Office:*

29 North Anne Street  
Dublin 7  
Ireland  
Telephone: +353 (1) 887 2700

20 December 2016

*To Fyffes Shareholders (including participants in the Fyffes STIP, Fyffes APSS and the Fyffes SIP) and, for information only, to participants in the Fyffes Share Option Scheme.*

Dear Fyffes Shareholder

### **Recommended Acquisition of Fyffes for cash**

#### **1. Introduction**

On 9 December 2016, the boards of Sumitomo Corporation and Fyffes announced that they had reached agreement on the terms of a unanimously recommended cash offer by Sumitomo pursuant to which Bidco, a wholly-owned subsidiary of Sumitomo, will acquire the entire issued and to be issued share capital of Fyffes.

The purpose of this letter is to explain the background to the Acquisition and the reasons why the Fyffes Board, who have been so advised by Lazard and Davy Corporate Finance, consider the terms of the Acquisition to be fair and reasonable and unanimously recommend that you vote in favour of the Acquisition. The Acquisition will be effected by way of a Scheme of Arrangement under Chapter 1, Part 9 of the Companies Act 2014, the terms of which are set out in Part IV of this document and an explanation of which is given in the Explanatory Statement by Lazard and Davy Corporate Finance in Part III of this document. The Acquisition and the Scheme are subject to the conditions and further terms set out in Part V of this document. It is anticipated that, subject to the satisfaction or waiver of these conditions, approval of the Acquisition by the High Court will be sought in the first quarter of 2017.

#### **2. Terms of the Acquisition**

The Acquisition is to be effected by way of the Scheme between Fyffes and Fyffes Shareholders under Chapter 1, Part 9 of the Companies Act 2014. The Scheme is set out in full in Part IV of this document. Under the terms of the Acquisition, Fyffes Shareholders will be entitled to receive:

**for each Fyffes Share      €2.23 in cash**

The Acquisition values the entire issued and to be issued ordinary share capital of Fyffes at approximately **€751,365,470**. The Acquisition represents a premium of approximately:

- 49% to Fyffes' closing share price of €1.50 on 8 December 2016 (being the last practicable date prior to the Announcement);
- 53% to Fyffes' volume weighted average share price of approximately €1.46 over the 30 trading day period ending 8 December 2016;

- 52% to Fyffes' volume weighted average share price of approximately €1.47 over the 90 trading day period ending 8 December 2016; and
- 37% to Fyffes' all-time high share price<sup>1</sup> of €1.62, which occurred on 22 April 2016.

In addition, Fyffes Shareholders will be paid a final dividend in respect of calendar year 2016 by Fyffes of €0.02 per share in cash, bringing the total amount to be received by Fyffes Shareholders to €2.25 per Fyffes Share in cash. The final dividend will be paid on the earlier of the Scheme Payment Date or 1 May 2017 to those persons who are Fyffes Shareholders on the Dividend Record Time.

To become effective, the Scheme requires, amongst other things, the approval at the First Scheme Meeting of a majority in number of Fyffes Shareholders at the Voting Record Time, present and voting, either in person or by proxy, representing three-fourths or more in value of the Fyffes Shares held by such holders. Sumitomo and certain persons connected to it (the “**Sumitomo Class Shareholders**” as defined in this document) will not be entitled to vote any Sumitomo Class Shares at the First Scheme Meeting. The approval of such Sumitomo Class Shareholders will be sought at the Second Scheme Meeting. Provided that there has been no breach of the terms and conditions of the Acquisition and the Scheme, as set out in full in Part V of this document, by the time of the Second Scheme Meeting, Sumitomo has undertaken to procure that the Scheme is approved at the Second Scheme Meeting.

In addition to the Scheme Meetings, an EGM will be held directly after the Scheme Meetings in order to seek the approval of Fyffes Shareholders to the resolutions relating to the implementation of the Scheme.

### **3. Background to and reasons for recommending the Acquisition**

With annual turnover in excess of €1.2 billion, Fyffes is headquartered in Dublin, Ireland with operations in Europe, the US, Canada, Central America, South America and Asia. Fyffes' activities include the production, procurement, shipping, ripening, distribution and marketing of bananas, pineapples, melons and mushrooms. It markets its produce under a variety of very well-known brands including Fyffes®, Sol®, Turbana®, Hoya®, Highline® and All Seasons® and employs in excess of 17,000 people worldwide.

From the origins of the business in the late 19th century, Fyffes has developed its position as one of the world's leading producers, importers and distributors of tropical and other produce. With an infrastructure that reaches across the globe, Fyffes is one of a small number of international players in a fragmented industry. For over 125 years, the Fyffes Group's focus has been to:

- bring the world the best fresh produce;
- inspire people to feel excitement about its brands & products; and
- make a positive difference for its growers, people, customers and environment.

In pursuit of these objectives, Fyffes has applied its resources and management expertise in developing its business both organically and through a number of acquisitions and alliances.

In the five years between 8 December 2011 and 8 December 2016, Fyffes has delivered a total shareholder return of 354%, versus a corresponding return of 160% for the Ireland ISEQ index. This reflects the successful strategic development and strong operating and financial performance of Fyffes over this period.

Whilst the Fyffes Board believes that Fyffes is in a strong position in its business development and continues to believe in the standalone prospects of the Company, the Acquisition represents an attractive premium in cash and crystallises the substantial long term value potential of Fyffes today.

Sumitomo Corporation is a leading globally integrated trading company with 109 locations in 66 countries. The entire Sumitomo Group consists of over 800 companies and more than 65,000 personnel. Sumitomo Corporation is publicly listed on four Japanese stock exchanges and is a constituent of the TOPIX and Nikkei 225 stock indices, with a current market capitalisation of c.US\$15 billion. Sumitomo Corporation held

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<sup>1</sup> Since the first trading date following the effective date of the demerger of Fyffes' general produce and distribution business (effective on 30 December 2006).

c.US\$8 billion in cash on balance sheet as at fiscal year end on 31 March 2016. With its global network of companies in various industries and sincere trust from consumers, Sumitomo Corporation engages in multifaceted business activities by making the most of its integrated corporate strength. These business activities include sales of a variety of products and services within Japan, import and export, trilateral trade, and domestic and international business investment.

The strong performance of Fyffes in recent years is due in no small measure to the commitment, skill and dedication of its personnel across the world. The Fyffes Board believes that Fyffes' employees will benefit from new opportunities which will derive from being part of an enlarged group with the enhanced scale, reach and resources that Sumitomo brings. Fyffes and Sumitomo will work together to ensure that Fyffes continues to deliver outstanding service to its customers. Additionally, it is expected that the opportunities for Fyffes' suppliers and joint venture partners will also be enhanced through the combination with Sumitomo.

The letter from Hirohiko Imura, Representative Director, Managing Executive Officer of Sumitomo, in Part II of this document sets out Sumitomo's reasons for proposing the Acquisition.

#### **4. Irrevocable Commitments**

Sumitomo and Bidco have received irrevocable undertakings from each of the directors of Fyffes to vote in favour of the Scheme at the Scheme Meeting and each of the EGM Resolutions to be proposed at the Extraordinary General Meeting in respect of their own beneficial holdings of, in aggregate, 3,948,981 Fyffes Shares, which represent, in aggregate, approximately 1.20% of the issued share capital of Fyffes as at 8 December 2016 (being the last practicable date prior to the Announcement).

In aggregate with the irrevocable undertakings received from the directors of Fyffes, Sumitomo and Bidco have also received irrevocable undertakings and other commitments from Fyffes Shareholders that represent approximately 27.21% of the issued share capital of Fyffes on 8 December 2016 (being the last practicable date prior to the Announcement). Further details of these irrevocable undertakings and commitments are set out in paragraph 3 in Part II of this document.

#### **5. The Conditions**

The Acquisition is conditional, amongst other things, on the Scheme becoming effective. The conditions to the Acquisition and the Scheme are set out in full in Part V of this document. The implementation of the Scheme is conditional, amongst other things, upon:

- the approval at the First Scheme Meeting of a majority in number of Fyffes Shareholders at the Voting Record Time, present and voting, either in person or by proxy, representing three- fourths or more in value of the Fyffes Shares held by such holders;
- the approval at the Second Scheme Meeting of a majority in number of Sumitomo Class Shareholders at the Voting Record Time, present and voting, either in person or by proxy, representing three-fourths or more in value of the Sumitomo Class Shares held by such holders;
- the passing of such resolutions as are required to approve or implement the Scheme at the EGM;
- the sanction of the Scheme and confirmation of the reduction of capital involved therein by the High Court and the delivery of an office copy of the Court Order and the minute required by Section 86 of the Act to the Registrar of Companies and the registration of such Court Order and minute by the Registrar of Companies;
- to the extent that the Acquisition or its implementation constitutes a concentration within the scope of the EC Merger Regulation or is otherwise a concentration that is subject to the EC Merger Regulation, the European Commission deciding that it does not intend to initiate any proceedings under Article 6(1)(c) of the EC Merger Regulation in respect of the Acquisition or to refer the Acquisition (or any aspect of the Acquisition) to a competent authority of an EEA member state under Article 9(1) of the EC Merger Regulation or otherwise deciding that the Acquisition is compatible with the common market pursuant to Article 6(1)(b) of the EC Merger Regulation; and

- the conditions which are not otherwise identified above and which are set out in full in Part V of this document being satisfied or waived on or before the sanction of the Scheme by the High Court pursuant to Chapter 1, Part 9 of the Act.

The Scheme must become effective by not later than the End Date or such later date as Fyffes and Sumitomo may agree and the High Court may allow, otherwise the Acquisition will not proceed.

## 6. Current Trading and Prospects

On 2 September 2016, Fyffes announced its interim results for the six months ended 30 June 2016. Fyffes noted:

*“Fyffes is maintaining its strong full year target earnings ranges, which were increased in April 2016 following the Highline acquisition.”*

These target earnings ranges were:

Adjusted EBITDA	€63 – €69 million
Adjusted EBITA	€49 – €55 million
Adjusted EPS	12.8 – 14.5 cent

Fyffes’ current trading continues in line with statements made in its announcement on 2 September 2016.

The audited financial statements of Fyffes for the financial years ended 31 December 2015 and 2014 are incorporated by reference in Part VI of this document.

## 7. Fyffes Profit Forecast

The target earnings ranges set out above in paragraph 6 from Fyffes’ interim results announcement released on 2 September 2016 for the six months ended 30 June 2016 constitute a profit forecast for the purposes of Rule 28 of the Takeover Rules, for the financial year ending 31 December 2016.

The Fyffes Profit Forecast, the assumptions on which the Fyffes Profit Forecast is based and the reports from Fyffes’ reporting accountants, KPMG, and its financial advisers, Lazard and Davy Corporate Finance, as required by Rule 28.1 of the Takeover Rules are set out in Part IX of this document. Each of KPMG, Lazard and Davy Corporate Finance has given and not withdrawn its consent to the publication of its report in this document in the form and context in which it is included.

## 8. Management and Employees

Sumitomo intends to retain the existing Fyffes management structure post Completion. Sumitomo confirms that, where employees of Fyffes have existing compensation, employment, severance, change of control and similar rights or agreements, including pension rights, under applicable laws, those rights and agreements will be safeguarded following the Scheme becoming Effective.

Sumitomo looks forward to working with Fyffes’ employees, customers and other stakeholders to strengthen Fyffes’ already impressive market position through continued investment.

The Sumitomo Board intends to work with Fyffes management and employees to grow and expand its various produce offerings, expand into new geographies, and accelerate the execution of its strategy. Sumitomo believes that the Acquisition represents an exciting opportunity for Fyffes’ employees to benefit from being part of a larger organisation.

Integration planning is an ongoing process that will continue after the closing of the Acquisition. However, Sumitomo does not currently intend to redeploy any fixed assets of Fyffes or its subsidiaries, or to make any material changes to Fyffes’ staffing levels or any material change in the conditions of employment of Fyffes employees, nor does it have any current plans to change the locations of Fyffes’ places of business.

The current non-executive directors of Fyffes will resign from Fyffes on or after the Effective Date.

The parties have agreed certain incentive arrangements in respect of certain key employees.

Further details of these arrangements are set out at paragraph 10 of the Explanatory Statement from Lazard and Davy Corporate Finance in Part III of this document.

## **9. Fyffes Share Option Scheme**

### ***2007 Share Option Scheme***

Fyffes Options which have vested and are exercisable before, and are outstanding at, the Effective Date will remain exercisable for a period of 30 days following the Effective Date. Unvested Fyffes Options which are outstanding at the Effective Date will accelerate, become exercisable on the Effective Date and remain exercisable for a period of 30 days following the Effective Date. Fyffes Options which are not exercised within the period of 30 days following the Effective Date will lapse.

Fyffes Optionholders will receive details of how they can exercise their options in due course and Fyffes Optionholders may wish to await receipt of these details before taking any action with regard to their Fyffes Options.

### ***Other Fyffes Group Share Schemes***

Fyffes Shares which are held by participants in the Fyffes STIP, Fyffes APSS and Fyffes SIP will be subject to the Acquisition. Participants in such plans can expect to receive details from the trustees of such plans setting out how they may give instructions regarding the voting of their Fyffes Shares at the Scheme Meeting and the EGM.

## **10. Approval of Incentive Arrangements for Management and Senior Executives**

In order to ensure that it will have the resources of the key Fyffes management and senior executives available to it for at least 12 months following Completion in the key integration period, Sumitomo has offered a management incentive and retention proposal which would involve the repayment of certain discharged tax obligations of individual participants in the Fyffes Group Share Schemes by Sumitomo directly (or alternatively Sumitomo will procure that post the Acquisition its wholly owned subsidiary, formerly Fyffes, will make such repayments) to ensure that such employees remaining in service of Fyffes post the Acquisition do not receive lower net remuneration than they would have received if Fyffes had remained an independent company. Further details of these arrangements are set out at paragraph 12 of the Explanatory Statement from Lazard and Davy Corporate Finance in Part III of this document.

For the arrangements to be implemented it will be necessary for an ordinary resolution to be approved at the EGM under Rule 16.2(b)(i) of the Takeover Rules (see resolution 4 in the Notice of EGM contained in this document starting on page 92). This resolution will be voted on by way of a poll. Under Rule 16.2(b)(iii) of the Takeover Rules, any Fyffes Shareholders participating in the arrangements, as well as any other Fyffes Shareholders who are not regarded by the Takeover Panel as independent, will not be eligible to vote on the resolution.

## **11. Taxation**

Your attention is drawn to paragraph 8 of Part VII on page 63 of this document. If you are in any doubt as to your tax position, you should consult your independent professional adviser immediately.

## **12. Overseas shareholders**

Overseas shareholders should refer to the sections of this document entitled “Overseas jurisdictions”, which contain important information relevant to such holders.

## **13. Action to be taken**

**Your attention is drawn to the summary of the action to be taken on pages 8 and 9 of this document.**

#### **14. Further information**

Your attention is drawn to the explanations contained in the Explanatory Statement from Lazard and Davy Corporate Finance in Part III of this document and to the further information in the remainder of this document.

Fyffes and/or Sumitomo will advise, via relevant Regulatory Information Services, any future material developments relating to the Acquisition, including but not limited to, the results of the Scheme Meetings and the EGM and any adjustments to the indicative dates set out in the “**Expected Timetable of Principal Events**” on page 7 of this document.

#### **15. Recommendation**

Having taken into account the relevant factors and applicable risks, the Fyffes Board who have been so advised by Lazard and Davy Corporate Finance, financial advisers to Fyffes, consider the terms of the Acquisition as set out in this document to be fair and reasonable. In providing such advice, Lazard and Davy Corporate Finance have taken into account the commercial assessments of the directors of Fyffes. Accordingly, the Fyffes Board unanimously recommends that Fyffes Shareholders vote in favour of the Acquisition and all of the Resolutions, as they intend to do in respect of their own beneficial holdings of, in aggregate, 3,948,981 Fyffes Shares, which represent, in aggregate, approximately 1.20% of the existing issued share capital of Fyffes as at 8 December 2016 (being the last practicable date prior to the release of the Announcement).

In considering the recommendation of the Fyffes Board, you should be aware that certain directors and executive officers of Fyffes and their families will have additional interests in the proposed Acquisition in addition to the interests they might have as named shareholders. In particular, the executive directors of Fyffes have an interest in the Management Incentive Resolutions and are precluded from voting in respect of such resolution under Rule 16.2(b)(iii) of the Takeover Rules.

On behalf of Fyffes Board I thank you again for your consideration and continued support.

Yours sincerely,

**David McCann**  
*Chairman*  
**Fyffes plc**



## Part II – Letter from Hirohiko Imura of Sumitomo



20 December 2016

*To Fyffes Shareholders (including participants in the Fyffes STIP, Fyffes APSS and the Fyffes SIP) and, for information only, to participants in the Fyffes Share Option Scheme*

Dear Fyffes Shareholder,

### **Recommended Acquisition of Fyffes for cash**

#### **1. Introduction**

On 9 December 2016, the boards of Sumitomo Corporation and Fyffes announced that they had reached agreement on the terms of a unanimously recommended cash offer by Sumitomo pursuant to which Bidco, a wholly-owned subsidiary of Sumitomo, will acquire the entire issued and to be issued share capital of Fyffes by way of a scheme of arrangement under Chapter 1, Part 9 of the Act.

Your attention is drawn to the letter from David McCann, the Chairman of Fyffes, on behalf of the Fyffes Board, set out in Part I of this document which contains, amongst other things, the unanimous recommendation of the Fyffes Board to Fyffes Shareholders to vote in favour of the Acquisition and all resolutions to be considered at the Meetings.

I am writing to you in order to explain the background to and reasons for the Acquisition and also to provide you with other relevant information in relation to the Acquisition.

#### **2. The Acquisition**

The Acquisition is to be effected by way of the Scheme between Fyffes and Fyffes Shareholders under Chapter 1, Part 9 of the Companies Act 2014. The Scheme is set out in full in Part IV of this document. Under the terms of the Acquisition, Fyffes Shareholders will be entitled to receive:

**for each Fyffes Share      €2.23 in cash**

The Acquisition values the entire issued and to be issued ordinary share capital of Fyffes at approximately **€751,365,470**. The Acquisition represents a premium of approximately:

- 49% to Fyffes' closing share price of €1.50 on 8 December 2016 (being the last practicable date prior to the Announcement);
- 53% to Fyffes' volume weighted average share price of approximately €1.46 over the 30 trading day period ending 8 December 2016;
- 52% to Fyffes' volume weighted average share price of approximately €1.47 over the 90 trading day period ending 8 December 2016; and
- 37% to Fyffes' all-time high share price<sup>2</sup> of €1.62, which occurred on 22 April 2016.

In addition, Fyffes Shareholders will be paid a final dividend in respect of calendar year 2016 by Fyffes of €0.02 per share in cash, bringing the total amount to be received by Fyffes Shareholders to €2.25 per Fyffes Share in cash.

In consideration of these payments, Fyffes Shares will be cancelled under the Scheme and Fyffes will then issue new Fyffes Shares to Bidco.

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<sup>2</sup> Since the first trading date following the effective date of the demerger of Fyffes' general produce and distribution business (effective on 30 December 2006).

Sumitomo believes the Acquisition is financially compelling, and has the unanimous approval and support of its Board and senior executive team. Sumitomo is committed to executing the Acquisition on an expedited basis.

Further details of the Scheme are set out in the Explanatory Statement from Lazard and Davy Corporate Finance in Part III of this document.

### 3. Irrevocable Commitments

Sumitomo and Bidco have received irrevocable undertakings from each of the directors of Fyffes to vote in favour of the Scheme at the Scheme Meeting and each of the EGM Resolutions to be proposed at the Extraordinary General Meeting in respect of their own beneficial holdings of, in aggregate, 3,948,981 Fyffes Shares, which represent, in aggregate, approximately 1.20% of the issued share capital of Fyffes as at 8 December 2016 (being the last practicable date prior to the Announcement).

In addition, Sumitomo and Bidco have received irrevocable undertakings to vote in favour of the Scheme at the Scheme Meeting and each of the EGM Resolutions to be proposed at the Extraordinary General Meeting from the following Fyffes Shareholders:

<i>Holder (as at 8 December 2016)</i>	<i>Number of Fyffes Shares</i>	<i>% of Fyffes Issued Fyffes Shares in Issue (Excl. Treasury Shares)</i>
The First Amended and Restated Jerry Zucker Revocable Trust	39,034,612	11.83%
Balkan Investment Company (and related companies)	38,905,000	11.79%
Farringdon Capital Management	2,780,000	0.84%

In addition, Sumitomo and Bidco have received a commitment from Farringdon, an institutional investor, in respect of 5,100,000 Fyffes Shares, representing approximately 1.55% of the issued share capital of Fyffes, over which Farringdon has a contract for difference, to request that the counterparty to the contract for difference delivers the relevant Fyffes Shares to Farringdon and, if such shares are so delivered, to vote in favour of the Scheme in respect of such Fyffes Shares.

Therefore, in aggregate with the irrevocable undertakings received from the directors of Fyffes, Sumitomo and Bidco have received irrevocable undertakings and other commitments that represent approximately 27.21% of the issued share capital of Fyffes on 8 December 2016 (being the last practicable date prior to the Announcement).

The irrevocable undertakings received from each of the directors of Fyffes and from the Balkan Investment Company will cease to have effect on the earlier to occur of (i) the Scheme becoming effective; (ii) the Acquisition not completing by 30 June 2017 provided that Clause 10.1.2 of the Transaction Agreement has not become effective, in which case the date shall be 15 May 2017; or (iii) the Acquisition lapsing or being withdrawn.

The irrevocable undertaking received from The First Amended and Restated Jerry Zucker Revocable Trust will cease to have effect on the earlier to occur of (i) the Scheme becoming effective; (ii) the Acquisition not completing by 30 June 2017; or (iii) the Acquisition lapsing or being withdrawn or any of the commercial terms of the Acquisition, including but not limited to, the value offered per Fyffes Share, are revised downwards; or (iv) a public announcement of a firm intention (under Rule 2.5 of the Takeover Rules) by a third party to make an offer which exceeds the Consideration by 10% or more per Fyffes Share in cash, unless Sumitomo or Bidco announce an improvement to the terms of the Acquisition within five Business Days of the announcement of such higher competing offer such that the terms of the Acquisition, including, but not limited to, the value offered per Fyffes Share, are at least as favourable as those under the third party's competing takeover offer.

The irrevocable commitment and the other commitment from Farringdon will each cease to have effect if (i) the Scheme Document has not been posted within 28 days after the 2.5 Announcement (or within such

longer period as Bidco and Fyffes, with the consent of the Takeover Panel, determine), (ii) the Acquisition has not become effective by 28 February 2017 (iii) Farringdon is required to withdraw its undertaking by any court or competent regulator; or (iv) a third party announces an offer the value of which exceeds the Consideration by 10% or more per Fyffes Share.

#### **4. Background to and reasons for the Acquisition**

The Acquisition will further enhance Sumitomo's position as one of the most globally diverse companies across sectors, while expanding the global reach of its produce division into new regions and end-markets. Sumitomo believes that this combination creates a compelling platform to further penetrate existing markets, as well as providing access to new markets to expand the reach of Fyffes' distribution.

As a result of the Acquisition, the enlarged Sumitomo will have enhanced scale and portfolio diversity, providing it with a substantially greater ability to deliver a wider scope of produce more efficiently to its customers around the world.

Sumitomo has been active in the banana industry since the 1960s and is the market leader in Asia with a fully integrated business model with interests ranging from plantation operations in the Philippines to retail distribution across the Asian region. Fyffes' range of global activities that include the production, procurement, shipping, ripening, distribution and marketing of bananas, pineapples, melons and mushrooms is highly complementary to Sumitomo's worldwide operations and further diversifies its product portfolio within the produce division.

As a result, Sumitomo believes this Acquisition accelerates long-term growth opportunities across platforms, products, and markets and creates value for its shareholders. Sumitomo expects the combined company to maintain a disciplined capital allocation policy and strong balance sheet.

The Sumitomo Board intends to work with Fyffes management and employees to grow and expand its various produce offerings, expand into new geographies, and accelerate the execution of its strategy.

Sumitomo believes the Acquisition is financially compelling, and has the unanimous approval and support of its Board and senior executive team. Sumitomo is committed to executing the Acquisition on an expedited basis.

#### **5. Information on Sumitomo and Bidco**

Sumitomo Corporation is a leading globally integrated trading company with 109 locations in 66 countries. The entire Sumitomo Group consists of over 800 companies and more than 65,000 personnel. Sumitomo Corporation is publicly listed on four Japanese stock exchanges and is a constituent of the TOPIX and Nikkei 225 stock indices, with a current market capitalisation of c.US\$15 billion. Sumitomo Corporation held c.US\$8 billion in cash on balance sheet as at fiscal year end on 31 March 2016. With its global network of companies in various industries and sincere trust from consumers, Sumitomo Corporation engages in multifaceted business activities by making the most of its integrated corporate strength. These business activities include sales of a variety of products and services within Japan, import and export, trilateral trade, and domestic and international business investment.

Sumitomo Corporation has a lengthy track record in the growing and import of bananas in Asia. Sumitomo has been active in the banana industry since the 1960s and is the market leader in Asia with a fully integrated business model with interests ranging from plantation operations in the Philippines to retail distribution across the Asian region. Currently, the Sumitomo Group imports approximately 30% of the bananas that enter the Japanese market.

Bidco is a wholly-owned subsidiary of Sumitomo. Bidco is Irish incorporated, has been incorporated solely for the purposes of effecting the Acquisition and has only entered into certain agreements in connection with the Acquisition, details of which are contained in paragraph 3 and 6 of this letter. The financial and trading prospects of Bidco if the Scheme becomes effective will depend on the strength of Fyffes, any other operating subsidiaries held by Bidco and the sector in general.

## **6. Financing the Acquisition**

The Consideration payable under the terms of the Acquisition will be funded from a new term facility provided to Sumitomo by Sumitomo Mitsui Banking Corporation, which Sumitomo will make available to Bidco or from existing cash resources of Sumitomo made available to Bidco. Your attention is drawn to paragraph 7 of Part VII on page 62 of this document for further details of Bidco's financing arrangements in connection with the Acquisition.

J.P. Morgan Limited, financial adviser to Sumitomo, is satisfied that sufficient resources are available to Bidco to satisfy in full the Consideration payable under the terms of the Acquisition.

## **7. Directors, Management, Employees and Fyffes' Business**

Sumitomo intends to retain the existing Fyffes management structure post Completion. Sumitomo confirms that, where employees of Fyffes have existing compensation, employment, severance, change of control and similar rights or agreements, including pension rights, under applicable laws, those rights and agreements will be safeguarded following the Scheme becoming Effective.

Sumitomo looks forward to working with Fyffes' employees, customers and other stakeholders to strengthen Fyffes' already impressive market position through continued investment.

The Sumitomo Board intends to work with Fyffes management and employees to grow and expand its various produce offerings, expand into new geographies, and accelerate the execution of its strategy. Sumitomo believes that the Acquisition represents an exciting opportunity for Fyffes' employees to benefit from being part of a larger organisation.

Integration planning is an ongoing process that will continue after the closing of the Acquisition. However, Sumitomo does not currently intend to redeploy any fixed assets of Fyffes or its subsidiaries, or to make any material changes to Fyffes' staffing levels or any material change in the conditions of employment of Fyffes employees, nor does it have any current plans to change the locations of Fyffes' places of business.

The current non-executive directors of Fyffes will resign from Fyffes on or after the Effective Date.

The parties have agreed certain incentive arrangements in respect of certain key employees as follows:

- certain members of Fyffes management will be eligible for a 2017 year end bonus payment in the same magnitude of the year end bonus paid to the relevant person in 2016. This will amount to a maximum aggregate payment of €1,114,082 in respect of the executive directors of Fyffes;
- executives who participate in the Fyffes STIP will be eligible for a 2017 cash payment that is not less than the value of the 2016 Fyffes STIP payment received by the relevant person in respect of 2016. This will amount to a maximum aggregate payment of €1,114,082 in respect of the executive directors of Fyffes;
- in recognition of and consideration for completing the Acquisition, a once off bonus pool of €1,500,000 will be set aside by Fyffes to be apportioned among certain employees as determined by the Chairman of Fyffes. The amount which may be payable to the executive directors of Fyffes will not exceed €750,000, in aggregate; and
- Sumitomo has also agreed that Fyffes may write to a limited number of relevant employees in order to confirm the severance terms that would apply in the event that their employment were to be terminated within a limited period following the Acquisition for any reason other than cause or resignation.

Each of the incentive arrangements is conditional on the continued employment of the eligible employee for a certain period of time, provided that in the event of an employee's death (and in the case of the bonus pool, redundancy), a pro-rata portion (or in the case of the bonus pool, the entire amount) of the incentive will be payable.

## **8. Meetings and action to be taken**

Your attention is drawn to paragraph 3 of the Explanatory Statement from Lazard and Davy Corporate Finance in Part III of this document which sets out details of the Meetings which have been convened for Fyffes Shareholders to consider and, if thought fit, approve resolutions to give effect to the Scheme.

**The Scheme has the unanimous support and recommendation of the Fyffes Board. We urge you to support the Scheme and to vote in favour of the resolutions to be proposed at the Meetings.**

If the Scheme becomes effective it will be binding on all Fyffes Shareholders, including those who did not vote, or who voted against it, at the Scheme Meetings. Provided the Scheme becomes effective, Fyffes Shareholders will receive their cash consideration without having to take further action.

Participants in the Fyffes Share Option Scheme will receive separate proposals setting out the effect of the Scheme on their options and the actions they may wish to take. For further details see paragraph 11 of the Explanatory Statement from Lazard and Davy Corporate Finance in Part III of this document.

If you are in any doubt as to the action you should take in relation to the Scheme, you should consult your independent professional financial adviser immediately.

## **9. Approval of Incentive Arrangements for Management and Senior Executives**

In order to ensure that it will have the resources of the key Fyffes management and senior executives available to it for at least 12 months following Completion in the key integration period, Sumitomo has offered a management incentive and retention proposal which would involve the reimbursement of certain discharged tax obligations of individual participants in the Fyffes Group Share Schemes by Sumitomo directly (or alternatively Sumitomo will procure that post the Acquisition its wholly owned subsidiary, formerly Fyffes, will make such repayments) to ensure that such employees remaining in service of Fyffes post the Acquisition do not receive lower net remuneration than they would have received if Fyffes had remained an independent company. Further details of these arrangements are set out at paragraph 12 of the Explanatory Statement from Lazard and Davy Corporate Finance in Part III of this document.

The payments will be made in two tranches over a period of 12 months with the first such tranche being paid no earlier than 6 months after Completion and the balance to be paid on the date which is 12 months after Completion. Both such payments will be made subject to the relevant employees remaining employed by Fyffes at the time of payment. No payment will be made if an employee resigns or is dismissed for cause before a tranche is to be paid. If an employee to whom the first 50% payment of the Management Incentive Arrangements has been paid resigns or is dismissed for cause within 12 months of Completion, the employee concerned shall be required to repay the Management Incentive Arrangements received by that employee. An employee will be entitled to the Management Incentive Arrangements if he or she is made redundant or ceases to be employed on account of ill-health or death. If an employee eligible for the Management Incentive Arrangements is made redundant or leaves employment due to ill health on or after Completion but prior to either of the payment dates, then the amount remaining outstanding at that time shall be paid to the employee on the last day of their employment. For the avoidance of doubt, if prior to the first anniversary of the Completion an employee resigns or is dismissed for cause after receipt of the first tranche of the payment, that payment will be subject to clawback from the relevant employee and the second tranche will not be payable.

For these arrangements to be implemented it will be necessary for an ordinary resolution to be approved at the EGM under Rule 16.2(b)(i) of the Takeover Rules (see resolution 4 in the Notice of EGM contained in this document starting on page 92). This resolution will be voted on by way of a poll. Under Rule 16.2(b)(iii) of the Takeover Rules, any Fyffes Shareholders participating in the arrangements, as well as any other Fyffes Shareholders who are not regarded by the Takeover Panel as independent, will not be eligible to vote on the resolution.

## **10. Further information**

Your attention is drawn to the explanations contained in the Explanatory Statement from Lazard and Davy Corporate Finance in Part III of this document and to the further information in the remainder of this document.

Yours sincerely,

**Hirohiko Imura**

*Representative Director, Managing Executive Officer*  
Sumitomo Corporation

## Part III – Explanatory Statement (in compliance with Section 452 of the Act)

# LAZARD

**Lazard Limited**  
50 Stratton St,  
Mayfair,  
London W1J 8LL,  
United Kingdom



**Davy Corporate Finance**  
Davy House,  
49 Dawson Street  
Dublin 2  
Ireland

20 December 2016

*To Fyffes Shareholders (including participants in the Fyffes STIP, Fyffes APSS and the Fyffes SIP) and, for information only, to participants in the Fyffes Share Option Scheme.*

Dear Fyffes Shareholder

### **Recommended Acquisition of Fyffes for cash**

#### **1. Introduction**

On 9 December 2016, the boards of Sumitomo and Fyffes announced that they had agreed the terms of a recommended acquisition for cash of Fyffes by a member of the Sumitomo Group, by way of a scheme of arrangement under Chapter 1, Part 9 of the Companies Act 2014.

Your attention is drawn to the letter of recommendation from David McCann, the Chairman of Fyffes, on behalf of the Fyffes Board, in Part I of this document, which sets out the reasons why the Fyffes Board, who have been so advised by Lazard and Davy Corporate Finance, consider the terms of the Acquisition to be fair and reasonable and why the Fyffes Board unanimously recommend that all Fyffes Shareholders vote in favour of the Acquisition and all resolutions to be considered at the Scheme Meetings and the EGM, as they intend to do in respect of their own beneficial holdings of, in aggregate, 3,948,981 Fyffes Shares at the Voting Record Time, which represent, in aggregate, approximately 1.20%, of the existing issued share capital of Fyffes. In providing their advice to the Fyffes Board, Lazard and Davy Corporate Finance have taken into account the commercial assessments of the directors of Fyffes.

Your attention is also drawn to the other parts of this document, which all form part of this Explanatory Statement.

#### **2. The Acquisition**

The Acquisition is to be effected by way of the Scheme between Fyffes and Fyffes Shareholders under Chapter 1, Part 9 of the Act. The Scheme is set out in full in Part IV of this document. Under the terms of the Acquisition, Fyffes Shareholders will be entitled to receive:

**for each Fyffes Share      €2.23 in cash**

The Acquisition values the entire issued and to be issued ordinary share capital of Fyffes at approximately **€751,365,470**. The Acquisition represents a premium of approximately:

- 49% to Fyffes' closing share price of €1.50 on 8 December 2016 (being the last practicable date prior to the Announcement);
- 53% to Fyffes' volume weighted average share price of approximately €1.46 over the 30 trading day period ending 8 December 2016;



- 52% to Fyffes' volume weighted average share price of approximately €1.47 over the 90 trading day period ending 8 December 2016; and
- 37% to Fyffes' all-time high share price<sup>3</sup> of €1.62, which occurred on 22 April 2016.

In addition, Fyffes Shareholders will be paid a final dividend in respect of calendar year 2016 by Fyffes of €0.02 per share in cash, bringing the total amount to be received by Fyffes Shareholders to €2.25 per Fyffes Share in cash.

In consideration of this payment, the Fyffes Shares held by the Fyffes Shareholders will be cancelled under the Scheme and Fyffes will then issue new Fyffes Shares to Bidco.

Appropriate proposals will also be made to participants in the Fyffes Share Option Scheme. These are referred to in paragraph 11 below.

The Scheme will require approval at the Scheme Meetings and the sanction of the High Court at the Court Hearing. The Scheme Meetings and the EGM and the nature of the approvals required to be given at them are described in more detail in paragraph 3 below. All Fyffes Shareholders are entitled to attend the Court Hearing in person or to be represented by counsel or a solicitor at their own expense to support or oppose the sanctioning of the Scheme.

The Acquisition and the Scheme are subject to a number of conditions (set out in Part V of this document), including regulatory consents and approvals. The Acquisition can only proceed if all conditions to the Acquisition (other than in relation to the Scheme) have been satisfied or waived on or before the sanctioning of the Scheme by the High Court at the Court Hearing. The Scheme will become effective upon the delivery to the Registrar of Companies of an office copy of the Court Order sanctioning the Scheme and the minute required by Section 86 of the Act and registration of such Court Order and minute by the Registrar of Companies which, subject to obtaining the necessary Clearances and the sanction of the Scheme by the High Court, is expected to occur in the first quarter of 2017. Unless the Scheme becomes effective by no later than the End Date, or such later date, if any, as Fyffes and Sumitomo may agree and the High Court may allow, the Acquisition will not proceed.

### **3. Consents and Meetings**

The Scheme requires approval by Fyffes Shareholders at the First Scheme Meeting to be held at the Ballsbridge Hotel, Pembroke Road, Dublin 4, Ireland at 10 am on 16 January 2017. The Sumitomo Class Shareholders will not be entitled to vote any Sumitomo Class Shares at the First Scheme Meeting. The approval of such Sumitomo Class Shareholders will be sought at the Second Scheme Meeting to be held at the same venue at 10.10 am on 16 January 2017 (or, if later, as soon as the First Scheme Meeting has concluded or has been adjourned). In addition to requiring approval at the Scheme Meetings, implementation of the Scheme also requires various approvals by Fyffes Shareholders at the EGM to be held at the same venue as the Scheme Meetings at 10.25 am on 16 January 2017, or, if later, immediately after the conclusion or adjournment of the Second Scheme Meeting. The EGM is being convened to enable the directors of Fyffes to implement the Scheme and to amend the Fyffes constitution, as described below.

Notices of the Scheme Meetings and the EGM are set out at the end of this document. Entitlement to attend and vote at each meeting and the number of votes which may be cast at each meeting will be determined by reference to the register of members of Fyffes at the Voting Record Time.

#### **(a) First Scheme Meeting**

The First Scheme Meeting has been convened for 10 am on 16 January 2017 to enable Fyffes Shareholders to consider and, if thought fit, approve the Scheme. At the First Scheme Meeting, voting will be by poll and not a show of hands and each holder of Fyffes Shares who is present in person or by proxy (other than Sumitomo Class Shareholders in respect of their Sumitomo Class Shares) will

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<sup>3</sup> Since the first trading date following the effective date of the demerger of Fyffes' general produce and distribution business (effective on 30 December 2006).

be entitled to one vote for each Fyffes Share held. The approval required at the First Scheme Meeting is that those voting to approve the Scheme should represent:

- (i) a majority in number of those Fyffes Shareholders at the Voting Record Time present and voting in person or by proxy; and
- (ii) three-fourths in value of the Fyffes Shares held by those Fyffes Shareholders at the Voting Record Time present and voting in person or by proxy.

Under Chapter 1, Part 9 of the Act the Fyffes Shares which are registered in the name of each of the trustees of the Fyffes STIP, Fyffes APSS or Fyffes SIP will be counted as being held by one member only for the purposes of the voting threshold referred to in (i) above.

It is important that as many votes as possible are cast at the First Scheme Meeting so that the High Court may be satisfied that there was a fair representation of Fyffes Shareholder opinion. You are therefore encouraged to sign and return the enclosed Form of Proxy or Form of Direction, as the case may be, for the First Scheme Meeting as soon as possible.

(b) ***Second Scheme Meeting***

The Sumitomo Class Shareholders will not be entitled to vote any Sumitomo Class Shares at the First Scheme Meeting. The approval of such Sumitomo Class Shareholders will be sought at the Second Scheme Meeting to be held at the same venue as the First Scheme Meeting at 10.10 am on 16 January 2017 (or, if later, as soon as the First Scheme Meeting has concluded or has been adjourned). The approval required at the Second Scheme Meeting is that those voting to approve the Scheme should represent:

- (iii) a majority in number of those Sumitomo Class Shareholders at the Voting Record Time present and voting in person or by proxy; and
- (iv) three-fourths in value of the Sumitomo Class Shares held by those Sumitomo Class Shareholders at the Voting Record Time present and voting in person or by proxy.

The Scheme is conditional on approval of the Scheme at the Second Scheme Meeting. However, provided that there has been no breach of the terms and conditions of the Acquisition and the Scheme, as set out in full in Part V of this document, by the time of the Second Scheme Meeting, Sumitomo has undertaken to procure that the Scheme is approved at the Second Scheme Meeting.

(c) ***Extraordinary General Meeting***

In addition to the Scheme Meetings, the EGM has been convened for the same date at 10.25 am (or, if later, as soon thereafter as the Second Scheme Meeting is concluded or adjourned) to consider and, if thought fit, pass the following resolutions (which in the case of special resolutions require a vote in favour of not less than 75 %, of the votes cast and in respect of ordinary resolutions require in excess of 50 %, of the votes cast):

**Resolution 1 – Special Resolution**

To approve the cancellation of Fyffes Shares pursuant to the Scheme;

**Resolution 2 – Ordinary Resolution**

To authorise the directors of Fyffes to issue relevant securities pursuant to Section 1021 of the Act and to apply the reserve arising in the books upon the cancellation described above in paying up in full at par Fyffes Shares to be issued pursuant to the Scheme;

**Resolution 3 – Special Resolution**

To amend the Fyffes Articles to ensure that any Fyffes Shares issued under the Fyffes Share Option Scheme or otherwise after the amendment to the Fyffes Articles becomes effective and before 6.00 pm

on the last business day in Dublin or London, whichever is later, before the Hearing Date will be subject to the Scheme.

To amend the Fyffes Articles so that any Fyffes Shares issued to any person (other than to Bidco or a member of the Sumitomo Group) on or after 6.00 pm on the last business day in Dublin or London, whichever is later, before the Hearing Date will automatically be transferred to Bidco and/or its nominees for cash on the same terms as under the Scheme.

These amendments will ensure, assuming the Scheme becomes effective, that no Fyffes Shareholder (other than Bidco or another member of the Sumitomo Group) will hold Fyffes Shares after dealings in such shares have ceased on the Irish Stock Exchange and the London Stock Exchange (which will occur at the close of business on the business day before the Effective Date).

#### **Resolution 4 – Ordinary Resolution**

To authorise the Management Incentive Arrangements in accordance with Rule 16 of the Takeover Rules. This resolution will be voted on by way of a poll. Under Rule 16.2(b)(iii) of the Takeover Rules, any Fyffes Shareholders participating in the arrangements, as well as any other Fyffes Shareholders who are not regarded by the Takeover Panel as independent, will not be eligible to vote on the resolution.

##### **(d) *Forms of Proxy/Forms of Direction***

Fyffes Shareholders are strongly urged to complete and return their Forms of Proxy or Forms of Direction, as the case may be, as soon as possible. Fyffes Shareholders (other than Sumitomo Class Shareholders) who hold their Fyffes Shares in their own name have been sent a YELLOW Form of Proxy for the First Scheme Meeting.

Sumitomo Class Shareholders have been sent a PURPLE Form of Proxy for the Second Scheme Meeting.

All Fyffes Shareholders who hold their Fyffes Shares in their own name have been sent a PINK Form of Proxy for the EGM.

Participants in the Fyffes STIP, Fyffes APSS and Fyffes SIP have been sent a GREEN Form of Direction for the First Scheme Meeting and a BLUE Form of Direction for the EGM.

##### **(e) *Court Hearing***

Subject to the approval of the Resolutions, it is expected that the Court Hearing will be held in the first quarter of 2017 subject to the discretion of the High Court, although this will be subject to the receipt of all necessary regulatory approvals and satisfaction of the Conditions. All Fyffes Shareholders are entitled to attend the Court Hearing in person or to be represented by counsel or a solicitor at their own expense to support or oppose the sanctioning of the Scheme.

#### **4. Structure of the Scheme**

It is proposed that, under the Scheme, all the relevant Fyffes Shares in issue prior to the Voting Record Time will be cancelled pursuant to Article 49 of the Fyffes Articles and Section 84 of the Act. Any further Fyffes Shares issued before 6.00 pm on the last business day in Dublin or London, whichever is later, before the Hearing Date and in respect of which the holders are or have consented to be bound by the Scheme (by virtue of the Fyffes Articles as amended from time to time or otherwise) will also be cancelled. The holders of such shares at the Scheme Record Time (that is, 6.00 pm on the last business day in Dublin or London, whichever is later, prior to the Effective Date) will receive cash on the basis set out in paragraph 2 above. New Fyffes Shares will be issued by Fyffes to Bidco by the capitalisation of the reserve arising from the cancellation of the Fyffes Shares so that Fyffes becomes a wholly-owned subsidiary of Sumitomo.

Fyffes Shares issued at or after 6.00 pm on the last business day in Dublin or London, whichever is later, before the Hearing Date will not be subject to the Scheme. Accordingly, it is proposed that the Fyffes Articles

be amended as described in paragraph 3 above so that any Fyffes Shares issued on or after 6.00 pm on the last business day in Dublin or London, whichever is later, before the Hearing Date (other than to a member of the Sumitomo Group) will be automatically transferred to Bidco and/or its nominees for cash on the same terms as under the Scheme.

It is expected that the Scheme will, subject to obtaining the necessary Clearances, become effective and that the Acquisition will complete in the first quarter of 2017. The Scheme can only become effective if all the Conditions to which the Scheme is subject have been satisfied or waived by no later than the End Date or such later date, if any, as Fyffes and Sumitomo may agree and the High Court may allow. The Scheme shall become effective on delivery to the Registrar of the Court Order together with the minute required by Section 86 of the Act confirming the Reduction of Capital to take place in connection with the Acquisition and the Reduction of Capital becomes effective upon the registration of the Court Order and minute by the Registrar. Once the Scheme becomes effective, the terms will be binding on all Fyffes Shareholders including those who did not vote, or who voted against it, at the Scheme Meetings.

## **5. Modifications to the Scheme**

The Scheme contains a provision for Sumitomo and Fyffes jointly to consent on behalf of all concerned to any modifications, additions or conditions to the Scheme which the Court may think fit to approve or impose. The Court would be unlikely to approve of, or impose, any modifications, additions or conditions to the Scheme which might be material to the interests of Fyffes Shareholders unless Fyffes Shareholders were informed of any such modification, addition or condition. It would be a matter for the Court to decide, in its discretion, whether or not a further meeting of Fyffes Shareholders should be held. Similarly, if a modification, addition or condition is put forward which, in the opinion of the directors of Fyffes, is of such a nature or importance as to require the consent of Fyffes Shareholders at a further meeting, the directors of Fyffes will not take the necessary steps to make the Scheme Effective unless and until such consent is obtained.

## **6. Alternative means of implementing the Acquisition**

Sumitomo reserves the right to elect, as it may determine in its absolute discretion (as further described in Part V of this document) for the Acquisition to be implemented by way of an Offer with (where necessary) the consent of the Takeover Panel. In this event, the Offer will be implemented on the same terms, so far as applicable, as those which would apply to the Scheme subject to appropriate amendments, including (without limitation) an acceptance condition set at 80% (or such lesser percentage, being more than 50%, as Sumitomo may decide and/or the Panel may require). If Sumitomo does elect to implement the Acquisition by way of an Offer, and if sufficient acceptances of such Offer are received and/or sufficient Fyffes Shares are otherwise acquired, it is the intention of Sumitomo to apply the provisions of section 457 of the Act to acquire compulsorily any outstanding Fyffes Shares to which such Acquisition relates.

## **7. Irrevocable Commitments**

Sumitomo and Bidco have received irrevocable undertakings from each of the directors of Fyffes to vote in favour of the Scheme at the Scheme Meeting and each of the EGM Resolutions to be proposed at the Extraordinary General Meeting in respect of their own beneficial holdings of, in aggregate, 3,948,981 Fyffes Shares, which represent, in aggregate, approximately 1.20% of the issued share capital of Fyffes as at 8 December 2016 (being the last practicable date prior to the Announcement).

In aggregate with the irrevocable undertakings received from the directors of Fyffes, Sumitomo and Bidco have also received irrevocable undertakings and other commitments from other Fyffes Shareholders that represent approximately 27.21% of the issued share capital of Fyffes on 8 December 2016 (being the last practicable date prior to the Announcement). Further details of these irrevocable undertakings and commitments are set out in paragraph 3 in Part II of this document.

## **8. Acquisition-related Agreements**

### **(a) Transaction Agreement**

Fyffes entered into a transaction agreement with, amongst other parties, Sumitomo, which contains certain assurances in relation to the implementation of the Scheme and other matters related to the Acquisition. Further details regarding the transaction agreement are set out at page 59 of this document.

### **(b) Confidentiality Agreement**

Sumitomo and Fyffes entered into a confidentiality agreement on 23 November 2016 pursuant to which Sumitomo has undertaken to keep confidential information relating to Fyffes and not to disclose it to third parties (other than to permitted recipients) unless required by law or regulation or permitted pursuant to other limited carve-outs to the obligations of confidentiality.

### **(c) Expenses Reimbursement Agreement**

Fyffes entered into an expenses reimbursement agreement with Sumitomo in connection with the Acquisition. Further details regarding the expenses reimbursement agreement are set out at page 59 of this document.

## **9. Background to and reasons for recommending the Acquisition**

The acquisition price of €2.23 per Fyffes Share provides the opportunity for Fyffes Shareholders to crystallise significant value on their Fyffes investment. In addition, Fyffes Shareholders will be paid a final dividend in respect of calendar year 2016 by Fyffes of €0.02 per share in cash, bringing the total amount to be received by Fyffes Shareholders to €2.25 per Fyffes Share in cash. The final dividend will be paid to Fyffes Shareholders on the earlier of the Scheme Payment Date or 1 May 2017. In the opinion of the Fyffes Board this represents a very attractive price for Fyffes Shareholders.

Fyffes is a leading international grower, importer and distributor of top quality, healthy produce. With annual turnover in excess of €1.2 billion it is headquartered in Dublin, Ireland with operations in Europe, the US, Canada, Central America, South America and Asia. Fyffes' activities include the production, procurement, shipping, ripening, distribution and marketing of bananas, pineapples, melons and mushrooms. It markets its produce under a variety of very well-known brands including Fyffes®, Sol®, Turbana®, Hoya®, Highline® and All Seasons® and employs in excess of 17,000 people worldwide.

Sumitomo is a leading global trading company with 109 locations in 66 countries. The entire Sumitomo Group consists of over 800 companies and more than 65,000 personnel, creating a publicly traded company with a market capitalisation of c.US\$15 billion with c.US\$8 billion in cash on balance sheet as at fiscal year end on 31 March 2016. Sumitomo has been active in the banana industry since the 1960s and is the market leader in Asia with a fully integrated business model with interests ranging from plantation operations in the Philippines to retail distribution across the Asian region. Currently, the Sumitomo Group imports approximately 30% of the bananas into the Japanese market.

The Acquisition will further enhance Sumitomo's position as one of the most globally diverse companies across sectors, while expanding the global reach of its produce division into new regions and end-markets. Sumitomo believes that this combination creates a compelling platform to further penetrate existing markets, as well as providing access to new markets to expand the reach of Fyffes' distribution.

As a result of the Acquisition, the enlarged Sumitomo will have enhanced scale and portfolio diversity, providing it with a substantially greater ability to deliver a wider scope of produce more efficiently to its customers around the world.

Sumitomo has been active in the banana industry since the 1960s and is the market leader in Asia with a fully integrated business model with interests ranging from plantation operations in the Philippines to retail distribution across the Asian region. Fyffes' range of global activities that include the production, procurement, shipping, ripening, distribution and marketing of bananas, pineapples, melons and mushrooms



is highly complementary to Sumitomo's worldwide operations and further diversifies its product portfolio within the produce division.

## **10. Management and employees**

Sumitomo intends to retain the existing Fyffes management structure post Completion. Sumitomo confirms that, where employees of Fyffes have existing compensation, employment, severance, change of control and similar rights or agreements, including pension rights, under applicable laws, those rights and agreements will be safeguarded following the Scheme becoming Effective.

The current non-executive directors of Fyffes will resign from Fyffes on or after the Effective Date.

The parties have agreed certain incentive arrangements in respect of certain key employees as follows:

- certain members of Fyffes management will be eligible for a 2017 year end bonus payment in the same magnitude of the year end bonus paid to the relevant person in 2016. This will amount to a maximum aggregate payment of €1,114,082 in respect of the executive directors of Fyffes;
- executives who participate in the Fyffes STIP will be eligible for a 2017 cash payment that is not less than the value of the 2016 Fyffes STIP payment received by the relevant person in respect of 2016. This will amount to a maximum aggregate payment of €1,114,082 in respect of the executive directors of Fyffes;
- in recognition of and consideration for completing the Acquisition, a once off bonus pool of €1,500,000 will be set aside by Fyffes to be apportioned among certain employees as determined by the Chairman of Fyffes. The amount which may be payable to the executive directors of Fyffes will not exceed €750,000, in aggregate; and
- Sumitomo has also agreed that Fyffes may write to a limited number of relevant employees in order to confirm the severance terms that would apply in the event that their employment were to be terminated within a limited period following the Acquisition for any reason other than cause or resignation.

Each of the incentive arrangements is conditional on the continued employment of the eligible employee for a certain period of time, provided that in the event of an employee's death (and in the case of the bonus pool, redundancy), a pro-rata portion (or in the case of the bonus pool, the entire amount) of the incentive will be payable.

In accordance with Rule 16.2(a) of the Takeover Rules, we, Lazard and Davy Corporate Finance, as financial advisers to Fyffes, confirm that we consider that the incentive arrangements set out in this paragraph 10 are fair and reasonable so far as Fyffes Shareholders are concerned.

## **11. Fyffes share schemes**

### ***2007 Share Option Scheme***

Fyffes Options which have vested and are exercisable before, and are outstanding at, the Effective Date will remain exercisable for a period of 30 days following the Effective Date. Unvested Fyffes Options which are outstanding at the Effective Date will accelerate, become exercisable on the Effective Date and remain exercisable for a period of 30 days following the Effective Date. Fyffes Options which are not exercised within the period of 30 days following the Effective Date will lapse.

Fyffes Optionholders will receive details of how they can exercise their options in due course and Fyffes Optionholders may wish to await receipt of these details before taking any action with regard to their Fyffes Options.

### ***Other Fyffes Group Share Schemes***

Fyffes Shares which are held by participants in the Fyffes STIP, the Fyffes APSS and Fyffes SIP will be subject to the Acquisition. Participants in such plans can expect to receive details from the trustees of such

plans setting out how they may give instructions regarding the voting of their Fyffes Shares at the Scheme Meeting and the EGM.

## **12. Approval of Incentive Arrangements for Management and Senior Executives**

The Acquisition will result in the early termination of the Fyffes Group Shares Schemes in a way that will result in participants having to pay more Irish income tax and PRSI than they would have expected to pay if the Acquisition had not occurred. In order to ensure that it will have the resources of the key Fyffes management and senior executives available to it for at least 12 months following Completion in the key integration period, Sumitomo has therefore offered a management incentive and retention proposal which would involve the reimbursement of certain discharged tax obligations of individual participants in the Fyffes Group Share Schemes by Sumitomo directly (or alternatively Sumitomo will procure that post the Acquisition its wholly owned subsidiary, formerly Fyffes, will make such repayments) to ensure that such employees remaining in service of Fyffes post the Acquisition do not receive lower net remuneration than they would have received if Fyffes had remained an independent company.

The payments will be made in two tranches over a period of 12 months with the first such tranche being paid no earlier than 6 months after Completion and the balance to be paid no later than 12 months after Completion. Both such payments will be made subject to the relevant employees remaining employed by Fyffes at the time of payment. No payment will be made if an employee resigns or is dismissed for cause before a tranche is to be paid. If an employee to whom the first 50% payment of the Management Incentive Arrangements has been paid resigns or is dismissed for cause within 12 months of Completion, the employee concerned shall be required to repay to Fyffes the Management Incentive Arrangements received by that employee. An employee will be entitled to the Management Incentive Arrangements if he or she is made redundant or ceases to be employed on account of ill-health or death. If an employee eligible for the Management Incentive Arrangements is made redundant or leaves employment due to ill health on or after Completion but prior to either of the payment dates, then the amount remaining outstanding at that time shall be paid to the employee on the last day of their employment. For the avoidance of doubt, if prior to the first anniversary of the Completion an employee resigns or is dismissed for cause after receipt of the first tranche of the payment, that payment will be subject to clawback from the relevant employee and the second tranche will not be payable. The maximum aggregate amount of the discharged tax obligations which are intended to be reimbursed by these arrangements is estimated to be no more than €4,253,020, of which €3,299,298 is the aggregate amount that would be reimbursable in respect of the executive directors of Fyffes.

For the arrangements to be implemented it will be necessary for an ordinary resolution to be approved at the EGM under Rule 16.2(b)(i) of the Takeover Rules. Under Rule 16.2(b)(iii) of the Takeover Rules, any Fyffes Shareholders participating in the arrangements will not be eligible to vote on the resolution. This resolution will be voted on by way of a poll.

In accordance with Rule 16.2(a) of the Takeover Rules, we, Lazard and Davy Corporate Finance, as financial advisers to Fyffes, confirm that we consider that the proposed Management Incentive Arrangements are fair and reasonable so far as Fyffes Shareholders are concerned.

## **13. The directors of Fyffes and the effect of the Scheme on their interests**

The interests of the directors of Fyffes in the share capital of Fyffes and in the Fyffes Group Share Schemes are set out in paragraph 3 of Part VII of this document.

The directors of Fyffes who hold options under the Fyffes Share Option Scheme will be treated in the manner set out in paragraph 11 of this Explanatory Statement.

Particulars of the service contracts and letters of appointment of the directors of Fyffes are set out in paragraph 5 of Part VII of this document. No amendments to such service contracts or letters of appointment have been agreed in connection with the Acquisition.

The executive directors of Fyffes are eligible to participate in the incentive and management retention arrangements described in paragraphs 10 and 12 of Part III of this document.



Each of the directors of Fyffes who beneficially owns or controls and can procure the voting of Fyffes Shares has irrevocably undertaken to vote his Fyffes Shares and any Fyffes Shares he acquires under the Fyffes Group Share Schemes in favour of the Scheme at the First Scheme Meeting and the EGM (except that the executive directors of Fyffes have undertaken to vote only on the EGM Resolutions at the EGM). Further details of these irrevocable undertakings are set out in paragraph 7 of Part III of this document.

Save as described above or otherwise in this document, the effect of the Scheme on the interests of the directors of Fyffes does not differ from its effect on the like interests of other persons.

#### **14. Settlement, listing and dealings**

An application has been made to the Irish Stock Exchange and the London Stock Exchange to cancel the admission of the Fyffes Shares to trading on ESM and AIM respectively, with effect from the Effective Date, if the Scheme is sanctioned by the High Court.

It is intended that application will be made for the dealing in Fyffes Shares on AIM and ESM to be suspended on or around the date of the Court Hearing, if necessary.

As a consequence of Fyffes Shareholders approving the Scheme, Fyffes will be cancelled from AIM and ESM.

No transfers of Fyffes Shares (other than transfers to Bidco or any members of the Sumitomo Group) will be registered after the Scheme Record Time. Upon the Scheme becoming effective, share certificates in respect of Fyffes Shares that have been cancelled will cease to be of value and should, if so requested by Fyffes or its agents, be sent to Fyffes for cancellation.

Subject to the Scheme becoming effective, payment of the consideration to which any Fyffes Shareholder is entitled under the Acquisition will be made within 14 days of the Effective Date in the manner set out below.

Following the Effective Date, it is intended that Fyffes will be re-registered as a private company limited by shares.

##### **(a) *Fyffes Shares in uncertificated form (CREST)***

Where, at the Scheme Record Time, a Fyffes Shareholder holds Fyffes Shares in uncertificated form, the cash to which such Fyffes Shareholder is entitled will be paid in euro (€) by means of CREST by Sumitomo procuring the creation of an assured payment obligation in favour of the relevant Fyffes Shareholder's payment bank in respect of the cash consideration due, in accordance with the CREST assured payment arrangements. Any Fyffes Shareholders who have mandates in force relating to the payment of dividends or other distributions or who have given other instructions to Fyffes will be paid in accordance with such existing mandates unless notice of the revocation of such instructions is received by the Registrars prior to the Scheme Record Time. Sumitomo reserves the right to settle all or any part of the consideration referred to in this paragraph 14(a) for all or any accepting Fyffes Shareholder(s) in the manner referred to in paragraph 14(b) below, if, for any reason, it wishes to so do.

##### **(b) *Fyffes Shares in certificated form***

Where, at the Scheme Record Time, a Fyffes Shareholder holds Fyffes Shares in certificated form, payment of any cash due will be despatched by ordinary prepaid post (or by such other manner as the Panel may approve). Such cash payments will be made in euro (€) by cheque drawn on a branch of an Irish clearing bank. Any Fyffes Shareholders who have mandates in force relating to the payment of dividends or other distributions or who have given other instructions to Fyffes will be paid in accordance with such existing mandates unless notice of the revocation of such instructions is received by the Registrars prior to the Scheme Record Time.

(c) ***Participants in the Fyffes Group Share Schemes***

Settlement of any cash due will be paid by Sumitomo to the trustees of the Fyffes STIP, Fyffes APSS, or Fyffes SIP (as applicable) and the trustees of the Fyffes STIP, Fyffes APSS, or Fyffes SIP (as applicable) will forward this cash to the address which appears in the trustees' records for the relevant participant by ordinary prepaid post (or by such other manner as the Panel may approve). Such cash payments will be made in euro (€) by cheque drawn on a branch of an Irish clearing bank. Any Fyffes Shareholders who have mandates in force relating to the payment of dividends or other distributions or who have given other instructions to the trustees will be paid in accordance with such existing mandates unless notice of the revocation of such instructions is received by the Registrars prior to the Scheme Record Time.

(d) ***General***

Except with the consent of the Panel, settlement of the consideration to which any Fyffes Shareholder is entitled under the Acquisition will be implemented in full in accordance with the terms of the Acquisition without regard to any lien, right of set-off, counterclaim or other analogous right.

All documents and remittances sent to Fyffes Shareholders (or in accordance with their directions) will be despatched at their own risk.

**15. Overseas shareholders**

As regards persons resident in, or citizens of, jurisdictions outside Ireland or the United Kingdom (“**overseas shareholders**”), the Acquisition may be affected by the laws of the relevant jurisdictions. Such overseas shareholders should inform themselves about and observe any applicable legal requirements. It is the responsibility of overseas shareholders to satisfy themselves as to the full observance of the laws of the relevant jurisdiction in connection therewith, including the obtaining of any governmental, exchange control or other consents which may be required, or the compliance with other necessary formalities which are required to be observed and the payment of any issue, transfer or other taxes due in such jurisdiction.

This recommended Acquisition by way of a Scheme of Arrangement under the Act is being proposed for securities of an Irish company, and non-Irish investors should be aware that this document has been prepared for the purposes of complying with Irish law, the Takeover Rules (to the extent applicable) and the AIM Rules and ESM Rules (to the extent applicable) and the information disclosed as well as the format and style of this document, may be different from that which would have been the case if this document had been prepared in accordance with the laws of the jurisdictions outside Ireland. In particular, this document contains information concerning the transaction required by Irish disclosure requirements which may be material and which have not been summarised elsewhere in this document.

Overseas shareholders are advised to consult their own tax advisers with respect to the application of taxation laws to their particular circumstances in relation to the Acquisition.

**16. Action to be taken**

It is important that as many votes as possible are cast at the First Scheme Meeting so that the High Court may be satisfied that there was a fair representation of Fyffes Shareholder opinion. You are therefore encouraged to sign and return the enclosed Forms of Proxy or Forms of Direction, as the case may be, as soon as possible and in any event so as to be received by Fyffes' Registrars, Computershare Investor Services (Ireland) Limited at Heron House, Corrig Road, Sandyford Industrial Estate, Dublin 18, Ireland as follows:

- Fyffes Shareholders (other than Sumitomo Class Shareholders) who hold their shares in their own name have been sent a YELLOW Form of Proxy for the First Scheme Meeting and a PINK Form of Proxy for the EGM. These should be signed and returned so as to be received no later than 10 am and 10.25 am, respectively, on 14 January 2017. The YELLOW Form of Proxy for the First Scheme Meeting (but NOT the PINK Form of Proxy for the EGM) may also be handed to the Chairman of the First Scheme Meeting before the start of the meeting on 16 January 2017 and will still be valid.

- Sumitomo Class Shareholders have been sent a PURPLE Form of Proxy for the Second Scheme Meeting and a PINK Form of Proxy for the EGM. These should be signed and returned so as to be received no later than 10.10 am and 10.25 am, respectively, on 14 January 2017. The PURPLE Form of Proxy for the Second Scheme Meeting (but NOT the PINK Form of Proxy for the EGM) may also be handed to the Chairman of the Second Scheme Meeting before the start of the meeting on 16 January 2017 and will still be valid.
- Participants in the Fyffes STIP, Fyffes APSS and Fyffes SIP have been sent a GREEN Form of Direction for the First Scheme Meeting and a BLUE Form of Direction for the EGM. These should be signed and returned so as to be received no later than 10 am on 13 January 2017.

If you hold your Fyffes Shares in your own name, the completion and return of a Form of Proxy either for the relevant Scheme Meeting or for the EGM will not prevent you from attending and voting at either meeting (or any adjournment thereof) in person if you wish to do so. If you wish to amend or revoke your Forms of Proxy after you have returned them to the Registrars, you should contact the Registrars at the address given above.

If you are a participant in the Fyffes STIP, Fyffes APSS or Fyffes SIP, unless you hold other Fyffes Shares in your own name, you will not be entitled to attend any of the Meetings.

### **17. Voting via the Internet**

Alternatively, you may submit your proxy via the internet by accessing the Registrars' website [www.eproxyappointment.com](http://www.eproxyappointment.com). To log in you will require your control number, shareholder reference number (SRN) and unique PIN which you will find printed at the top of the Forms of Proxy or the Forms of Direction that you have been sent with this document. The PINs will expire at the same time as the deadline for receipt of the relevant Forms of Proxy or Forms of Direction, as the case may be.

If you would like any further help completing the Forms of Proxy or Forms of Direction, as the case may be, please contact Fyffes' Registrars, Computershare Investor Services (Ireland) Limited, on +353 1 431 9826 between 9.00 am and 5.00 pm Monday to Friday (other than bank holidays in Ireland). For legal reasons, the Registrars will not be able to provide advice on the merits of the Acquisition itself or give financial or tax advice.

### **18. Further information**

Your attention is drawn to the conditions and further terms of the Acquisition set out in the remaining parts of this document all of which form part of this document.

Yours faithfully

for and on behalf of  
Lazard

**Tim George**  
*Managing Director*

for and on behalf of  
Davy Corporate Finance

**Ivan Murphy**  
*Managing Director*

## Part IV – The Scheme of Arrangement

THE HIGH COURT

IN THE MATTER OF FYFFES PLC AND IN THE MATTER OF THE COMPANIES ACT 2014

SCHEME OF ARRANGEMENT (UNDER CHAPTER 1, PART 9 OF THE COMPANIES ACT 2014)

BETWEEN FYFFES PLC AND

THE HOLDERS OF THE SCHEME SHARES (AS HEREINAFTER DEFINED)

### PRELIMINARY

(A) In this Scheme, unless inconsistent with the subject or context, the following expressions bear the following meanings:

<b>“2007 Share Option Scheme”</b> or <b>“Fyffes Share Option Scheme”</b>	the Fyffes 2007 Share Option Scheme;
<b>“Acquisition”</b>	the proposed acquisition by Bidco of Fyffes by means of the Scheme or the Takeover Offer (and any such Scheme or Takeover Offer as it may be revised, amended or extended from time to time) pursuant to the Transaction Agreement (whether by way of the Scheme or the Takeover Offer in accordance with the terms of the Transaction Agreement) (including the payment by Bidco of the aggregate Consideration pursuant to the Scheme or the Takeover Offer), as described in the 2.5 Announcement and provided for in the Transaction Agreement;
<b>“Act”</b>	the Companies Act 2014, as amended;
<b>“AIM”</b>	the Alternative Investment Market of the London Stock Exchange plc;
<b>“AIM Rules”</b>	the AIM Rules published by the London Stock Exchange plc as in force from time to time;
<b>“Announcement”</b> or <b>“2.5 Announcement”</b>	the joint announcement by Fyffes and Sumitomo of the Acquisition on 9 December 2016;
<b>“Bidco”</b>	Swordus Ireland Holding Limited a private limited liability company incorporated in Ireland, having its registered office as A&L Goodbody, 25-28 North Wall Quay, Dublin 1, D01 H104, Ireland;
<b>“Business Day”</b>	a day on which the Irish Stock Exchange and London Stock Exchange are open for the transaction of business;
<b>“Cancellation Record Time”</b>	11:59 pm (Irish time) on the day before the High Court hearing to sanction the Scheme;
<b>“Cancellation Shares”</b>	any Fyffes Shares in issue before the Cancellation Record Time, but excluding, in any case, the Transfer Shares and the Excluded Shares;
<b>“Circular”</b>	the document dated 20 December 2016 sent by Fyffes to Fyffes Shareholders (and for information only, to Fyffes Equity Award Holders) of which this Scheme forms part;

<b>“Clearances”</b>	means all consents, clearances, permissions and waivers that need to be obtained all applications and filings that need to be made and all waiting periods that may need to have expired, from or under the Laws, regulations or practices applied by any Relevant Authority in connection with the implementation of the Scheme and/or the Acquisition and, in each case, that constitute Conditions and any reference to Conditions having been “satisfied” shall be construed as meaning that the foregoing have been obtained, or where appropriate, made or expired in accordance with the relevant Condition;
<b>“Conditions”</b>	the conditions to the Scheme and the Acquisition set out in Part V of the scheme circular, and <b>“Condition”</b> means any one of the Conditions;
<b>“Consideration”</b>	the cash consideration of €2.23 per Fyffes Share payable to Fyffes Shareholders for each Fyffes Share cancelled or transferred pursuant to the Scheme;
<b>“Court Order”</b>	the order or orders of the High Court sanctioning the Scheme under Chapter 1, Part 9 of the Act and confirming the Reduction of Capital;
<b>“CREST”</b>	the relevant system (as defined in the CREST Regulations) in respect of which EUI is the Operator (as defined in the CREST Regulations);
<b>“CREST Regulations”</b>	the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996 (SI No. 68 of 1996 of Ireland), as from time to time amended;
<b>“Effective Date”</b>	the date on which this Scheme becomes effective in accordance with its terms;
<b>“End Date”</b>	means 30 June 2017 unless Fyffes shall have terminated the Transaction Agreement in accordance with Clause 10.1.2 of the Transaction Agreement because Clearances have not been obtained by 15 May 2017, in which case the date shall be the date of such termination;
<b>“EGM Resolutions”</b>	the resolutions to be proposed at the EGM for the purposes of approving and implementing the Scheme, the Reduction of Capital, changes to the articles of association of Fyffes and such other matters as Fyffes reasonably determines to be necessary for the purposes of implementing the Acquisition as have been approved by Sumitomo or, subject to the consent of Sumitomo (such consent not to be unreasonably withheld, conditioned or delayed), desirable for the purposes of implementing the Acquisition, but excluding the Management Incentive Resolution;
<b>“ESM”</b>	the Enterprise Securities Market operated by the Irish Stock Exchange;
<b>“ESM Rules”</b>	the ESM Rules for companies published by the Irish Stock Exchange as in force from time to time;
<b>“EUI”</b>	Euroclear UK & Ireland, Limited;

<b>“Excluded Shares”</b>	any Fyffes Shares (i) registered in the name of, or beneficially owned by, Sumitomo, Bidco; (ii) any other member of the Sumitomo Group; and (iii) Treasury Shares;
<b>“Extraordinary General Meeting” or “EGM”</b>	the extraordinary general meeting of the Fyffes Shareholders (and any adjournment thereof) to be convened in connection with the Scheme, expected to be held as soon as the preceding Scheme Meeting shall have been concluded or adjourned (it being understood that if the Scheme Meeting is adjourned, the EGM shall be correspondingly adjourned);
<b>“Forms of Proxy”</b>	the Form of Proxy for the Scheme Meeting, and the Form of Proxy for the EGM, as the context may require;
<b>“Fyffes”</b>	Fyffes plc incorporated in Ireland with registered number 73342 and having its registered address at 29 North Anne Street, Dublin 7, Ireland;
<b>“Fyffes Equity Award Holders”</b>	the holders of Fyffes Options and/or Fyffes Share Awards;
<b>“Fyffes Option”</b>	an option to subscribe for Fyffes Shares;
<b>“Fyffes Share Award”</b>	any award denominated in Fyffes Shares, other than a Fyffes Option;
<b>“Fyffes Shareholders”</b>	the holders of Fyffes Shares which, in relation to the First Scheme Meeting, shall exclude the Sumitomo Class Shareholders;
<b>“Fyffes Shares”</b>	the ordinary shares of €0.06 each in the capital of Fyffes;
<b>“High Court”</b>	the High Court of Ireland;
<b>“Holder”</b>	in relation to any Fyffes Share, the Member whose name is entered in the Register of Members as the holder of the share, and “Joint Holders” shall mean the Members whose names are entered in the Register of Members as the joint holders of the share, and includes any person(s) entitled by transmission;
<b>“Irish Stock Exchange”</b>	The Irish Stock Exchange plc;
<b>“Law”</b>	any federal, state, provincial, territorial, local, foreign or supranational law, statute, ordinance, rule, regulation and also any judgment, order, injunction, decree, agency requirement, license or permit of any Relevant Authority;
<b>“Management Incentive Arrangements”</b>	the management incentive arrangements described in paragraph 12 of Part III of this document;
<b>“Management Incentive Resolution”</b>	the ordinary resolution of Fyffes to be proposed at the EGM for the purpose of approving the Management Incentive Arrangements;
<b>“Members”</b>	members of Fyffes on its Register of Members at any relevant date (and each a “ <b>Member</b> ”);
<b>“New Fyffes Shares”</b>	the ordinary shares of €0.06 each in the capital of Fyffes to be issued credited as fully paid up to Bidco;
<b>“Panel” or “Takeover Panel”</b>	the Irish Takeover Panel established under the Takeover Panel Act, 1997 of Ireland;



<b>“Reduction of Capital”</b>	the reduction of the issued share capital of Fyffes by the cancellation of the Cancellation Shares to be effected as part of the Scheme as referred to in Clause 1 of this Scheme;
<b>“Register of Members”</b>	the register of members maintained by Fyffes pursuant to the Act;
<b>“Registrar”</b>	the Registrar of Companies in Dublin, Ireland;
<b>“Relevant Authority”</b>	any federal commission, board, body, bureau, or other regulatory authority or agency, including courts and other judicial bodies, or any competition, anti-trust or supervisory body or other governmental, regulatory agency or body or securities exchange including and instrumentality or entity designed to act for or on behalf of any of the foregoing, in each case, in any jurisdiction;
<b>“Restricted Jurisdiction”</b>	any jurisdiction in relation to which Fyffes is advised that the release, publication or distribution of the Circular or the related Forms of Proxy or the payment of the Consideration, would or might infringe the laws of that jurisdiction or would or might require compliance with any governmental or other consent or any registration, filing or other formality that Fyffes is unable to comply with or regards as unduly onerous to comply with;
<b>“Restricted Overseas Shareholder”</b>	a Fyffes Shareholder (including an individual, partnership, unincorporated syndicate, limited liability company, unincorporated organization, trust, trustee, executor, administrator or other legal representative) in, or resident in, or any Fyffes Shareholder whom Fyffes believes to be in, or resident in, a Restricted Jurisdiction;
<b>“Scheme” or “Scheme of Arrangement”</b>	the proposed scheme of arrangement under Chapter 1, Part 9 of the Act and the capital reduction under Sections 84 to 86 of the Act to effect the Acquisition pursuant to the Transaction Agreement, on the terms (including the Conditions) and for the Consideration and on such other terms and in such form not being inconsistent therewith as Fyffes, Sumitomo and Bidco mutually agree in writing, including any revision thereof as may be so agreed between Fyffes, Sumitomo and Bidco, with or subject to any modifications, additions or conditions approved or imposed by the High Court;
<b>“Scheme Meeting”</b>	the meeting or meetings of the Fyffes Shareholders (and any adjournment thereof) convened by the directors of Fyffes or by order of the High Court pursuant to Chapter 1, Part 9 of the Act to consider and vote on a resolution proposing that the Scheme (with or without modification) be agreed to;
<b>“Scheme Record Time”</b>	6.00 p.m. (Irish time) on the last business day in Dublin or London, whichever is later, before the Effective Date;
<b>“subsidiaries”</b>	has the same meaning as in Section 7 of the Act;
<b>“subsidiary undertaking” or “subsidiary”</b>	has the same meaning as in the Act;
<b>“Sumitomo Class Shareholders”</b>	the holders of Sumitomo Class Shares;
<b>“Sumitomo Class Shares”</b>	Fyffes Shares of which any member of the Sumitomo Group is a beneficial owner;
<b>“Scheme Shares”</b>	the Cancellation Shares and the Transfer Shares;

<b>“Sumitomo”</b>	Sumitomo Corporation, a company limited by shares, incorporated and domiciled in Japan having its registered office and principal place of business at 1-8-11 Harumi, Chuo-ku, Tokyo 104-8610, Japan;
<b>“Sumitomo Group”</b>	Sumitomo, any Subsidiary of Sumitomo (including Bidco), any Holding Company of Sumitomo and any Subsidiary of any such Holding Company;
<b>“Takeover Offer”</b>	an offer for the entire issued and to be issued share capital of Fyffes (other than any Fyffes Shares held by Sumitomo or any member of the Sumitomo Group, if any), not being a Scheme, including any amendment or revision thereto, the full terms of which would be set out in the Takeover Offer Document or (as the case may be) any revised offer document(s);
<b>“Takeover Offer Document”</b>	if following the date of the Transaction Agreement, Sumitomo elects to implement the Acquisition by way of Takeover Offer in accordance with Clause 3.6 of the Transaction Agreement, the document to be despatched to Fyffes Shareholders and others by Bidco or Sumitomo (or such other entity as it may elect) containing, amongst other things, the Takeover Offer, the Conditions (save insofar as not appropriate in the case of a Takeover Offer) and certain information about Sumitomo, Bidco and Fyffes and, where the context so admits, includes any form of acceptance, election, notice or other document reasonably required in connection with the Takeover Offer;
<b>“Takeover Rules”</b>	the Irish Takeover Panel Act, 1997, Takeover Rules, 2013, as amended;
<b>“Transaction Agreement”</b>	the transaction agreement entered into between Fyffes, Bidco and Sumitomo dated 8 December 2016 relating to, among other things, the implementation of the Acquisition as described in Part 1 (Letter of Recommendation from the Fyffes Board) of the scheme circular;
<b>“Transfer Shares”</b>	Fyffes Shares issued at or after the Cancellation Record Time and before the Scheme Record Time excluding, for the avoidance of doubt, the Excluded Shares;
<b>“Treasury Shares”</b>	any shares held in Fyffes by Fyffes and/or any of its subsidiaries;
<b>“Uncertificated” or “in uncertificated form”</b>	recorded on the relevant register of the share or security concerned as being held in uncertificated form in CREST and title to which may be transferred by means of CREST;

and references to Clauses are to Clauses of this Scheme.

- (B) The authorized share capital of Fyffes at the date of this Scheme is €45,000,000 divided into 750,000,000 ordinary shares of €0.06 each. As of 16 December 2016, 329,933,807 Fyffes Shares in the share capital of Fyffes (excluding Treasury Shares) have been issued and are credited as fully paid and the remainder are unissued.
- (C) As of 19 December 2016, Sumitomo (and/or its nominees) owned one Fyffes Share.
- (D) The purpose of the Scheme is to provide for the cancellation and transfer of the Scheme Shares in consideration for the payment by Bidco of the Consideration (without interest and less any applicable withholding taxes) to the Fyffes Shareholders.

- (E) Sumitomo and Bidco have agreed to appear by counsel on the hearing of the petition to sanction this Scheme and to submit thereto. Fyffes, Sumitomo and Bidco undertake to the High Court to be bound by and to execute and do and procure to be executed and done all such documents, acts and things as may be necessary or desirable to be executed or done by it or them for the purpose of giving effect to this Scheme.
- (F) Fyffes will cancel all Treasury Shares on or prior to the Effective Date in accordance with section 106 of the Act.

# THE SCHEME

## **1. Cancellation of the Cancellation Shares**

The issued but not the authorised capital of Fyffes shall be reduced by cancelling and extinguishing all of the Cancellation Shares, without thereby reducing the authorised share capital of Fyffes. As a result of the cancellation of the Cancellation Shares, the distributable reserves of Fyffes will be increased accordingly.

## **2. Acquisition of Transfer Shares**

Contingently upon and immediately following the cancellation of the Cancellation Shares becoming effective in accordance with the terms of this Scheme, Bidco shall automatically, and without any further action required, acquire the Transfer Shares (including the legal and beneficial interest therein) of each Holder appearing in the Register of Members at the Scheme Record Time as the Holder of Transfer Shares fully paid, free from all liens, equities, charges, encumbrances and other interests and together with all and any rights at the date of this Scheme or thereafter attached thereto including voting rights and the right to receive and retain in full all dividends and other distributions declared, paid or made thereon, on the Effective Date.

## **3. Capitalisation of Reserves**

Contingently upon and immediately following the registration of the Transfer Shares in the name of Bidco and subject to the Reduction of Capital taking effect, the distributable reserve arising in the books of account of Fyffes as a result of the cancellation of such Scheme Shares shall be capitalised and applied in paying up in full at par such number of New Fyffes Shares as shall be equal to the aggregate number of Cancellation Shares cancelled pursuant to Clause 1 which shall be allotted and issued credited as fully paid to Bidco. The New Fyffes Shares to be issued pursuant to this Scheme shall be issued credited as fully paid and free from all liens, charges, encumbrances, rights of pre-emption and any other third party rights of any nature whatsoever.

## **4. Consideration for the Cancellation Shares, the Transfer Shares and the Allotment of the New Fyffes Shares**

4.1 In consideration for the cancellation of the Cancellation Shares pursuant to Clause 1, the transfer of the Transfer Shares pursuant to Clause 2 and the allotment and issue of the New Fyffes Shares as provided in Clause 3, Bidco shall pay the Consideration (without interest and less any applicable withholding taxes) to each Holder appearing in the Register of Members at the Scheme Record Time as the Holder of Scheme Shares in accordance with the provisions of Clause 5 below.

4.2 Neither Sumitomo, Bidco nor Fyffes shall be liable to any holder of Scheme Shares for any cash payment or dividends or distributions with respect to Scheme Shares delivered to a public official in compliance with any abandoned property, escheat or law permitting attachment of money or property or similar law.

## **5. Settlement of Consideration**

5.1 Not later than 14 days after the Effective Date, Sumitomo shall:

- (a) in the case of Scheme Shares which at the Scheme Record Time are in certificated form, despatch or procure the despatch of to the persons entitled thereto, or as they may direct, in accordance with the provisions of Clause 5.2 of this Scheme, cheques drawn on an Irish clearing bank in euro for the sums payable to them, in accordance with Clause 4.1 of this Scheme; or
- (b) in the case of Scheme Shares which at the Scheme Record Time are in uncertificated form, ensure that an assured payment obligation in respect of the sums payable to the persons entitled thereto is created in accordance with the CREST assured payment arrangements, provided that

Sumitomo reserves the right to make payment of the said sums by cheque as aforesaid if, for any reason, it wishes to do so.

- 5.2 Except as provided in Clause 5.5 below, all despatches of cheques required to be made pursuant to this Scheme shall be effected by sending the same through the post in prepaid envelopes addressed to the persons entitled thereto at their respective registered addresses as appearing in the Register of Members of Fyffes at the Scheme Record Time (or, in the case of joint holders, at the registered address as appearing in the said register at such time of that one of the joint holders whose name then stands first in the said register in respect of such joint holding) or in accordance with any special instructions regarding communications, and neither Fyffes, Bidco nor Sumitomo shall be responsible for any loss or delay in the transmission of any cheques sent in accordance with this sub-clause, which shall be sent at the risk of the persons entitled thereto.
- 5.3 Except as provided in Clause 5.5 below, all cheques shall be made payable to the holder or, in the case of joint holders, to the first named holder of the Scheme Shares concerned and the despatch of any such cheque shall be a complete discharge to Fyffes, Bidco and Sumitomo of any obligations or liability under this Scheme.
- 5.4 The provisions of this Clause 5 shall take effect subject to any condition or prohibition imposed by law.
- 5.5 Each mandate in force on the Effective Date relating to the payment of dividends or other distributions on any Scheme Shares and other instructions given to Fyffes by holders of Scheme Shares shall, unless notice of revocation of such instructions is received by the Registrars prior to the Scheme Record Time, be deemed as from the Effective Date to be an effective mandate or instruction to Bidco to pay and despatch the consideration payable under Clause 4 in accordance with such mandate.

## **6. Certificates for Scheme Shares**

- 6.1 With effect from the Effective Date:
- (a) all certificates representing Scheme Shares shall cease to have effect as documents of title to the shares comprised therein and every holder thereof shall be bound at the request of Fyffes to deliver up such certificate(s) to Fyffes or as it may direct; and
  - (b) except for the assured payment obligations required to be made under Clause 5, EUI shall be instructed to disable the entitlements to Scheme Shares of holders of Scheme Shares in uncertificated form.

## **7. The Effective Date**

- 7.1 This Scheme shall become effective on delivery to the Registrar of the Court Order together with the minute required by Section 86 of the Act confirming the Reduction of Capital to take place in connection with the Acquisition and the Reduction of Capital becomes effective upon the registration of the Court Order and minute by the Registrar.
- 7.2 Unless the Scheme shall have become effective on or before the End Date or such earlier date as may be specified by the Panel, or such later date as Fyffes and Sumitomo may, with the consent of the Panel (if required) or in the High Court (if required), agree, it shall not proceed and all undertakings given to the Court in respect of the Scheme shall be deemed to have lapsed with immediate effect.

## **8. Modification**

Fyffes, Sumitomo and Bidco may jointly consent on behalf of all persons concerned to any modification of or addition to this Scheme or any condition which the High Court may approve or impose.

## **9. Costs**

Fyffes is authorised and permitted to pay all of the costs and expenses relating to the negotiation, preparation, approval and implementation of this Scheme.

## **10. Governing Law**

This Scheme is governed by Irish law and any dispute or claim arising out of or in connection with this Scheme is subject to the jurisdiction of Irish courts. The provisions of the Takeover Rules, the Irish Takeover Panel Act, 1997, the Act and the AIM Rules and the ESM Rules will (to the extent applicable) apply to this Scheme.

Dated 20 December 2016



## **Part V – Conditions to and further terms of the Acquisition and the Scheme**

The Acquisition and Scheme comply with the provisions of the Takeover Rules, the Irish Takeover Panel Act, 1997, the Act and the AIM Rules and the ESM Rules (to the extent applicable). The Acquisition and the Scheme are governed by Irish law and are subject to the exclusive jurisdiction of the High Court of Ireland.

The Acquisition is conditional upon the issue by the Registrar of Companies of a certificate of registration of the Court Order by not later than the End Date or such later date (if any) as Fyffes and Sumitomo may agree and the High Court may allow.

1. The Scheme is conditional upon:
  - (a) approval by a majority in number of the Fyffes Shareholders at the Voting Record Time, present and voting, either in person or by proxy representing three-fourths or more in value of the Fyffes Shares held by such holders, at the First Scheme Meeting;
  - (b) approval by a majority in number of the Sumitomo Class Shareholders at the Voting Record Time, present and voting, either in person or by proxy representing three-fourths or more in value of the Sumitomo Class Shares held by such holders, at the Second Scheme Meeting;
  - (c) the EGM Resolutions being duly passed by the requisite majority of Fyffes Shareholders and Sumitomo Class Shareholders at the Extraordinary General Meeting (or at any adjournment of such meeting) held no later than the End Date;
  - (d) the sanction by the High Court (with or without material modification), but subject to any such modification being acceptable to each of Sumitomo and Fyffes of the Scheme pursuant to Chapter 1 of Part 9 of the Act and the confirmation of the Reduction of Capital on or before the End Date; and
  - (e) office copies of the Court Order and the minute required by Section 86 of the Act in respect of the Reduction of Capital being delivered for registration to the Registrar of Companies and registration of the Court Order and minute confirming the Reduction of Capital by the Registrar of Companies.
2. Sumitomo and Fyffes have agreed that, subject as stated in paragraph 5 below, the Acquisition is also conditional upon the following matters having been satisfied or waived on or before the Sanction Date:
  - (a) to the extent that the Acquisition or its implementation constitutes a concentration within the scope of the EC Merger Regulation or is otherwise a concentration that is subject to the EC Merger Regulation, the European Commission deciding that it does not intend to initiate any proceedings under Article 6(1)(c) of the EC Merger Regulation in respect of the Acquisition or to refer the Acquisition (or any aspect of the Acquisition) to a competent authority of an EEA member state under Article 9(1) of the EC Merger Regulation or otherwise deciding that the Acquisition is compatible with the common market pursuant to Article 6(1)(b) of the EC Merger Regulation;
  - (b) all required Clearances shall have been obtained and remain in full force and effect and all applicable waiting periods shall have expired, lapsed or been terminated (as appropriate), in each case in connection with the Acquisition under relevant antitrust, competition or foreign investment laws.

### ***General Regulatory and Anti-Trust / Competition***

- (c) no (i) Law, (ii) injunction, restraint or prohibition by any court of competent jurisdiction or (iii) injunction, order, prohibition under any Antitrust Law or Antitrust Order by any Relevant Authority shall have been enacted or entered and shall continue to be in effect which would or

would reasonably be expected to (in any case to an extent or in a manner which is material in the context of, and adverse to, the Acquisition):

- (i) make the Acquisition or its implementation, or the acquisition or proposed acquisition by Bidco or any member of the Sumitomo Group of any shares or other securities in, or control or management of, Fyffes, or any of the material assets of Fyffes, void, illegal or unenforceable under the laws of any jurisdiction or otherwise, directly or indirectly, prevent, materially restrain, revoke, prohibit, materially restrict or materially delay the same or impose material additional or different conditions or obligations with respect thereto;
- (ii) result in a material delay in the ability of Bidco, or render Bidco unable, to acquire some or all of the Fyffes Shares or result in or affect any divestiture of, or requirement to hold separate (including by establishing a trust or otherwise), or agree to restrict in any material respect its ownership or operation of, any material portion of the business or assets of Fyffes, or to enter into any material adverse settlement or consent decree, or agree to any material adverse undertaking, with respect to any material portion of the business or assets of Fyffes;
- (iii) impose any limitation on or result in a material delay in the ability of Bidco or any member of the Sumitomo Group to acquire, or to hold or to exercise effectively, directly or indirectly, all or any rights of ownership of shares, Fyffes Shares, (or the equivalent) in, or to exercise voting or management control over, Fyffes or any material member of the Fyffes Group or on the ability of any member of the Fyffes Group to hold or exercise effectively, directly or indirectly, rights of ownership of shares (or the equivalent) in, or to exercise rights of voting or management control over, any material member of the Fyffes Group;
- (iv) require any member of the Sumitomo Group or any material member of the Fyffes Group to sell, divest, hold separate, or otherwise dispose of all or any material part of their respective businesses, operations, product lines or assets or property or to prevent or materially delay any of the above;
- (v) require the divestiture by any member of the Sumitomo Group or by any material member of the Fyffes Group of all or any material part of their respective businesses, assets or property or impose any material limitation on the ability of all or any of them to conduct their respective businesses (or any part thereof) or to own, control or manage any of their material assets or material properties (or any part thereof);
- (vi) require any member of the Sumitomo Group or any member of the Fyffes Group to acquire or offer to acquire any shares or other securities (or the equivalent) in, or any interest in any asset owned by, any member of the Fyffes Group or owned by any third party where the cost of doing so would be material in value terms in the context of the Fyffes Group taken as a whole;
- (vii) require, prevent or delay any divestiture, by any member of the Sumitomo Group of any Fyffes Shares or any other securities (or the equivalent) in Fyffes;
- (viii) except where the consequences thereof would not be material (in value terms or otherwise) in the context of the Fyffes Group taken as a whole, impose any limitation on the ability of Sumitomo or any member of its group to integrate or co-ordinate its business, or any part of it, with the businesses of any member of the Fyffes Group;
- (ix) result in any material member of the Fyffes Group ceasing to be able to carry on business in any jurisdiction in which it currently operates;

- (x) require any member of the Fyffes Group to relinquish, terminate or amend in any material way any material contract to which any member of the Fyffes Group or the Sumitomo Group is a party;
- (xi) cause any member of the Fyffes Group to cease to be entitled to any material authorisation, order, recognition, grant, consent, clearance, confirmation, licence, permission or approval used by it in the carrying on of its business in any jurisdiction in which it currently operates; or
- (xii) otherwise adversely affect the business, operations, profits, assets, liabilities, financial or trading position of any material member of the Fyffes Group;

***Certain matters arising as a result of any Arrangement, Agreement etc.***

- (d) except as Disclosed, there being no provision of any arrangement, agreement, licence, permit, authorisation, franchise, facility, lease or other instrument to which any member of the Fyffes Group is a party or by or to which any such member or any of its respective assets may be bound, entitled or subject and which, in consequence of the Acquisition or the proposed acquisition by any member of the Sumitomo Group of any shares or other securities (or the equivalent) in or control of Fyffes or any member of the Fyffes Group or because of a change in the control or management of any member of Fyffes or otherwise, would or would be reasonably expected to result in, in any such case to an extent which is material in value terms in the context of the Fyffes Group taken as a whole:
  - (i) any monies borrowed by, or any other indebtedness or liability (actual or contingent) of, or any grant available to any member of the Fyffes Group becoming payable, or becoming capable of being declared, repayable immediately or prior to their or its stated maturity, or the ability of any such member to borrow monies or incur any indebtedness being or becoming capable of being withdrawn or inhibited;
  - (ii) the creation, save in the ordinary course of business, or enforcement of any mortgage, charge or other security interest wherever existing or having arisen over the whole or any part of the business, property or assets of any member of the Fyffes Group or any such mortgage, charge or other security interest becoming enforceable;
  - (iii) the rights, liabilities, obligations, interests or business of any member of the Fyffes Group under any such arrangement, agreement, licence, permit, authorisation, franchise, facility, lease or other instrument or the rights, liabilities, obligations or interests or business of any member of the Fyffes Group in or with any other firm or company or body or person (or any agreement/arrangement or arrangements relating to any such business or interests) being terminated or adversely modified or affected or any onerous obligation or liability arising or any adverse action being taken thereunder;
  - (iv) any material assets or interests of, or any asset the use of which is enjoyed by, any member of the Fyffes Group being or falling to be disposed of or charged or ceasing to be available to any member of the Fyffes Group or any right arising under which any such asset or interest would be required to be disposed of or charged or would cease to be available to any member of the Fyffes Group otherwise than in the ordinary course of business;
  - (v) any member of the Fyffes Group ceasing to be able to carry on business in any jurisdiction in which it currently operates;
  - (vi) the value of, or the financial or trading position of any member of the Fyffes Group being prejudiced or adversely affected;

- (vii) the creation or acceleration of any liability or liabilities (actual or contingent) by any member of the Fyffes Group other than the creation of trade creditors or other liabilities incurred in the ordinary course of business;
- (viii) any material liability of any member of the Fyffes Group to make any severance, termination, bonus or other payment to any of the directors or other officers;

***Certain events occurring after the date of the 2.5 Announcement***

- (e) except as Disclosed, and save as permitted in accordance with the terms of the Transaction Agreement, no member of the Fyffes Group having since 31 December 2015:
  - (i) save as between Fyffes and wholly owned Subsidiaries of Fyffes and save for the issue of Fyffes Shares on the exercise of options granted under Fyffes Share Option Scheme issued, granted, conferred, or awarded or agreed to issue, grant, confer or award or authorised or proposed the issue of additional shares of any class, or any rights or securities convertible into or exchangeable for shares, or rights, warrants or options to subscribe for or acquire any such shares, securities or convertible securities;
  - (ii) recommended, announced, declared, paid or made or proposed to recommend, announce, declare, pay or make any bonus issue, dividend or other distribution (whether in cash or otherwise) save for any dividend declared prior to the Effective Date by any wholly owned Subsidiary of Fyffes;
  - (iii) save for transactions between Fyffes and its wholly owned Subsidiaries or between such wholly-owned Subsidiaries, merged with or demerged or acquired any body corporate, partnership or business or acquired or disposed of, or transferred, mortgaged or charged or created any security interest over, any material assets or any right, title or interest in any material asset (including shares and trade investments) or authorised, proposed or announced any intention to do so in each case which is material in the context of the Fyffes Group taken as a whole;
  - (iv) save as between Fyffes and its wholly owned Subsidiaries or between such wholly owned Subsidiaries, made, authorised, proposed or announced an intention to propose any change in its loan capital other than in the ordinary and usual course of carrying out its current banking activities;
  - (v) issued, authorised or proposed the issue of any loan capital or debentures, or (save as between Fyffes and its wholly owned Subsidiaries or between such wholly owned Subsidiaries) incurred or increased any indebtedness or contingent liability over and above existing facilities currently available to the Fyffes Group and/or any member of the Fyffes Group, in any such case otherwise than in a manner which is materially consistent with the business of the Fyffes Group being conducted in the ordinary and usual course;
  - (vi) entered into or varied or announced its intention to enter into or vary any contract, transaction, arrangement or commitment (whether in respect of capital expenditure or otherwise) (otherwise than in the ordinary and usual course of business) which is of a long term, unusual or onerous nature, or magnitude which is, in any such case, material in the context of the Fyffes Group taken as a whole or which would be materially restrictive on the business of any material member of the Fyffes Group or the Sumitomo Group;
  - (vii) except in the ordinary and usual course of business, entered into or materially improved, or made any offer (which remains open for acceptance) to enter into or improve, the terms of the employment contract with any director of Fyffes or any person occupying one of the senior executive positions in the Fyffes Group;
  - (viii) except in the ordinary and usual course of business, proposed, agreed to provide or modified the terms of any share option scheme, incentive scheme, or other benefit relating to the employment or termination of employment of any employee of the Fyffes

Group, which in any such case would be material in the context of the incentive schemes operated by the Fyffes Group;

- (ix) made or agreed or consented to any significant change to the terms of the trust deeds (including the termination or partial termination of the trusts) constituting the pension schemes established for its directors, employees or their dependants or the benefits which accrue, or to the pensions which are payable, thereunder, or to the basis on which qualification for, or accrual or entitlement to, such benefits or pensions are calculated or determined or to the basis on which the liabilities (including pensions) of such pension schemes are funded or made, or agreed or consented to any change to the trustees involving the appointment of a trust corporation, or causing any employee of the Fyffes Group to cease to be a member of any pension scheme by withdrawing as a participating employer in such pension scheme, or unlawfully terminating the employment of any active member of a pension scheme, or making any employee member of the Fyffes Group redundant, or exercising any discretion under the provisions governing such pension scheme, which in any such case would be material in the context of the pension schemes operated by Fyffes Group;
- (x) save as between Fyffes and wholly owned Subsidiaries of Fyffes, purchased, redeemed or repaid or proposed the purchase, redemption or repayment of any of its own shares or other securities or reduced or, save in respect of the matters mentioned in sub-paragraph (e)(i) above, made any other change to any part of its share capital to an extent which (other than in the case of Fyffes) is material in the context of the Fyffes Group taken as a whole;
- (xi) waived or compromised any claim otherwise than in the ordinary and usual course of business which is material in the context of the Fyffes Group taken as a whole;
- (xii) (except where the consequences thereof would not be material (in value terms or otherwise) in the context of the Fyffes Group taken as a whole) and save for voluntary solvent liquidations, taken or proposed any corporate action or had any legal proceedings instituted or threatened against it in respect of its winding-up, dissolution, examination or reorganisation or for the appointment of a receiver, examiner, administrator, administrative receiver, trustee or similar officer of all or any part of its assets or revenues, or (A) any analogous proceedings in any jurisdiction, or (B) appointed any analogous person in any jurisdiction;
- (xiii) altered the provisions of the memorandum and articles of association of any member of the Fyffes Group the effect of which is material in the context of the Fyffes Group taken as a whole; or
- (xiv) been unable, or admitted in writing that it is unable, to pay its debts or having stopped or suspended (or threatened to stop or suspend) payment of its debts generally or ceased or threatened to cease carrying on all or a substantial part of its business which is material in the context of the Fyffes Group taken as a whole;

***No Litigation, Regulatory or Similar***

- (f) except as Disclosed since 31 December 2015:
  - (i) no litigation, arbitration proceedings, prosecution or other legal proceedings having been threatened, announced, implemented or instituted by or against or remaining outstanding against or in respect of any member of the Fyffes Group or to which any member of the Fyffes Group is or may become a party (whether as plaintiff or defendant or otherwise) and no enquiry or investigation by or complaint or reference to any Relevant Authority against or in respect of any member of the Fyffes Group having been threatened, announced or instituted or remaining outstanding which, in any such case, might be reasonably likely to adversely affect any member of the Fyffes Group to an extent which is material to the Fyffes Group taken as a whole;

- (ii) no contingent or other liability having arisen or being likely to arise or having become apparent to Sumitomo which is or would be likely to adversely affect the business, assets, financial or trading position or profits or prospects of any member of the Fyffes Group to an extent which is material to the Fyffes Group taken as a whole; and
- (iii) no steps having been taken and no omissions having been made which are likely to result in the withdrawal, cancellation, termination or modification of any licence, consent, permit or authorisation held by any member of the Fyffes Group which is necessary for the proper carrying on of its business and the withdrawal, cancellation, termination or modification of which is material and likely to adversely affect the Fyffes Group taken as a whole;

***No Discovery of Certain Matters***

- (g) save as Disclosed, no member of the Fyffes Group being in default under the terms or conditions of any facility or agreement or arrangement for the provision of loans, credit or drawdown facilities, or of any security, surety or guarantee in respect of any facility or agreement or arrangement for the provision of loans, credit or drawdown facilities to any member of the Fyffes Group (save where such default is not or would not be material (in value terms or otherwise) in the context of the Fyffes Group taken as a whole).

***No change in Capital or Indebtedness***

- (h) no options have been granted and remain unexercised under the Fyffes Share Option Scheme other than those Disclosed; or
  - (i) the aggregate outstanding Indebtedness of Fyffes and its wholly owned Subsidiaries is not greater than the total amount available to the Fyffes Group under its existing available facilities.
3. The Acquisition is conditional on their having been no adverse change in the business, assets, financial or trading position, profits or prospects of any member of the Fyffes Group which is material in the context of the Fyffes Group taken as a whole, except as Disclosed.
  4. Subject to the requirements of the Panel, Sumitomo reserve the right (but shall be under no obligation) to waive (to the extent permitted by applicable Law), in whole or in part, all or any of the conditions in paragraph 2.
  5. If Sumitomo is required to make an offer for Fyffes Shares under the provisions of Rule 9 of the Takeover Rules, Sumitomo may make such alterations to any of the conditions set out in paragraphs 1, 2 and 3 above as are necessary to comply with the provisions of that rule.
  6. Sumitomo reserves the right, subject to the prior written approval of the Panel, to effect the Acquisition by way of a Takeover Offer in the circumstances described in and subject to the terms of Clause 3.6 of the Transaction Agreement. Without limiting Clause 3.6 of the Transaction Agreement, in such event, such offer will be implemented on terms and conditions that are at least as favourable to the Fyffes Shareholders (except for an acceptance condition set at 80 per cent of the nominal value of the Fyffes Shares to which such an offer relates and which are not already in the beneficial ownership of Sumitomo so far as applicable) as those which would apply in relation to the Scheme.
  7. As required by Rule 12(b)(i) of the Takeover Rules, to the extent that the Acquisition would give rise to a concentration with a Community dimension within the scope of the EC Merger Regulation, the Scheme shall, except as otherwise approved by the Panel, lapse if the European Commission initiates proceedings in respect of that concentration under Article 6(1)(c) of the EC Merger Regulation or refers the concentration to a competent authority of a Member State under Article 9(1) of the EC Merger Regulation prior to the date of the Scheme Meeting.
  8. Sumitomo and Bidco reserve the right for one or more of its Subsidiaries from time to time to implement the Acquisition with the prior written approval of the Panel.



## Part VI – Financial Information

### (A) FINANCIAL INFORMATION RELATING TO FYFFES

#### 1. Incorporation by Reference

The following sets out the financial information in respect of Fyffes as required by Rule 24.2(c) of the Takeover Rules. The documents referred to below (or parts thereof), the contents of which have previously been announced through a Regulatory Information Service, are incorporated by reference into this document pursuant to Rule 24.15 of the Takeover Rules.

#### 2. Cross-reference list

The following list sets out specific items of information which have been incorporated by reference into this Part VI. All Fyffes information that has been incorporated by reference into this document is available by clicking on <http://investors.fyffes.com/fyffesplc/en/financialreports>. Fyffes' historic Annual Reports are available by clicking on:

<i>Document</i>	<i>Link</i>	<i>Page numbers</i>
Unaudited interim management statement for the period from 1 January 2016 to 30 June 2016	<a href="http://investors.fyffes.com/fyffesplc/uploads/press/interim-results-2016.pdf">http://investors.fyffes.com/fyffesplc/uploads/press/interim-results-2016.pdf</a>	N/A
2015 Annual Report	<a href="http://investors.fyffes.com/fyffesplc/uploads/finreports/FyffesAR2015.pdf">http://investors.fyffes.com/fyffesplc/uploads/finreports/FyffesAR2015.pdf</a>	45-119
2014 Annual Report	<a href="http://investors.fyffes.com/fyffesplc/uploads/finreports/FyffesAR2014.pdf">http://investors.fyffes.com/fyffesplc/uploads/finreports/FyffesAR2014.pdf</a>	44-119

#### 3. No incorporation of website information

Save as set out above, neither the content of Fyffes' website, nor the content of any website accessible from hyperlinks on Fyffes' website, is incorporated into, or forms part of, this document.

#### 4. Requesting hard copy information

**A Fyffes Shareholder may request a copy of information incorporated by reference into this document in hard copy form by writing to Fyffes plc, 29 North Anne Street, Dublin 7, Ireland or by contacting the Company Secretary of Fyffes on +353 1 887 2700.** Any written requests must include the identity of the Fyffes Shareholder and any hard copy documents will be posted to the address of the Fyffes Shareholder provided in the written request.

A hard copy of the information incorporated by reference into this document will not be sent to Fyffes Shareholders unless requested.

## **(B) FINANCIAL INFORMATION RELATING TO SUMITOMO AND BIDCO**

### **1. Financial Information related to Sumitomo and Bidco**

In the year ended 31 March 2015, Sumitomo Group recorded loss before tax of ¥18,561 million, and total revenues of ¥3,762,236 million. In the year ended 31 March 2016, Sumitomo Group recorded income before tax of ¥140,116 million, and total revenues of ¥4,010,808 million. The equity attributable to Sumitomo Group as of 31 March 2016 was ¥2,251,509 million.

Bidco has been incorporated solely for the purposes of effecting the Acquisition and has only entered into certain agreements in connection with the Acquisition. The financial and trading prospects of Bidco if the Scheme becomes effective will depend on the strength of Fyffes, any other operating subsidiaries held by Bidco and the sector in general.

### **2. Interests in the Share Capital of Sumitomo**

Based on information made available to Sumitomo by Japan Securities Depository Centre, Inc. as of 30 September 2016, the only record holder of 5% or more in any class of relevant securities of Sumitomo as of such date is The Master Trust Bank of Japan, Ltd., MTBJ Bldg., 2-11-3 Hamamatsucho, Minato-ku, Tokyo 105-8579 Japan. The Japan Securities Depository Centre, Inc. provides Sumitomo with information as regards the record holders of Sumitomo's shares twice yearly, and the most recent update occurred on 30 September 2016.

## Part VII – Additional information

### 1. Responsibility

The directors of Fyffes accept responsibility for the information contained in this document other than that relating to Sumitomo, the Sumitomo Group and the Sumitomo Directors and members of their immediate families, related trusts and persons connected with them. To the best of the knowledge and belief of the directors of Fyffes (who, in each case, have taken all reasonable care to ensure that such is the case), the information contained in this document for which they accept responsibility is in accordance with the facts and does not omit anything likely to affect the import of such information.

The Sumitomo Directors and the Bidco Directors accept responsibility for the information contained in this document relating to Sumitomo, the Sumitomo Group and the Sumitomo Directors and members of their immediate families, related trusts and persons connected with them. To the best of the knowledge and belief of the Sumitomo Directors and the Bidco Directors (who, in each case, have taken all reasonable care to ensure such is the case), the information contained in this document for which they accept responsibility is in accordance with the facts and does not omit anything likely to affect the import of such information.

### 2. Directors

#### (a) *Fyffes*

Fyffes is a public limited company incorporated under the laws of Ireland with registered number 73342.

The names of the directors of Fyffes and their respective functions are as follows:

<i>Name</i>	<i>Position</i>
D McCann	Chairman
C Bos	Chief Operating Officer
T.G. Murphy	Finance Director
J.D. McCourt	Non-Executive
J.M. O'Dwyer	Non-Executive
J.R. O'Hara	Non-Executive
R.B. Johnston	Non-Executive

The business address of each of the directors of Fyffes is 29 North Anne Street, Dublin 7, Ireland which is also the registered office and principal place of business of Fyffes.

#### (b) *Bidco*

Bidco is a private limited liability company incorporated in Ireland with registered number 593909.

The names of the Bidco Directors and their respective functions are as follows:

<i>Name</i>	<i>Position</i>
Yoshikatsu Nakamura	Director
Itaru Kobayashi	Director
Motokazu Tomizawa	Director

The business address of the Bidco Directors is A&L Goodbody, 25-28 North Wall Quay, Dublin 1, D01 H104, Ireland which is also the registered office of Bidco.

(c) **Sumitomo**

Sumitomo is a company limited by shares, incorporated and domiciled in Japan.

The names of the Sumitomo Directors and their respective functions are as follows:

<i>Name</i>	<i>Position</i>
Kazuo Ohmori	Chairman
Kuniharu Nakamura	Representative Director, President and CEO
Naoki Hidaka	Representative Director, Executive Vice President
Hideki Iwasawa	Representative Director, Executive Vice President
Masahiro Fujita	Representative Director, Senior Managing Executive Officer
Koichi Takahata	Representative Director, Senior Managing Executive Officer
Masao Tabuchi	Representative Director, Managing Executive Officer
Hirohiko Imura	Representative Director, Managing Executive Officer
Makoto Horie	Representative Director, Managing Executive Officer
Masayuki Hyodo	Representative Director, Managing Executive Officer
Akio Harada	Outside Director
Yayoi Tanaka	Outside Director
Hideji Sugiyama	Outside Director
Nobuyoshi Ehara	Outside Director

The business address of each of the Sumitomo Directors is 1-8-11 Harumi, Chuo-ku, Tokyo 104-8610, Japan which is also the registered office and principal place of business of Sumitomo.

**2. Shareholders in Fyffes**

So far as Fyffes is aware, the following shareholders held 3% or more of the share capital of Fyffes on the Latest Practicable Date:

<i>Holder (as at 16 December 2016)</i>	<i>Number of Fyffes Shares</i>	<i>% of Fyffes Issued Ordinary Shares in Issue (Excl. Treasury Shares)</i>
The First Amended and Restated Jerry Zucker Revocable Trust	39,034,612	11.83%
Balkan Investment Company (and related companies)	38,905,000	11.79%
FMR LLC	31,672,900	9.60%
Farringdon Capital Management	12,500,094	3.79%
Investors Group	11,181,373	3.39%
BlackRock, Inc.	11,197,213	3.39%

**3. Disclosure of interests and dealings in shares**

**3.1 For the purposes of this Part VII:**

- (a) two or more persons are deemed to be acting in concert if they co-operate on the basis of an agreement, either express or tacit, either oral or written, aimed at:
  - (i) either:
    - (A) the acquisition by any one or more of them of securities in the relevant company concerned; or

- (B) the doing, or the procuring of the doing, of any act that will or may result in an increase in the proportion of securities in the relevant company concerned held by any one or more of them; or
- (ii) either:
  - (A) acquiring control of the relevant company concerned; or
  - (B) frustrating the successful outcome of an offer made for the purpose of the acquisition of control of the relevant company concerned;

and ‘**acting in concert**’ shall be construed accordingly;

- (b) arrangement includes any indemnity or option arrangement and any agreement or understanding, formal or informal, of whatever nature, between two or more persons relating to relevant securities which may be an inducement to deal or refrain from dealing in such securities;
- (c) connected fund manager means a fund manager controlled by, controlling or under the same control as Fyffes or (as the case may be) Sumitomo or any bank or any financial or other professional adviser (including a stockbroker) which is acting in relation to the Acquisition for that company (excluding a bank which is only providing normal commercial banking services or activities such as cash confirmation, the handling of acceptances and other registration work);
- (d) control means the holding, whether directly or indirectly, of securities in a company that confer in aggregate 30% or more of the voting rights in that company;
- (e) derivative includes any financial product whose value, in whole or in part, is determined directly or indirectly by reference to the price of an underlying security;
- (f) disclosure date means the Latest Practicable Date;
- (g) disclosure period means the period commencing on 9 December 2015 and ending on the disclosure date;
- (h) exempt fund manager means a discretionary fund manager which has been recognized by the Panel as an exempt fund manager for the purposes of the Takeover Rules, has been notified in writing of that fact by the Panel and has not been notified by the Panel of the withdrawal of such recognition;
- (i) exempt principal trader means a principal trader which is recognized by the Panel as an exempt principal trader for the purposes of the Takeover Rules, has been notified in writing of that fact by the Panel and has not been notified by the Panel of the withdrawal of such recognition;
- (j) for the purpose of determining whether a person has an “interest in a relevant security” or is “**interested in a relevant security**”;
  - (i) that person shall be deemed to have an “interest,” or to be “interested,” in a relevant security if and only if he or she has a long position in that security; and
  - (ii) a person who has only a short position in a relevant security shall be deemed not to have an interest, nor to be interested, in that security;

(k) **long position and short position:**

- (i) a person shall be deemed to have a long position in a relevant security for the purposes of paragraph 3.1(j) if he or she directly or indirectly:

- (A) owns that security; or
- (B) has the right or option to acquire that security or to call for its delivery; or
- (C) is under an obligation to take delivery of that security; or
- (D) has the right to exercise or control the exercise of the voting rights (if any) attaching to that security

or to the extent that none of sub-paragraphs (A) to (C) above applies to that person, if he or she:

- (E) will be economically advantaged if the price of that security increases; or
- (F) will be economically disadvantaged if the price of that security decreases, irrespective of:
  - (1) how any such ownership, right, option, obligation, advantage or disadvantage arises and including, for the avoidance of doubt and without limitation, where it arises by virtue of an agreement to purchase, option or derivative; and
  - (2) whether any such ownership, right, option, obligation, advantage or disadvantage is absolute or conditional and, where applicable, whether it is in the money or otherwise

provided that a person who has received an irrevocable commitment to accept an offer (or to procure that another person accept an offer) shall not, by virtue only of sub-paragraph (B) or (C) above, be treated as having an interest in the relevant securities that are the subject of the irrevocable commitment;

- (ii) a person shall be deemed to have a short position in a relevant security for the purposes of paragraph 3.1(j) if he or she directly or indirectly:

- (A) has the right or option to dispose of that security or to put it to another person; or
- (B) is under an obligation to deliver that security to another person; or
- (C) is under an obligation either to permit another person to exercise the voting rights (if any) attaching to that security or to procure that such voting rights are exercised in accordance with the directions of another person

or, to the extent that none of sub-paragraphs (A) to (C) above apply to that person if he or she:

- (D) will be economically advantaged if the price of that security decreases; or
- (E) will be economically disadvantaged if the price of that security increases, irrespective of:
  - (1) how any such right, option, obligation, advantage or disadvantage arises and including, for the avoidance of doubt and without limitation, where it arises by virtue of an agreement to sell, option or derivative; and
  - (2) whether any such right, option, obligation, advantage or disadvantage is absolute or conditional and, where applicable, whether it is in the money or otherwise;



- (l) **relevant Fyffes securities** in relation to Fyffes shall have the meaning assigned by Rule 2.1 of Part A of the Takeover Rules, meaning:
- (i) securities of Fyffes which are the subject of the Scheme or which confer voting rights;
  - (ii) equity share capital of Fyffes; and
  - (iii) securities or any other instruments of Fyffes; conferring on their holders rights to convert into, or to subscribe for, any new securities of the foregoing categories; and
- (m) **relevant Sumitomo securities** in relation to Sumitomo shall have the meaning assigned by Rule 2.1 of Part A of the Takeover Rules, meaning:
- (i) equity share capital of Sumitomo; and
  - (ii) securities or any other instruments of Sumitomo conferring on their holders rights to convert into or to subscribe for any securities of the foregoing category;
- (n) **relevant securities** means relevant Fyffes securities or relevant Sumitomo securities, as appropriate, and relevant security shall be construed appropriately.

### 3.2 Interests and short positions in relevant Fyffes securities:

#### *Disclosures by Sumitomo and persons acting in concert with Sumitomo*

- (a) As at the close of business on the disclosure date, save as set out below, none of Sumitomo, Bidco, any member of the Sumitomo Group nor any associated company of Sumitomo was interested, or held any short positions, in any relevant Fyffes securities;

<i>Name</i>	<i>Number of relevant Fyffes securities</i>
Sumitomo Corporation Capital Europe Plc	1

- (b) As at the close of business on the disclosure date, none of the Sumitomo Directors or Bidco Directors (including persons connected with them (within the meaning of the Act)) was interested, or held any short positions, in any relevant Fyffes securities;
- (c) As at the close of business on the disclosure date, no trustee of any pension scheme (other than an industry-wide scheme) in which Sumitomo or any subsidiary of Sumitomo participates was interested, or held any short positions, in any relevant Fyffes securities;
- (d) As at the close of business on the disclosure date, no fund manager (including an exempt fund manager) connected with Sumitomo was interested, or held any short positions, in any relevant Fyffes securities;
- (e) As at the close of business on the disclosure date, neither J.P. Morgan (financial adviser to Sumitomo) nor any person controlling, controlled by, or under the same control as J.P. Morgan, was interested, or held any short positions, in any relevant Fyffes securities other than as exempt principal trader or an exempt fund manager;
- (f) As at the close of business on the disclosure date, no partner or member of the professional staff of A&L Goodbody (Irish legal adviser to Sumitomo) who is actively engaged in relation to the Scheme or who is customarily engaged in the affairs of Sumitomo or who has been engaged in those affairs since 9 December 2014 was interested, or held any short positions, in any relevant Fyffes securities;
- (g) As at the close of business on the disclosure date, no partner or member of the professional staff of Morgan Lewis & Bockius LLP (U.S. legal adviser to Sumitomo) who is actively engaged in relation to the Scheme or who is customarily engaged in the affairs of Sumitomo or who has been engaged in those affairs since 9 December 2014, was interested, or held any short positions, in any relevant Fyffes securities;

- (h) As at the close of business on the disclosure date, no partner or member of the professional staff of Deloitte (Irish tax adviser to Sumitomo) who is actively engaged in relation to the Scheme or who is customarily engaged in the affairs of Sumitomo or who has been engaged in those affairs since 9 December 2014, was interested, or held any short positions, in any relevant Fyffes securities;
- (i) As at the close of business on the disclosure date, no partner or member of the professional staff of PwC (Irish tax adviser to Sumitomo) who is actively engaged in relation to the Scheme or who is customarily engaged in the affairs of Sumitomo or who has been engaged in those affairs since 9 December 2014, was interested, or held any short positions, in any relevant Fyffes securities;
- (j) Save as disclosed in this paragraph 3.2, as at the close of business on the disclosure date, no other person acting in concert (including deemed to be acting in concert) with Sumitomo was interested, or held any short positions, in any relevant Fyffes securities; and
- (k) Save as disclosed in this paragraph 3.2, as of the close of business on the disclosure date, no person with whom Sumitomo, or any person acting in concert with Sumitomo has any arrangement was interested, or held any short positions, in any relevant Fyffes securities.

*Disclosures by Fyffes and persons acting in concert with Fyffes*

- (l) As at the close of business on the disclosure date, the directors of Fyffes (including persons connected with them (within the meaning of the Act)) were interested, or held any short positions, in any relevant Fyffes securities:

<i>Name</i>	<i>Number of relevant Fyffes securities</i>
D McCann	6,204,279
C Bos	212,319
T.G. Murphy	964,586
J.D. McCourt	50,000
J.M. O'Dwyer	50,000
J.R. O'Hara	—
R.B. Johnston	7,000

- (m) As at the close of business on the disclosure date, neither Lazard (financial adviser to Fyffes) (nor any person controlling, controlled by, or under the same control as Lazard, was interested, or held any short positions, in any relevant Fyffes securities other than as exempt principal trader or an exempt fund manager;
- (n) As at the close of business on the disclosure date, neither Davy Corporate Finance (financial adviser to Fyffes) nor any person controlling, controlled by, or under the same control as Davy Corporate Finance, was interested, or held any short positions, in any relevant Fyffes securities other than as exempt principal trader or an exempt fund manager;
- (o) As at the close of business on the disclosure date, save as set out below, no partners or members of the professional staff of Arthur Cox (Irish legal adviser to Fyffes) who is actively engaged in relation to the Scheme or who is customarily engaged in the affairs of Fyffes or who has been engaged in those affairs since 9 December 2014 was interested, or held any short positions, in any relevant Fyffes securities:

<i>Name</i>	<i>Number of relevant Fyffes securities</i>
C. McDonnell	1,700

- (p) As at the close of business on the disclosure date, no partners or members of the professional staff of KPMG (reporting accountants to Fyffes) who is actively engaged in relation to the

Scheme or who is customarily engaged in the affairs of Fyffes or who has been engaged in those affairs since 9 December 2014 was interested, or held any short positions, in any relevant Fyffes securities.

### 3.3 Dealings in relevant Fyffes securities

#### *Disclosures by Sumitomo and persons acting in concert with Sumitomo*

- (a) During the disclosure period, save as set out below, there were no dealings in relevant Fyffes securities by Sumitomo, any member of the Sumitomo Group nor any associated company of Sumitomo;

<i>Name</i>	<i>Date of dealing</i>	<i>Nature of transaction</i>	<i>Number of relevant Fyffes securities</i>	<i>Price</i>
Sumitomo Corporation				
Capital Europe plc	16 December 2016	Acquisition	1	2.2280

- (b) During the disclosure period there were no dealings in relevant Fyffes securities by any of the Sumitomo Directors or Bidco Directors (or, where relevant, managers) (including, in each case, persons connected with them (within the meaning of the Act));
- (c) During the disclosure period there were no dealings in relevant Fyffes securities by any trustee of any pension scheme (other than an industry-wide scheme) in which Sumitomo or any subsidiary of Sumitomo participates;
- (d) During the disclosure period, there were no dealings in relevant Fyffes securities by a fund manager (including an exempt fund manager) connected with Sumitomo;
- (e) During the disclosure period, there were no dealings in relevant Fyffes securities by J.P. Morgan (financial adviser to Sumitomo) or any persons (other than exempt fund managers or exempt principal traders) controlling, controlled by or under the same control as J.P. Morgan;
- (f) During the disclosure period, there were no dealings in relevant Fyffes securities by any partner or member of the professional staff of A&L Goodbody (Irish legal adviser to Sumitomo) who is actively engaged in relation to the Scheme or who is customarily engaged in the affairs of Sumitomo or who has been engaged in those affairs since 9 December 2014;
- (g) During the disclosure period, there were no dealings in relevant Fyffes securities by any partner or member of the professional staff of Morgan Lewis & Bockius LLP (U.S. legal adviser to Sumitomo) who is actively engaged in relation to the Scheme or who is customarily engaged in the affairs of Sumitomo or who has been engaged in those affairs since 9 December 2014;
- (h) During the disclosure period, there were no dealings in relevant Fyffes securities by any partner or member of the professional staff of Deloitte (Irish tax adviser to Sumitomo) who is actively engaged in relation to the Scheme or who is customarily engaged in the affairs of Sumitomo or who has been engaged in those affairs since 9 December 2014;
- (i) During the disclosure period, there were no dealings in relevant Fyffes securities by any partner or member of the professional staff of PwC (Irish tax adviser to Sumitomo) who is actively engaged in relation to the Scheme or who is customarily engaged in the affairs of Sumitomo or who has been engaged in those affairs since 9 December 2014;
- (j) During the disclosure period there were no dealings in relevant Fyffes securities by any other person acting in concert (including deemed to be acting in concert) with Sumitomo; and
- (k) During the disclosure period, there were no dealings in relevant Fyffes securities by any person with whom Sumitomo or any person acting in concert with Sumitomo has any arrangement.

*Disclosures by Fyffes and persons acting in concert with Fyffes*

- (l) The dealings during the disclosure period in relevant Fyffes securities by the directors of Fyffes (including persons connected with them (within the meaning of the Act)) were as follows:

<i>Name</i>	<i>Date of dealing</i>	<i>Nature of transaction</i>	<i>Number of relevant Fyffes securities</i>	<i>Price</i>
D McCann	2 March 2016	Acquisition by trustees of Fyffes STIP	402,677	1.3075
T Murphy	2 March 2016	Acquisition by trustees of Fyffes STIP	196,463	1.3075
C Bos	2 March 2016	Acquisition by trustees of Fyffes STIP	120,172	1.3075
D McCann	21 December 2015	Acquisition by trustees of Fyffes APSS	8,494	1.495
T Murphy	21 December 2015	Acquisition by trustees of Fyffes APSS	8,494	1.495

- (m) During the disclosure period, there were no dealings in relevant Fyffes securities by Lazard (financial adviser to Fyffes) or persons (other than exempt principal traders or exempt fund managers) controlling or under the same control as Lazard;
- (n) During the disclosure period, there were no dealings in relevant Fyffes securities by Davy Corporate Finance (financial adviser to Fyffes) or persons (other than exempt principal traders or exempt fund managers) controlling or under the same control as Davy Corporate Finance;
- (o) During the disclosure period, there were no dealings in relevant Fyffes securities by any partner or member of the professional staff of Arthur Cox (Irish legal adviser to Fyffes) who is actively engaged in relation to the Scheme or who is customarily engaged in the affairs of Fyffes or who has been engaged in those affairs since 9 December 2014; and
- (p) During the disclosure period, there were no dealings in relevant Fyffes securities by any partner or member of the professional staff of KPMG (reporting accountant to Fyffes) who is actively engaged in relation to the Scheme or who is customarily engaged in the affairs of Fyffes or who has been engaged in those affairs since 9 December 2014.

3.4 Interests and short positions in relevant Sumitomo securities

- (a) As at the close of business on the disclosure date, none of Fyffes, any member of the Fyffes Group nor any associated company of Fyffes was interested in or held any short positions, in any relevant securities; and
- (b) As at the close of business on the disclosure date, none of the directors of Fyffes (including persons connected with them (within the meaning of the Act)) was interested, or held any short positions, in any relevant Sumitomo securities.

### 3.5 Dealings in relevant Sumitomo securities

- (a) During the disclosure period, there were no dealings in relevant Sumitomo securities by Fyffes, any member of the Fyffes Group nor any associated company of Fyffes; and
- (b) During the disclosure period there were no dealings in relevant Sumitomo securities by any of the Fyffes Directors (including, in each case, persons connected with them (within the meaning of the Act)).

## 4. Market Quotations

The following table shows the closing price of relevant Fyffes securities as derived from the ESM and AIM (i) on the first dealing day in each of the six months prior to the date of this document; (ii) on 8 December 2016 (the last Business Day prior to the commencement of the Offer period); and (iii) at the close of business on the Latest Practicable Date.

<i>Date</i>	<i>Fyffes</i>	<i>Fyffes</i>
	<i>Ordinary</i>	<i>Ordinary</i>
	<i>Shares</i>	<i>Shares</i>
	<i>(ESM)</i>	<i>(AIM)</i>
	<i>Euro</i>	<i>Sterling</i>
June 2016	1.5700	1.2200
July 2016	1.4000	1.1630
August 2016	1.4520	1.2500
September 2016	1.5960	1.3175
October 2016	1.4600	1.3050
November 2016	1.4700	1.3100
December 2016	1.4800	1.2600
8 December 2016	1.4960	1.2900
16 December 2016	2.2280	1.8550

## 5. Directors' service contracts and emoluments

Mr. McCann's service contract has no expiry date and his basic salary for 2016 is €712,530 and it is reviewed annually with regard to personal performance, the performance of the Fyffes Group, inflation trends and competitive market practice. In respect of 2016, Mr. McCann is entitled to a performance bonus of €534,397 and other benefits of €20,712.

Mr. Murphy's service contract has no expiry date and his basic salary for 2016 is €347,628 and it is reviewed annually with regard to personal performance, the performance of the Fyffes Group, inflation trends and competitive market practice. In respect of 2016, Mr. Murphy is entitled to a performance bonus of €260,721 as well as other benefits of €18,254.

Mr. Bos' service contract has no expiry date and his basic salary for 2016 is €425,285 and it is reviewed annually with regard to personal performance, the performance of the Fyffes Group, inflation trends and competitive market practice. In respect of 2016, Mr. Bos is entitled to a performance bonus of €318,964 as well as other benefits of €23,000.

Mr Bos' service contract provides that he shall be entitled to a compensation payment equal to twice his income if his employment is terminated by the Group except in one of the following circumstances: (i) a summary dismissal for an urgent reason immediately communicated to Mr. Bos within the meaning of Dutch law; (ii) after an illness lasting two years (or longer); or (iii) termination of the employment agreement by law on reaching 65 years or such earlier retirement date as provided in his pension scheme. Also, no compensation payment arises where his employment is terminated as a consequence of a dissolution based on important reasons within the meaning of section 7:685 of the Dutch Civil Code at the request of the Company provided that the dissolution is based on a change in circumstances within the meaning of section 7:685 of the Dutch Civil Code. In calculating the compensation payment, Mr Bos' contract provides

that his income shall be understood to include his annual salary, the vacation allowance payable under his contract and the average bonus paid to him over the three calendar years preceding the termination of the employment.

The executive directors of Fyffes are also entitled to a pension contribution and/or contributions in lieu of pension. €366,328 has been accrued as the aggregate amount payable in this regard in respect of 2016.

All of the executive directors of Fyffes participate in the Fyffes STIP. €1,114,082 has been accrued as the aggregate amount payable to them in respect of their 2016 awards.

The non-executive directors of Fyffes are entitled to annual fees in respect of their services as directors in the following amounts:

- R B Johnston: €75,000
- J D McCourt: €107,000
- J M O'Dwyer: €93,000
- J R O'Hara: €75,000

Save as disclosed in this paragraph 5 in respect of Mr Bos, none of the directors of Fyffes has a service contract with Fyffes or any of its subsidiaries or associated companies with more than 12 months to run.

## **6. Fyffes Material Contracts**

Save as disclosed in this paragraph 6, neither Fyffes nor any of its subsidiaries has within the two years prior to the commencement of the Offer Period entered into any contracts (other than contracts entered into in the ordinary course of business) that are, or may be, material:

### **(a) Transaction Agreement**

Sumitomo, Bidco and Fyffes have entered into the Transaction Agreement dated 8 December 2016 which contains certain assurances in relation to the implementation of the Scheme and other matters related to the Acquisition.

The Transaction Agreements provides for the manner and timetable in which Fyffes is required to present the Scheme to Fyffes Shareholders and present proposals to the Fyffes Optionholders and the measures to be taken generally with respect to the Fyffes Group Share Schemes and Management Incentive Arrangements. It imposes comprehensive responsibilities on Fyffes in connection with the Scheme and certain obligations on Sumitomo and Bidco in connection with the Scheme and subsequent filings required to obtain the necessary Clearances in connection with the implementation of the Acquisition. It also provides mutual obligations with respect to the sharing of information in connection with the Acquisition and the conduct of each party which is intended to ensure that the Acquisition is completed as expeditiously as possible. The Transaction Agreement also sets out the circumstances upon, and manner in which, Sumitomo can switch to a Takeover Offer.

The Transaction Agreement provides that where the Fyffes Board determines that a Fyffes Superior Proposal has been received, Fyffes shall provide Sumitomo with an opportunity, for a period of three (3) Business Days from the time of the receipt by Sumitomo of notice in writing from Fyffes confirming that the Fyffes Board determines that a Fyffes Superior Proposal has been received together with details of the material terms of such Fyffes Superior Proposal, to increase the value of the Consideration, including an increase in, or modification of, the Distribution and/or the Consideration, such that the Fyffes Superior Proposal would not constitute a Fyffes Superior Proposal.

### **(b) Expenses Reimbursement Agreement**

Fyffes has entered into the Expenses Reimbursement Agreement dated 8 December 2016 with Sumitomo, the terms of which have been approved by the Panel. Under the Expenses Reimbursement Agreement, Fyffes has agreed to pay to Sumitomo in certain circumstances an amount equal to all



documented, specific and quantifiable third party costs and expenses incurred by Sumitomo, or on its behalf, for the purposes of, in preparation for, or in connection with the Acquisition, including, but not limited to, exploratory work carried out in contemplation of and in connection with the Acquisition, legal, financial and commercial due diligence and engaging advisers to assist in the process. The liability of Fyffes to pay these amounts shall arise only after the date of this document and is limited to a maximum amount equal to 1% of the total value attributable to the entire issued share capital of Fyffes under the Acquisition (excluding, for the avoidance of doubt, any treasury shares and any interest in such share capital of Fyffes held by Sumitomo or any Concert Parties of Sumitomo) as ascribed by the terms of the Acquisition as set out in the 2.5 Announcement. The amount payable by Fyffes to Sumitomo under such provisions of the Expenses Reimbursement Agreement will exclude any amounts in respect of VAT incurred by Sumitomo attributable to such third party costs other than Irrecoverable VAT incurred by Sumitomo. The circumstances in which such payment will be made are if:

- (a) the Transaction Agreement is terminated:
  - (i) by Sumitomo or Fyffes for the reason that the Fyffes Board or any committee thereof:
    - (A) withdraws (or modifies in any manner adverse to Sumitomo), or proposes publicly to withdraw (or modify in any manner adverse to Sumitomo), the Scheme Recommendation or, if applicable, the recommendation to the holders of the Fyffes Shares from the Fyffes Board to accept the Takeover Offer; or
    - (B) approves, recommends, adopts or otherwise declares advisable, or proposes publicly to approve, recommend, adopt or otherwise declare advisable, any Fyffes Alternative Proposal (save that, for the avoidance of doubt, the approval of the Fyffes Board of the registration of any shares acquired as part of a Fyffes Alternative Proposal does not, in and of itself, constitute the approval, recommendation or adoption by the Fyffes Board of a Fyffes Alternative Proposal); and

the Acquisition lapses or is withdrawn (it being understood, for the avoidance of doubt, that (x) “stop, look and listen” communication or (y) the provision by Fyffes to Sumitomo of notice or information in connection with a Fyffes Alternative Proposal or Fyffes Superior Proposal as required or expressly permitted by the Transaction Agreement shall not, in each case, in and of itself, constitute a circumstance referred to in (a)(i)(A) or (B)); or
  - (ii) by Fyffes, at any time prior to obtaining the Fyffes Shareholder Approval, in order to enter into any agreement, understanding or arrangement providing for a Fyffes Superior Proposal and the Acquisition lapses or is withdrawn; or
  - (iii) automatically pursuant to clause 5.2.4 of the Transaction Agreement and the Acquisition lapses or is withdrawn.
- (b) all of the following occur:
  - (i) prior to the Scheme Meeting, a Fyffes Alternative Proposal is publicly disclosed or any person shall have publicly announced an intention (whether or not conditional) to make a Fyffes Alternative Proposal and, in each case, is not publicly withdrawn without qualification at least three Business Days before the date of the Scheme Meeting (it being understood that, for purposes of this paragraph (b)(i) and (b)(iii) below, references to “25%” and “75%” in the definition of Fyffes Alternative Proposal shall be deemed to refer to “50%”); and
  - (ii) the Transaction Agreement is terminated by either Fyffes or Sumitomo for the reason that the Scheme Meeting or the EGM shall have been completed and the Scheme



Meeting Resolution or the EGM Resolutions, as applicable, shall not have been approved by the requisite votes; and

- (iii) a Fyffes Alternative Proposal is consummated with the person referred to in (i) above, or a definitive agreement providing for such Fyffes Alternative Proposal is entered into with such person, within twelve months after the date of the 2.5 Announcement which is consummated or a Fyffes Alternative Proposal is consummated with a person who is not connected in any way to the person referred to in (i) above within twelve months after the date of the 2.5 Announcement and the value of the consideration offered under such Fyffes Alternative Proposal is at least equal to the consideration offered under the Acquisition; or
- (c) all of the following occur:
- (i) prior to the Scheme Meeting, a Fyffes Alternative Proposal is publicly disclosed or any person shall have publicly announced an intention (whether or not conditional) to make a Fyffes Alternative Proposal and, in each case, not publicly withdrawn at the time the Transaction Agreement is terminated under the circumstances specified in paragraph (c)(ii) (it being understood that, for purposes of this paragraph (c)(i) and (c)(iii) below, references to “25%” and “75%” in the definition of Fyffes Alternative Proposal shall be deemed to refer to “50%”); and
  - (ii) the Transaction Agreement is terminated by Sumitomo for the reason that Fyffes shall have breached or failed to perform in any material respect any of its covenants, obligations, warranties or other agreements contained in the Transaction Agreement, which breach or failure to perform (A) would (1) result in a failure of any of the Conditions to the Acquisition and the Scheme or of the other Conditions to Sumitomo’s obligations to effect the Acquisition, or (2) give rise to a termination right under clause 10.1.7 of the Transaction Agreement and (B) is not reasonably capable of being cured by the End Date or, if curable, Sumitomo shall have given Fyffes written notice, delivered at least 30 days prior to such termination, stating Sumitomo’s intention to terminate the Transaction Agreement for such reason and the basis for such termination and such breach or failure to perform shall not have been cured within 30 days following the delivery of such written notice; and
  - (iii) a Fyffes Alternative Proposal is consummated with the person referred to in (i) above, or a definitive agreement providing for such Fyffes Alternative Proposal is entered into with such person, within twelve months after the date of the 2.5 Announcement which is consummated or a Fyffes Alternative Proposal is consummated with a person who is not connected in any way to the person referred to in (i) above within twelve months after the date of the 2.5 Announcement and the value of the consideration offered under such Fyffes Alternative Proposal is at least equal to the consideration offered under the Acquisition.

Lazard and Davy Corporate Finance, financial advisers to Fyffes, along with the directors of Fyffes, have each confirmed in writing to the Panel that in their respective opinions, in the context of the Note to Rule 21.2 of the Takeover Rules and the Acquisition, the Expenses Reimbursement Agreement is in the best interests of Fyffes Shareholders.

(c) ***Highline Produce***

On 1 April 2016, Fyffes announced that it had entered into an agreement with Highline Produce Limited, Canada’s largest mushroom business, pursuant to which Fyffes acquired 100% of the equity in Highline Produce Limited and refinanced its existing debt. Fyffes paid CAD\$145 million (€98 million) for the company which was funded through new and existing bank debt.

(d) ***All Seasons Mushrooms***

On 8 September 2016, Fyffes announced that it had entered into an agreement with All Seasons Mushrooms Inc., a Canadian mushroom business, pursuant to which Fyffes acquired 100% of the equity in All Seasons Mushrooms Inc. and refinanced its debt. Fyffes paid CAD\$59.1 million (€41 million) for the company which was funded through existing bank debt.

(e) ***Placing***

On 15 September 2016, Fyffes and J&E Davy entered into a placing agreement in relation to the placing of 31.45 million new ordinary shares in Fyffes by J&E Davy at a price of €1.50 per placing share. The placing raised gross proceeds of approximately €47 million (before expenses). The placing shares represented approximately 10% of Fyffes' issued ordinary share capital prior to placing.

## **7. Sumitomo Financing for the Acquisition**

The Consideration payable under the terms of the Acquisition will be funded from a new term facility provided to Sumitomo by Sumitomo Mitsui Banking Corporation which will be on-loaned to Bidco or from existing cash resources of Sumitomo.

### ***Term Facility Agreement***

On December 8, 2016, Sumitomo entered into a term facility agreement among Sumitomo, Sumitomo Mitsui Banking Corporation (as arranger), Sumitomo Mitsui Banking Corporation (as original lender) and Sumitomo Mitsui Banking Corporation (as agent), (the “**Term Loan**”). Under the Term Loan, the original lender has committed to provide Sumitomo with unsecured financing in an aggregate principal amount of up to €825,000,000.

The commitments are intended to be drawn to finance:

- loans to Bidco in connection with the Acquisition whether effected: (A) by way of a public offer to all shareholders of Fyffes by Bidco to acquire all of the shares of Fyffes; or (B) a scheme of arrangement made pursuant to Chapter 1, Part 9 of the Act, to be proposed by Fyffes to its shareholders pursuant to which Bidco will become the only shareholder of Fyffes with or subject to any modification, addition or condition approved or imposed by the High Court of Ireland; and
- to pay acquisition costs associated with the Acquisition and/or to on lend to Bidco to enable it to meet such acquisition costs.

The funding of the loans under the Term Loan is available from the date of the Term Loan until the last day of the certain funds period conditioned on: (i) evidence that any process agent required by the Term Loan as accepted its appointment; (ii) no default is continuing or would result from the proposed Loan; and (iii) the repeating representations to be made by Sumitomo are true in all material respects. The commitments under the Term Loan automatically terminate at the end of the certain funds period.

The Term Loan shall be repaid on the date which is the 6 month anniversary of the last day of the availability period (the “**Termination Date**”).

The original lenders shall not cancel any part of the facility, rescind, repudiate, terminate or cancel the loan agreement, refuse to participate in making the loan or exercise any right of set off or counterclaim or cancel, demand or accelerate or cause repayment or prepayment of any amounts owing under the loan agreement during the certain funds period.

### ***Intra Group Loan***

Sumitomo has agreed to on-lend to Bidco amounts disbursed under the Term Loan on terms set out in an intra group loan agreement dated 8 December, 2016 (the “**Intra Group Loan**”). Under the Intra Group Loan, Sumitomo has committed to provide Bidco with unsecured financing in an aggregate principal amount of up to €825,000,000. Bidco shall apply all amounts borrowed by it under the Intra Group Loan: (a) for payment in full to the holders of shares in Fyffes and the holders of options of shares in respect of the shares in Fyffes

in accordance with the terms of the offer and the Takeover Rules and any proposals made to the holders of such options; and (b) to pay the acquisition costs as outlined above. Bidco shall repay the Intra Group Loan and all interest accrued thereon on the Termination Date.

Sumitomo shall not cancel any part of the facility, rescind, repudiate, terminate or cancel the loan agreement, refuse to participate in making the loan or exercise any right of set off or counterclaim or cancel, demand or accelerate or cause repayment or prepayment of any amounts owing under the Intra Group Loan during the certain funds period. After the certain funds period (or if later after the aggregate amount payable to the holders of shares in Fyffes and the holders of options has been discharged in full), if Bidco ceases to be a subsidiary of Sumitomo, Sumitomo may by notice declare the facility to be immediately cancelled and all amounts outstanding become immediately repayable together with accrued interest and any other amounts payable thereon.

J.P. Morgan Limited, financial adviser to Sumitomo, is satisfied that sufficient resources are available to Bidco to satisfy in full the Consideration payable under the terms of the Acquisition.

Sumitomo and Bidco do not intend that the payment of interest on, repayment of or security for, any liability (contingent or otherwise) will depend to any significant extent on the business of Fyffes.

## **8. Irish and United Kingdom taxation**

The following is a general summary of the significant Irish and UK tax considerations applicable to Irish and UK Holders (each as defined below) in respect of the disposition of Fyffes Shares under the Scheme.

### **(a) Irish tax considerations**

This summary is based on Irish taxation laws currently in force, regulations promulgated thereunder, the current provisions of the Ireland-United Kingdom Double Taxation Convention (the “**Ireland-UK Treaty**”), proposals to amend any of the foregoing publicly announced prior to the date hereof, and the currently published administrative practices of the Irish Revenue Commissioners. Taxation laws are subject to change, from time to time, and no representation is or can be made as to whether such laws will change, or what impact, if any, such changes will have on the statements contained in this summary. No assurance is or can be given that legislative or judicial changes, or changes in administrative practice, will not modify or change the statements expressed herein.

Holders of Fyffes Shares are advised to consult their own tax advisers with respect to the application of Irish taxation laws to their particular circumstances in relation to the Scheme.

The summary only applies to Fyffes Shareholders who hold their Fyffes Shares as capital assets (i.e. investments) and does not address special classes of holders of Fyffes Shares, including, but not limited to, dealers in securities, insurance companies, pension schemes, employee share ownership trusts, collective investment undertakings, charities, tax-exempt organisations, financial institutions and close companies, each of which may be subject to special rules not discussed below.

#### **(i) Irish tax considerations for Irish Holders of Fyffes Shares**

This Section applies to holders of Fyffes Shares that (i) beneficially own Fyffes Shares; (ii) in the case of individual holders, are resident, ordinarily resident and domiciled in Ireland under Irish taxation laws; (iii) in the case of holders that are companies, are resident in Ireland under Irish taxation laws; and (iv) are not considered resident in any country other than Ireland for the purposes of any double taxation agreement entered into by Ireland (“**Irish Holders**”).

#### **(A) Effect of Implementation of the Scheme**

Irish Holders who receive cash under the Scheme for their Fyffes Shares may be subject to Irish capital gains tax (in the case of individuals) or Irish corporation tax (in the case of companies) to the extent that the proceeds realised from such disposition exceed the indexed base cost of their Fyffes Shares plus incidental selling expenses. The current rate of tax applicable to such chargeable gains is 33%. An annual exemption allows

individuals to realise chargeable gains of up to €1,270 in each tax year without giving rise to capital gains tax. This exemption may not be transferred between spouses. Irish Holders are required, under Ireland's self-assessment system, to file a tax return reporting any chargeable gains. Capital gains tax is payable on 15 December in any year for gains realised in the period 1 January to 30 November of that year and on 31 January of the following year for gains made in the period from 1 December to 31 December. The Irish Revenue Commissioners have confirmed that for capital gains tax purposes the date of the disposal for Irish Holders of their Fyffes Shares will be the date they receive their cash under the Scheme.

(B) Stamp duty

No Irish stamp duty will be payable by a holder of Fyffes Shares on the cancellation of Fyffes Shares for cash.

(C) Fyffes Optionholders

Different Irish tax considerations may apply to Fyffes Optionholders. Irish tax considerations applicable to Fyffes Optionholders will be set forth in the separate proposals to be delivered to Fyffes Optionholders.

(D) Participants in the Fyffes STIP, Fyffes APSS and Fyffes SIP

The trustees of the Fyffes STIP and Fyffes APSS will provide participants in the Fyffes STIP and Fyffes APSS with details of the Irish tax considerations applicable to participants in the Fyffes STIP and Fyffes APSS in due course.

The trustees of the Fyffes SIP will provide participants in the Fyffes SIP with details of the UK tax considerations applicable to participants in the Fyffes SIP in due course.

(E) Final Dividend

*Dividend Withholding Tax*

Dividends payable by Fyffes are subject to dividend withholding tax (DWT) at a rate of 20% unless the shareholder is within one of the categories of exempt shareholder. Where DWT applies, Fyffes is responsible for withholding DWT at source.

Certain categories of Irish resident shareholders are entitled to an exemption from DWT, including (but not limited to) Irish resident companies, qualifying employee share ownership trusts, charities and pension funds. Distributions by Fyffes to Irish resident shareholders who are individuals are not exempt from DWT except in very limited circumstances.

*Irish Tax on Dividends Received*

An individual shareholder who is resident or ordinarily resident in Ireland is subject to Irish income tax on the gross dividend at their marginal rate of tax plus PRSI and USC. The gross dividend is the dividend received plus DWT withheld by Fyffes. Irish resident individual shareholders are generally entitled to credit for the DWT deducted against their income tax liability and to have refunded to them any amount by which DWT exceeds such income tax liability.

Corporation tax is not chargeable on dividends and other distributions received from a company resident in Ireland, such as Fyffes.

(i) *Irish tax considerations for UK Holders of Fyffes Shares*

This Section applies to holders of Fyffes Shares that (i) beneficially own Fyffes Shares; (ii) in the case of individual holders, are resident, ordinarily resident and domiciled in the United

Kingdom for UK tax purposes, and not also resident, ordinarily resident or domiciled in Ireland for Irish tax purposes; (iii) in the case of corporate holders, are resident in the United Kingdom for UK tax purposes, and not also resident in Ireland for Irish tax purposes; (iv) are considered resident in the United Kingdom for the purposes of the Ireland-UK Treaty; and (v) do not hold their Fyffes Shares in connection with any business carried on through a permanent establishment in Ireland (“**UK Holders**”).

(A) Effect of Implementation of the Scheme

UK Holders, who receive cash for their Fyffes Shares, will not be subject to Irish tax on the disposal of their Fyffes Shares.

(B) Stamp duty

Irish stamp duty will not apply to UK Holders (as discussed above for Irish Holders)

(C) Final Dividend

*Dividend Withholding Tax*

Dividends payable by Fyffes are subject to dividend withholding tax (DWT) at a rate of 20% unless the shareholder is within one of the categories of exempt shareholder. An exemption is available for dividends and other distributions paid to UK Holders that fall into any of the following categories:

- an individual shareholder resident for tax purposes in either a member state of the EU (apart from Ireland) or in a country with which Ireland has a double tax treaty (each a “relevant territory” hereinafter), and the individual is neither resident nor ordinarily resident in Ireland; or
- a corporate shareholder that is not resident for tax purposes in Ireland and which is ultimately controlled, directly or indirectly, by persons resident in either a member state of the EU (apart from Ireland) or in a country with which Ireland has a double tax treaty; or
- a corporate shareholder not resident for tax purposes in Ireland nor ultimately controlled by persons so resident and resident for tax purposes in either a member state of the EU (apart from Ireland) or a country with which Ireland has a double tax treaty; or
- a corporate shareholder that is not resident for tax purposes in Ireland and whose principal class of shares (or those of its 75% parent) is substantially and regularly traded on a recognised stock exchange in either a member state of the EU (apart from Ireland) or in a country with which Ireland has a double tax treaty or on an exchange approved by the Irish Minister for Finance; or
- a corporate shareholder that is not resident for tax purposes in Ireland and is wholly owned, directly or indirectly, by two or more companies the principal class of shares of each of which is substantially and regularly traded on a recognised stock exchange in either a member state of the EU (apart from Ireland) or in a country with which Ireland has a double tax treaty or on an exchange approved by the Irish Minister for Finance,

and provided that, in all cases noted above, the shareholder has made the appropriate declaration to the Company prior to payment of the dividend.

*Irish Tax on Dividends Received*

Non-Irish resident shareholders are, unless entitled to exemption from DWT, liable to Irish income tax on dividends received from Fyffes. However, the DWT deducted by

Fyffes discharges such liability to Irish income tax. Where a non-resident shareholder is entitled to exemption from DWT, then no Irish income tax arises and, where DWT has been deducted by Fyffes a claim may be made for a refund of the DWT.

(ii) *UK tax considerations for UK Holders of Fyffes Shares*

The following paragraphs, which are intended as a general guide only, are based on current UK legislation and the current practice of the HM Revenue & Customs (“**HMRC**”). They summarise certain limited aspects of the UK taxation treatment of disposing of Fyffes Shares under the Scheme, and they relate only to the position of individual and corporate Fyffes Shareholders who hold their Fyffes Shares beneficially as an investment and who are resident (and, if individuals, resident and domiciled) in the UK for taxation purposes. The tax treatment may be different, and is not considered here, for certain Ordinary Shareholders such as dealers in securities, those exempt from taxation, insurance companies, collective investment vehicles and those who acquired their Fyffes Shares by reason of an office or employment (or are treated as having acquired their Fyffes Shares by reason of an office or employment).

As to the position in Ireland, see under “**Irish tax considerations**” above. If you are in any doubt as to your taxation position or if you are subject to taxation in any jurisdiction other than Ireland or the UK, you should consult an appropriate professional adviser without delay.

(iii) *Taxation of chargeable gains*

UK Holders who receive cash under the Scheme for their Fyffes Shares may be subject to UK capital gains tax (in the case of individuals) or UK corporation tax (in the case of companies) to the extent that, after taking into account any other relief or allowances, the proceeds realised from such disposition exceed the base cost of their Fyffes Shares plus incidental selling expenses.

Subject to other capital gains arising in the tax year of the disposal of the Fyffes Shares, individuals will be entitled to an annual capital gains exemption which for the 2016/17 tax year amounts to GBP 11,100. Individuals should note that the annual capital gains exemption is an annual exemption available in respect of the total taxable gains of an individual for the relevant tax year. This exemption may not be transferred between spouses.

UK resident companies within the charge to corporation tax on chargeable gains will be subject to corporation tax on the proceeds received less the sum of the base cost of their Fyffes Shares plus indexation allowance and incidental selling expenses (subject to any available exemptions and reliefs).

(iv) *Stamp duty and stamp duty reserve tax (“SDRT”)*

No UK stamp duty or SDRT will be payable by Fyffes Shareholders as a result of the cancellation of Fyffes Shares for cash.

## **9. No significant change**

Save as disclosed in this document, there has been no material change in the financial or trading position of Fyffes since 31 December 2015, being the date to which the latest published audited financial statements of Fyffes were drawn up.

## **10. Consents**

10.1 J.P. Morgan has given and not withdrawn its written consent to the inclusion in this document of the references to its name in the form and context in which they appear.

10.2 Lazard has given and not withdrawn its written consent to the inclusion in this document of the references to its name in the form and context in which they appear.



- 10.3 Davy Corporate Finance has given and not withdrawn its written consent to the inclusion in this document of the references to its name in the form and context in which they appear.

## **11. Documents Available For Inspection**

11.1 Copies of the following documents will be published on the websites of Fyffes and Sumitomo [www.fyffes.com](http://www.fyffes.com) and [www.sumitomocorp.co.jp](http://www.sumitomocorp.co.jp), respectively and will be available for inspection during usual business hours on any Business Day from the date of this document until completion of the Acquisition at the offices of Arthur Cox, Earlsfort Centre, Earlsfort Terrace, Dublin 2, Ireland and A&L Goodbody, 25/28 North Wall Quay, IFSC, Dublin 1, Ireland:

- (a) the 2.5 Announcement and the 2.10 Announcement;
- (b) this document dated 20 December 2016;
- (c) the Confidentiality Agreement;
- (d) the Expenses Reimbursement Agreement;
- (e) the Transaction Agreement;
- (f) the certificate of incorporation and constitution of Fyffes;
- (g) the constitutional document(s) of Sumitomo;
- (h) the certificate of incorporation and constitution of Bidco;
- (i) the annual report and consolidated audited financial statements of Fyffes for the two financial years ended 31 December 2014 and 2015 and the unaudited interim results for the six months ended 30 June 2016;
- (j) the annual reports and audited consolidated financial statements of Sumitomo for the two financial years ended 31 March 2015 and 31 March 2016;
- (k) the reports of KPMG and Lazard and Davy Corporate Finance in respect of the Fyffes Profit Forecast;
- (l) the written consents referred to in paragraph 10 above;
- (m) to the extent applicable, a full list of all dealings which have been aggregated for the purpose of disclosure in paragraph 3 above;
- (n) the facility agreement documenting the Term Loan;
- (o) the letter from the Panel dated 7 December 2016 consenting to the Expenses Reimbursement Agreement pursuant to Rule 21.2 of the Takeover Rules;
- (p) each of the irrevocable undertakings and/or commitments provided by directors of Fyffes, The First Amended and Restated Jerry Zucker Revocable Trust, Balkan Investment Company (and related companies) and Farrington Capital Management;
- (q) the rules of the Fyffes plc 2007 Share Option Scheme; and
- (r) letter and associated documents provided to Fyffes Option Scheme holders in accordance with Rule 15 of the Takeover Rules.

## **12. Sources of information and bases of calculation**

In this document, unless otherwise stated or the context otherwise requires, the basis of calculation and sources of information are as described below.

- (a) The financial information relating to Fyffes is extracted from the 2015 Annual Report.



- (b) The value of the Acquisition is based upon the cash Consideration due under the terms of the Acquisition and on the basis of the issued and to be issued share capital of Fyffes referred to in paragraph (c) below.
- (c) The issued and to be issued share capital of Fyffes is calculated on the basis of:
  - (i) the number of issued Fyffes Shares as at the close of business on 16 December 2016 (being the last practicable date prior to the release of this document), being 329,933,807 Fyffes Shares (excluding Treasury Shares); and
  - (ii) any further Fyffes Shares which may be issued on or after the date of this document or granted prior to the Effective Date on the exercise of Fyffes Options, which options have been granted or are expected to be granted on or before the Effective Date, amounting in aggregate up to 10,612,000 Fyffes Shares.
- (d) Unless otherwise stated, all prices for Fyffes Shares are the Closing Price for the relevant dates.
- (e) The prices of Fyffes Shares used for the premium calculations are:
  - (i) €1.50, being Fyffes' closing share price on 8 December 2016 (the last practicable date prior to the Announcement);
  - (ii) approximately €1.46, being Fyffes' volume weighted average share price over the 30 trading day period ending 8 December 2016;
  - (iii) approximately €1.47, being Fyffes' volume weighted average share price over the 90 trading day period ending 8 December 2016; and
  - (iv) €1.62, being Fyffes' all-time high share price<sup>4</sup>, which occurred on 22 April 2016.
- (f) The volume weighted average Closing Price per Fyffes Share for the 30 and 90 trading day periods to 8 December 2016 is derived from data provided by FactSet.

### **13. Other Information**

- (a) No agreement, arrangement or understanding (including any compensation arrangement) having any connection with or dependence upon the Acquisition exists between Sumitomo or any person Acting in Concert with Sumitomo and any of the directors or recent directors, shareholders or recent shareholders of Fyffes or persons interested or recently interested in relevant Fyffes securities. In this paragraph 13(a), "recent" means within the disclosure period.
- (b) No agreement, arrangement or understanding exists whereby ownership of any Fyffes Shares acquired in pursuance of the Acquisition will be transferred to any other person.
- (c) No arrangement (as defined in paragraph 3 of Part VII of this document) exists between Sumitomo, or any person Acting in Concert with Sumitomo, and any other person.
- (d) No arrangement (as defined in paragraph 3 of Part VII of this document) exists between Fyffes, or any party Acting in Concert with Fyffes, and any other person.
- (e) Subject to the terms of the Transaction Agreement, each of Fyffes and Sumitomo will pay its own expenses in connection with the Acquisition except that Fyffes will pay the cost of, and expenses associated with, the printing, publication and posting of this document and the Panel's document review charge.

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<sup>4</sup> Since the first trading date following the effective date of the demerger of Fyffes' general produce and distribution business (effective on 30 December 2006).

- (f) For the purpose of the Takeover Rules, each of the following persons is regarded as Acting in Concert with Sumitomo in connection with the Acquisition:
- (i) Sumitomo, a company limited by shares, incorporated and domiciled in Japan having its registered office and principal place of business at 1-8-11 Harumi, Chuo-ku, Tokyo 104-8610, Japan;
  - (ii) Bidco, a private limited liability company incorporated in Ireland, having its registered office A&L Goodbody, 25-28 North Wall Quay, Dublin 1, D01 H104, Ireland;
  - (iii) the Sumitomo Directors;
  - (iv) the Bidco Directors;
  - (v) J.P. Morgan (financial adviser to Sumitomo) and any persons (other than exempt market makers or exempt fund managers) controlling, controlled by, or under the same control as J.P. Morgan Securities LLC;
  - (vi) partners and members of the professional staff of Deloitte (tax adviser to Sumitomo) who are actively engaged in relation to the Scheme or who are customarily engaged in the affairs of Sumitomo or who have been engaged in those affairs since 9 December 2014;
  - (vii) partners and members of the professional staff of PwC (tax adviser to Sumitomo) who are actively engaged in relation to the Scheme or who are customarily engaged in the affairs of Sumitomo or who have been engaged in those affairs since 9 December 2014;
  - (viii) partners and members of the professional staff of A&L Goodbody (Irish legal adviser to Sumitomo) who are actively engaged in relation to the Scheme or who are customarily engaged in the affairs of Sumitomo or who have been engaged in those affairs since 9 December 2014; and
  - (ix) partners and members of the professional staff of Morgan Lewis & Bockius LLP (U.S. legal adviser to Sumitomo) who are actively engaged in relation to the Scheme or who are customarily engaged in the affairs of Sumitomo or who have been engaged in those affairs since 9 December 2014.
- (g) For the purpose of the Takeover Rules, each of the following persons is regarded as Acting in Concert with Fyffes in connection with the Acquisition:
- (i) the directors of Fyffes;
  - (ii) Lazard (financial adviser to Fyffes) and any persons (other than exempt market makers or exempt fund managers) controlling, controlled by, or under the same control as Lazard;
  - (iii) Davy Corporate Finance (financial adviser to Fyffes) and any persons (other than exempt market makers or exempt fund managers) controlling, controlled by, or under the same control as Davy Corporate Finance;

- (iv) partners and members of the professional staff of Arthur Cox (Irish legal adviser to Fyffes) who are actively engaged in relation to the Scheme or who are customarily engaged in the affairs of Fyffes or who have been engaged in those affairs since 9 December 2014; and
- (v) partners and members of the professional staff of KPMG (reporting accountants to Fyffes) who are actively engaged in relation to the Scheme or who are customarily engaged in the affairs of Fyffes or who have been engaged in those affairs since 9 December 2014.

Dated: 20 December 2016

## Part VIII – Definitions

In this document, the following terms have the following meanings unless otherwise stated:

<b>“2.10 Announcement”</b>	the announcement made by Fyffes pursuant to Rule 2.10 of the Takeover Rules on 12 December 2016;
<b>“2007 Share Option Scheme” or “Fyffes Share Option Scheme”</b>	the Fyffes 2007 Share Option Scheme;
<b>“2015 Annual Report”</b>	the annual report and financial statements of Fyffes for the year ended 31 December 2015;
<b>“Acquisition”</b>	means the proposed acquisition by Bidco of Fyffes by means of the Scheme or the Takeover Offer (and any such Scheme or Takeover Offer as it may be revised, amended or extended from time to time) pursuant to the Transaction Agreement (whether by way of the Scheme or the Takeover Offer in accordance with the terms of the Transaction Agreement) (including the payment by Bidco of the aggregate Consideration pursuant to the Scheme or the Takeover Offer), as described in this document and provided for in the Transaction Agreement;
<b>“Act”</b>	the Companies Act 2014, as amended;
<b>“Acting in Concert”</b>	has the meaning given to that term in the Irish Takeover Panel Act 1997, as amended;
<b>“AIM”</b>	the Alternative Investment Market of the London Stock Exchange plc;
<b>“AIM Rules”</b>	the AIM Rules published by the London Stock Exchange plc as in force from time to time;
<b>“Announcement” or “2.5 Announcement”</b>	the joint announcement by Fyffes and Sumitomo of the Acquisition on 9 December 2016;
<b>“Antitrust Law”</b>	any federal, state or foreign Law designed to prohibit, restrict or regulate actions for the purpose or effect of monopolisation or restraint of trade;
<b>“Antitrust Order”</b>	any legislative, administrative or judicial action, decree, judgment, injunction, decision or other order (whether temporary, preliminary or permanent) that restricts, prevents or prohibits the consummation of the Acquisition or any other transactions contemplated by the Transaction Agreement under any Antitrust Law;
<b>“associated undertaking”</b>	shall have the same meaning as in the Act;
<b>“Balkan Investment Company”</b>	Balkan Investment Unlimited Company, a company incorporated in Ireland, having its registered office at 1, Stokes Place, St. Stephen’s Green, Dublin 2, D02 DE03;
<b>“Bidco”</b>	Swordus Ireland Holding Limited a private limited liability company incorporated in Ireland, having its registered office as A&L Goodbody, 25-28 North Wall Quay, Dublin 1, D01 H104, Ireland;
<b>“Bidco Directors”</b>	the members of the board of directors of Bidco;

<b>“Board”</b>	the board of directors of Fyffes or Sumitomo, as the context requires;
<b>“Business Day”</b>	a day on which the Irish Stock Exchange and London Stock Exchange are open for the transaction of business;
<b>“Cancellation Record Time”</b>	11:59 pm (Irish time) on the day before the High Court hearing to sanction the Scheme;
<b>“Cancellation Shares”</b>	any Fyffes Shares in issue before the Cancellation Record Time, but excluding, in any case, the Transfer Shares and the Excluded Shares;
<b>“certificated” or “in certificated form”</b>	where a share or other security is not in uncertificated form;
<b>“Clearances”</b>	means all consents, clearances, permissions and waivers that need to be obtained all applications and filings that need to be made and all waiting periods that may need to have expired, from or under the Laws, regulations or practices applied by any Relevant Authority in connection with the implementation of the Scheme and/or the Acquisition and, in each case, that constitute Conditions and any reference to Conditions having been “satisfied” shall be construed as meaning that the foregoing have been obtained, or where appropriate, made or expired in accordance with the relevant Condition;
<b>“Closing Price”</b>	the official closing price of a Fyffes Share as derived from the Daily Official List of the Irish Stock Exchange;
<b>“Completion”</b>	the completion of the Scheme in accordance with the terms and conditions of the Transaction Agreement;
<b>“Concert Parties”</b>	such persons as are deemed to be Acting in Concert with Sumitomo or Fyffes (as the context so requires) pursuant to Rule 3.3 of Part A of the Takeover Rules;
<b>“Conditions”</b>	the conditions to the Scheme and the Acquisition set out in Part V of this document, and <b>“Condition”</b> means any one of the Conditions;
<b>“Confidentiality Agreement”</b>	the confidentiality agreement dated 23 November 2016 between Sumitomo and Fyffes;
<b>“Consideration”</b>	the €2.23 in cash per Fyffes Share to be made pursuant to the Scheme to Fyffes Shareholders;
<b>“Court Hearing”</b>	the hearing or hearings by the High Court of the petition to sanction the Scheme, confirm the associated reduction of capital of Fyffes and grant the Court Order;
<b>“Court Order”</b>	the order or orders of the High Court sanctioning the Scheme under Chapter 1, Part 9 of the Act and confirming the reduction of share capital which forms part of the Scheme under Sections 84 to 86 of the Act;
<b>“CREST”</b>	the relevant system (as defined in the CREST Regulations) in respect of which EUI is the Operator (as defined in the CREST Regulations);

<b>“CREST Manual”</b>	the rules governing the operation of CREST, consisting of the CREST Reference Manual, CREST International Manual, CREST Central Counterparty Service Manual, CREST Rules, CREST CCSS Operations Manual, CREST Application Procedure and CREST Glossary of Terms (all as defined in the CREST Glossary of Terms);
<b>“CREST Regulations”</b>	the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996 (SI No 68 of 1996);
<b>“Daily Official List”</b>	the Daily Official List of the Irish Stock Exchange;
<b>“directors of Sumitomo” or “Sumitomo Directors”</b>	the board of directors of Sumitomo;
<b>“Disclosed”</b>	the information disclosed by or on behalf of Fyffes (i) in the 2015 Annual Report; (ii) in the 2.5 Announcement, (iii) in any other public announcement, by or on behalf of Fyffes (in each case) prior to the date of the 2.5 Announcement; or (iv) as otherwise fairly disclosed to Sumitomo (or its respective officers, employees, agents or advisers) prior to the date of the 2.5 Announcement (including the information disclosed in the data room made available by Fyffes to Sumitomo prior to the date of the 2.5 Announcement);
<b>“Distribution”</b>	the Fyffes final dividend in respect of calendar year 2016 of €0.02 per share in cash;
<b>“Dividend Record Time”</b>	6.00 pm on the date of the Court Hearing;
<b>“EC Merger Regulation”</b>	Council Regulation (EC) No. 139/2004;
<b>“EEA”</b>	European Economic Area;
<b>“Effective”</b>	in the context of the Acquisition: (i) if the Acquisition is implemented by way of a Scheme, the Scheme having become effective in accordance with its terms, upon the delivery to the Registrar of Companies of the Court Order together with the minute required by Section 86 of the Act confirming the Reduction of Capital and such Reduction of Capital having become effective upon the registration of the Court Order and minute by the Registrar of Companies; or (ii) if the Acquisition is implemented by way of a Takeover Offer, the Takeover Offer having been declared or become unconditional in all respects in accordance with the requirements of the Takeover Rules;
<b>“Effective Date”</b>	the date on which the Scheme becomes effective in accordance with its terms;
<b>“EGM Resolutions”</b>	the resolutions to be proposed at the EGM for the purposes of approving and implementing the Scheme, the Reduction of Capital, changes to the articles of association of Fyffes and such other matters as Fyffes reasonably determines to be necessary for the purposes of implementing the Acquisition as have been approved by Sumitomo or, subject to the consent of Sumitomo (such consent not to be unreasonably withheld, conditioned or delayed), desirable for the purposes of implementing the Acquisition, but excluding the Management Incentive Resolution;

<b>“End Date”</b>	30 June 2017 unless Fyffes shall have terminated the Transaction Agreement in accordance with Clause 10.1.2 of the Transaction Agreement because Clearances have not been obtained by 15 May 2017, in which case the date shall be the date of such termination;
<b>“ESM”</b>	the Enterprise Securities Market operated by the Irish Stock Exchange;
<b>“ESM Rules”</b>	the ESM Rules for companies published by the Irish Stock Exchange as in force from time to time;
<b>“EU”</b>	the European Union;
<b>“EUI”</b>	Euroclear UK & Ireland Limited;
<b>“euro” or “€”</b>	the currency unit of participating member states of the European Union as defined in Recital (2) of Council Regulation 974/98/EC on the introduction of the euro;
<b>“Excluded Shares”</b>	any Fyffes Shares (i) registered in the name of, or beneficially owned by, Sumitomo, Bidco; (ii) any other member of the Sumitomo Group; and (iii) Treasury Shares;
<b>“Expenses Reimbursement Agreement”</b>	the agreement between Sumitomo and Fyffes dated 8 December 2016 under which Fyffes agreed to reimburse Sumitomo for specific, quantifiable third party costs in connection with the Acquisition under certain circumstances;
<b>“Explanatory Statement”</b>	the explanatory statement prepared by Lazard and Davy Corporate Finance in compliance with Section 452 of the Act and set out in Part III of this document;
<b>“Extraordinary General Meeting” or “EGM”</b>	the extraordinary general meeting of the Fyffes Shareholders convened in connection with the Scheme, expected to be held as soon as the preceding Second Scheme Meeting shall have been concluded or adjourned (and any adjournment thereof);
<b>“Farrington”</b>	Farrington Capital Management;
<b>“First Scheme Meeting”</b>	the meeting of Fyffes Shareholders (other than Sumitomo Class Shareholders) convened by order of the High Court pursuant to Chapter 1, Part 9 of the Act to consider and, if thought fit, approve the Scheme, including any adjournment thereof;
<b>“Forms of Direction”</b>	the GREEN forms of direction for the First Scheme Meeting and the BLUE forms of direction for the EGM in relation to participants in the Fyffes STIP, Fyffes APSS and Fyffes SIP;
<b>“Forms of Proxy”</b>	the YELLOW form of proxy for the First Scheme Meeting, the PURPLE form of proxy for the Second Scheme Meeting and the PINK form of proxy for the EGM, as the context may require;
<b>“Fyffes” or the “Company”</b>	Fyffes plc, a company incorporated in Ireland with registered number 73342 having its registered office at 29 North Anne Street, Dublin 7, Ireland;
<b>“Fyffes Alternative Proposal”</b>	any <i>bona fide</i> proposal or <i>bona fide</i> offer made by any person (other than a proposal or offer by Sumitomo or any person Acting in Concert with Sumitomo pursuant to Rule 2.5 of the Takeover Rules)



for (i) the acquisition of Fyffes by scheme of arrangement, takeover offer or business combination transaction; (ii) the acquisition by any person of 25% or more of the assets of Fyffes and its Subsidiaries, taken as a whole, measured by either book value or fair market value (including equity securities of Fyffes' Subsidiaries); (iii) the acquisition by any person (or the stockholders of any person) of 25% or more of the outstanding Fyffes Shares; or (iv) any merger, business combination, consolidation, share exchange, takeover, scheme of arrangement, recapitalisation or similar transaction involving Fyffes as a result of which the holders of Fyffes Shares immediately prior to such transaction do not, in the aggregate, own at least 75% of the outstanding voting power of the surviving or resulting entity in such transaction immediately after consummation thereof;

<b>“Fyffes APSS”</b>	the Fyffes plc Approved Profit Sharing Scheme;
<b>“Fyffes Articles”</b>	the articles of association of Fyffes;
<b>“Fyffes Board”</b>	all of the directors of Fyffes;
<b>“Fyffes Directors” or “directors of Fyffes”</b>	the board of directors of Fyffes;
<b>“Fyffes Group” or the “Group”</b>	Fyffes and its subsidiary and associated undertakings;
<b>“Fyffes Group Share Schemes”</b>	the Fyffes Group 2007 Share Option Scheme, Fyffes STIP, the Fyffes APSS and Fyffes SIP;
<b>“Fyffes Options”</b>	the outstanding options both vested and unvested to subscribe for Fyffes Shares pursuant to the 2007 Share Option Scheme which, as at the date of the Transaction Agreement, are as set out in the options schedule in schedule 2 of the Transaction Agreement;
<b>“Fyffes Optionholders”</b>	the holders of options to subscribe for Fyffes Shares under the Fyffes Share Option Scheme;
<b>“Fyffes Profit Forecast”</b>	the target earnings ranges set out in italics in Section A of Part IX of this document;
<b>“Fyffes Share” or “Fyffes Shares”</b>	ordinary shares of €0.06 each in the capital of Fyffes;
<b>“Fyffes Share Option Scheme”</b>	the Fyffes plc 2007 Share Option Scheme (as amended);
<b>“Fyffes Shareholders”</b>	the holders of Fyffes Shares which, in relation to the First Scheme Meeting, shall exclude the Sumitomo Class Shareholders;
<b>“Fyffes Shareholder Approval”</b>	(i) the approval of the Scheme by a majority in number of the Fyffes Shareholders representing three-fourths (75%) or more in value of the Fyffes Shares held by such holders, present and voting either in person or by proxy, at the Scheme Meeting (or at any adjournment of such meeting) and (ii) the EGM Resolutions being duly passed by the requisite majorities of Fyffes Shareholders;
<b>“Fyffes SIP”</b>	the Fyffes Share Incentive Plan;
<b>“Fyffes STIP”</b>	the Fyffes Short Term Incentive Plan;
<b>“Fyffes Superior Proposal”</b>	a written Fyffes Alternative Proposal made by any person that the Fyffes Board determines in good faith (after consultation with

Fyffes' financial advisers and outside legal counsel) that it should be recommended to the Fyffes Shareholders in preference to the transactions contemplated by the Transaction Agreement, taking into account (i) any revision to the terms of the transactions contemplated by the Transaction Agreement proposed by Sumitomo in respect of such Fyffes Alternative Proposal in accordance with Clause 5.2.4 of the Transaction Agreement and (ii) such financial, regulatory, legal and other aspects of such proposal as the Fyffes Board considers to be appropriate (it being understood that, for purposes of the definition of "Fyffes Superior Proposal", references to "25%" in the definition of Fyffes Alternative Proposal shall be deemed to refer to "75%" and references to "75%" in the definition of Fyffes Alternative Proposal shall be deemed to refer to "25%");

<b>"Hearing Date"</b>	the date on which the Court Order is made;
<b>"High Court" or "Court"</b>	the High Court of Ireland;
<b>"Holders"</b>	the holders of Fyffes Shares;
<b>"Holding Company"</b>	the meaning given to that term by Section 8 of the Act;
<b>"Indebtedness"</b>	the outstanding principal amount of, accrued and unpaid interest on, and other payment obligations arising under any borrowing or guarantee owed to any bank or credit institution or payable under any bond or transferable security;
<b>"Ireland"</b>	Ireland excluding Northern Ireland and the word Irish shall be construed accordingly;
<b>"Irish Stock Exchange"</b>	The Irish Stock Exchange plc;
<b>"Irrecoverable VAT"</b>	in relation to any person, any amount in respect of VAT which that person (or a member of the same VAT Group as that person) has incurred and in respect of which neither that person nor any other member of the same VAT Group as that person is entitled to a refund (by way of credit or repayment) from any relevant Tax Authority pursuant to and determined in accordance with Section 59 of the Value Added Tax Consolidation Act 2010 and any regulations made under that Act;
<b>"J.P. Morgan"</b>	J.P. Morgan Securities LLC, together with its affiliate J.P. Morgan Limited (which conducts its UK investment banking business as J.P. Morgan Cazenove);
<b>"Latest Practicable Date"</b>	16 December 2016, being the latest practicable date prior to printing and publication of this document;
<b>"Law"</b>	any federal, state, provincial, territorial, local, foreign or supranational law, statute, ordinance, rule, regulation and also any judgment, order, injunction, decree, agency requirement, license or permit of any Relevant Authority;
<b>"Lazard"</b>	Lazard & Co., Limited;
<b>"London Stock Exchange"</b>	London Stock Exchange plc;
<b>"Management Incentive Arrangements"</b>	the management incentive arrangements described in paragraph 12 of Part III of this document;

<b>“Management Incentive Resolution”</b>	the ordinary resolution of Fyffes to be proposed at the EGM for the purpose of approving the Management Incentive Arrangements;
<b>“Meetings”</b>	the Scheme Meetings and the Extraordinary General Meeting;
<b>“New Fyffes Shares”</b>	the ordinary shares of €0.06 each in the capital of Fyffes to be issued credited as fully paid up to Bidco;
<b>“Northern Ireland”</b>	the counties of Antrim, Armagh, Derry, Down, Fermanagh and Tyrone on the island of Ireland;
<b>“Offer period”</b>	the period commencing on 9 December 2016 and ending on the date of the Scheme Meetings;
<b>“Panel” or “Takeover Panel”</b>	the Irish Takeover Panel established under the Takeover Panel Act, 1997 of Ireland;
<b>“Registrar of Companies”</b>	the Registrar of Companies in Dublin, Ireland;
<b>“Reduction of Capital”</b>	the reduction of the issued share capital of Fyffes by the cancellation of the Cancellation Shares to be effected as part of the Scheme;
<b>“Registrars”</b>	Computershare Investor Services (Ireland) Limited;
<b>“Regulatory Information Service”</b>	RNS as operated by the London Stock Exchange;
<b>“Relevant Authority”</b>	any federal commission, board, body, bureau, or other regulatory authority or agency, including courts and other judicial bodies, or any competition, anti-trust or supervisory body or other governmental, regulatory agency or body or securities exchange including and instrumentality or entity designed to act for or on behalf of any of the foregoing, in each case, in any jurisdiction;
<b>“Resolutions”</b>	the EGM Resolutions and the Management Incentive Resolution;
<b>“Restricted Jurisdiction”</b>	any jurisdiction where local laws or regulations may result in a significant risk of civil, regulatory or criminal exposure if information concerning the Acquisition is sent or made available in that jurisdiction;
<b>“Sanction Date”</b>	the sanction by the High Court (with or without material modification), but subject to any such modification being acceptable to each of Sumitomo and Fyffes of the Scheme pursuant to Chapter 1 of Part 9 of the Act and the confirmation of the Reduction of Capital on or before the End Date;
<b>“Scheme” or “Scheme of Arrangement”</b>	the proposed scheme of arrangement under Chapter 1, Part 9 of the Act and the capital reduction under Sections 84 to 86 of the Act with or subject to any modification, addition or condition approved or imposed by the High Court and agreed by Fyffes and Sumitomo and Bidco (acting reasonably) in writing;
<b>“Scheme Document”</b>	this document, dated 20 December 2016;
<b>“Scheme Meeting Resolution”</b>	the resolution to be proposed at the Scheme Meeting for the purposes of approving and implementing the Scheme;
<b>“Scheme Recommendation”</b>	the unanimous recommendation of the Fyffes Board that Fyffes Shareholders vote in favour of the Resolutions (or if Sumitomo effects the Acquisition as a Takeover Offer, the recommendation of

	the Fyffes Board that Fyffes Shareholders accept the Takeover Offer);
<b>“Scheme Meetings”</b>	the First Scheme Meeting and the Second Scheme Meeting and “Scheme Meeting” shall mean either of them, as the context requires;
<b>“Scheme Payment Date”</b>	the date of payment of the Consideration, which shall be no later than 14 days after the Effective Date;
<b>“Scheme Record Time”</b>	6.00 pm on the last business day in Dublin or London, whichever is later, before the Effective Date;
<b>“Second Scheme Meeting”</b>	the meeting of Sumitomo Class Shareholders convened by order of the High Court pursuant to Chapter 1, Part 9 of the Act to consider and, if thought fit, approve the Scheme, including any adjournment thereof;
<b>“subsidiaries”</b>	has the same meaning as in Section 7 of the Act;
<b>“subsidiary undertaking” or “subsidiary”</b>	has the same meaning as in the Act;
<b>“Sumitomo”</b>	Sumitomo Corporation, a company limited by shares, incorporated and domiciled in Japan having its registered office and principal place of business at 1-8-11 Harumi, Chuo-ku, Tokyo 104-8610, Japan;
<b>“Sumitomo Board”</b>	the board of directors of Sumitomo;
<b>“Sumitomo Class Shareholders”</b>	the holders of Sumitomo Class Shares;
<b>“Sumitomo Class Shares”</b>	Fyffes Shares of which any member of the Sumitomo Group is a beneficial owner;
<b>“Sumitomo Group”</b>	Sumitomo and its subsidiaries and subsidiary undertakings;
<b>“Takeover Offer”</b>	an offer for the entire issued and to be issued share capital of Fyffes (other than any Fyffes Shares held by Sumitomo or any member of the Sumitomo Group, if any), not being a Scheme, including any amendment or revision thereto, the full terms of which would be set out in the Takeover Offer Document or (as the case may be) any revised offer document(s);
<b>“Takeover Offer Document”</b>	if following the date of the Transaction Agreement, Sumitomo elects to implement the Acquisition by way of Takeover Offer in accordance with Clause 3.6 of the Transaction Agreement, the document to be despatched to Fyffes Shareholders and others by Bidco or Sumitomo (or such other entity as it may elect) containing, amongst other things, the Takeover Offer, the Conditions (save insofar as not appropriate in the case of a Takeover Offer) and certain information about Sumitomo, Bidco and Fyffes and, where the context so admits, includes any form of acceptance, election, notice or other document reasonably required in connection with the Takeover Offer;
<b>“Takeover Rules”</b>	the Irish Takeover Panel Act, 1997, Takeover Rules, 2013;
<b>“Term Loan”</b>	has the meaning given in paragraph 7 of Part VII;
<b>“Termination Date”</b>	has the meaning given in paragraph 7 of Part VII;

<b>“The First Amended and Restated Jerry Zucker Revocable Trust”</b>	the Article 6 of Marital Trust created under the First Amended and Restated Jerry Zucker Revocable Trust dated 2 April 2007;
<b>“Transaction Agreement”</b>	the transaction agreement entered into between Fyffes, Bidco and Sumitomo dated 8 December 2016 relating to, among other things, the implementation of the Acquisition as described in Part I (Letter of Recommendation from the Fyffes Board) of this document;
<b>“Transfer Shares”</b>	Fyffes Shares issued at or after the Cancellation Record Time and before the Scheme Record Time excluding, for the avoidance of doubt, the Excluded Shares;
<b>“Treasury Shares”</b>	any shares held in Fyffes by Fyffes and/or any of its subsidiaries;
<b>“uncertificated” or “in uncertificated form”</b>	recorded on the relevant register of the share or security concerned as being in uncertificated form in CREST and title to which may be transferred by means of CREST;
<b>“United Kingdom” or “UK”</b>	the United Kingdom of Great Britain and Northern Ireland;
<b>“VAT”</b>	any tax imposed by any member state of the European Community in conformity with the Directive of the Council of the European Union on the common system of value added tax (2006/112/EC) and any tax similar to or replacing same;
<b>“Voting Record Time”</b>	in relation to both the Scheme Meetings and the EGM at 6.00 pm on Wednesday 14 January 2017 or, if either of the Scheme Meetings or the EGM is adjourned, 6.00 pm on the day two days before the day set for the relevant adjourned meeting; and
<b>“¥”</b>	means Japanese yen.

All amounts contained within this document referred to by “EUR” and/or “€” refer to Euro and all amounts contained within this document referred to by “US\$” refers to United States Dollars.

Any reference to any provision of any legislation shall include any provision in any legislation which amends, modifies, consolidates, re-enacts, extends or replaces the same.

Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include the feminine or neuter gender.

All times referred to within this document are Irish times unless otherwise stated.

## Part IX – Profit Forecast

### Section A – Fyffes Profit Forecast

#### 1. General

Following its acquisition of Highline Produce Limited, Fyffes advised the market on 29 April 2016 that its target earnings ranges for the year ending 31 December 2016 were as set out below. These target ranges were reconfirmed to the market on publication of Fyffes 2016 interim results for 2016 on 2 September 2016.

Adjusted EBITDA	€63 – €69 million
Adjusted EBITA	€49 – €55 million
Adjusted EPS	12.8 – 14.5 cent

Adjusted EBITDA represents operating profit before interest, tax, depreciation, amortisation and exceptional items. Adjusted EBITA is Adjusted EBITDA less depreciation charges. Adjusted EPS is profit attributable to equity shareholders excluding amortisation, exceptional items and the related tax impact of both, divided by the weighted average number of shares in issue during the year including share options with dilutive effect.

EBITA is the basis on which Fyffes has consistently provided the market with profit target ranges or forecasts in recent years as it is the primary measure of performance used by the Company. The following table shows the reconciliation of EBITDA and EBITA to the generally accepted accounting principle measure of Profit for the financial year as derived from the audited consolidated financial statements of Fyffes for its two most recent financial years ending 31 December 2014 and 2015 included elsewhere in this document:

	2015 €'000	2014 €'000
EBITDA	56,141	48,226
Depreciation	(10,322)	(8,093)
EBITA	45,819	40,133
Amortisation charges	–	–
Share of joint ventures interest and tax charges	(1,307)	(1,306)
Exceptional items	(11,978)	98
Operating Profit	32,534	38,925
Net Financial Expense	(748)	(746)
Income tax charge	(4,246)	(4,048)
Profit for the financial year	27,540	34,131
<i>Attributable as follows:</i>		
Equity shareholders	27,425	33,910
Non-controlling interests	115	221
	27,540	34,131
<i>Calculation of diluted earnings per share:</i>		
Weighted average number of shares for calculation of diluted earnings per share (No. of shares '000)	301,217	302,654
Diluted earnings per share (Euro cent)	9.10	11.20

	2015 €'000	2014 €'000
<i>Calculation of adjusted diluted earnings per share:</i>		
Profit attributable to equity shareholders	27,425	33,910
Exclude exceptional items	11,978	(98)
Exclude tax impact of exceptional items	(1,053)	–
Adjusted diluted earnings	38,350	33,812
Adjusted diluted earnings per share (Euro cent)	12.73	11.17

Fyffes 2016 EBITA forecast of €49 – €55 million excludes costs incurred, or to be incurred, by Fyffes in connection with the acquisition by Sumitomo which it is estimated will amount to approximately €13.7 million (ex. VAT) in 2016. Fyffes reported a net exceptional credit of €1.7 million in its 2016 interim accounts, comprising a €3.6 million gain on closure during the period of its UK defined benefit pension scheme to future accrual, less charges of €1.9 million in respect of professional and advisory fees and other costs related to acquisition in the period. Fyffes intangible assets, at that time, became fully amortised in 2013 and, as a result, Fyffes did not incur any amortisation charges in 2014 or 2015. Fyffes recognised amortisation charges of €1.3 million in its 2016 interim accounts in relation to intangible assets arising on acquisitions completed during the first half. Forecast full year amortisation charges are currently estimated to be €3.4 million, but this is subject to further review when finalising the accounting for all acquisitions completed during the year.

Forecast profit for the financial year includes expected net financial expenses of €2.8 million, compared to €0.7 million in each of the two previous years reflecting the higher debt levels in the business as a result, inter alia, of the €140 million investment in acquiring two Canadian mushroom businesses during 2016. Forecast profit for the financial year also includes an estimated tax charge for the year equivalent to a 16% rate. This compares to a 13.8% effective rate in 2015, with the increase in 2016 reflecting the change in the geographic mix of the Group's profits following the Canadian acquisitions in particular.

Fyffes encourages shareholders to review its historical financial statements to understand differences between its EBITA and Profit for the financial year in earlier years and cautions shareholders from relying solely on EBITA to predict Profit for the financial year.

The statements above regarding Adjusted EBITDA, Adjusted EBITA and Adjusted EPS for the year ending 31 December 2016 constitute a profit forecast ("Fyffes Profit Forecast") for the purposes of Rule 28 of the Irish Takeover Panel Act 1997, Takeover Rules 2013. Except as may be required under the Takeover Rules, Fyffes assumes no obligation, nor does Fyffes intend, to update or otherwise revise the Fyffes Profit Forecast.

## **2. Basis of preparation**

The Fyffes Profit Forecast has been prepared, except as described above, on a consistent basis with the accounting policies being adopted by Fyffes for the period ending 31 December 2016, which are in accordance with IFRS, and which are comparable with the accounting policies adopted in its consolidated financial statements for the year ended 31 December 2015. The Fyffes Profit Forecast does not take into account any effects of the proposed acquisition by Sumitomo (including any costs related to the completion of the acquisition).

The Fyffes Profit Forecast is supported by actual results for the 10 months to the end of October 2016, combined with a final estimate for the month of November and an initial forecast for the month of December. December is important in terms of the overall profit for the year as it represents the first month of US melon import season. The earnings per share calculation includes the proportionate impact on the number of shares in issue of the placing of 31,450,000 Fyffes plc ordinary €0.06 shares on 16 September 2016.



### **3. Assumptions**

The principal assumptions upon which the Fyffes Profit Forecast is based are set forth below:

- Trading in the month of December 2016 will be in line with expectations consistent with observed and anticipated customer demand and the pricing environment for Fyffes products;
- The development of volumes achieved in the year to date in each of the Group's product categories will continue to be achieved in December 2016, including the first time contribution from the mushroom businesses acquired in 2016 and the contribution from further integration of the melon business;
- Customer and supplier behaviour will reflect existing contractual terms;
- No material change in cost of goods in the remainder of the year;
- No significant change in performance of smaller businesses and joint ventures;
- No material changes in Fyffes management, corporate and tax structure, operational strategies or accounting policies and methodologies during the remainder of the year; and
- No material changes to operational or financial performance as a result of material new acquisitions or disposals during the remainder of the year.

#### ***Factors outside the influence or control of the directors of Fyffes***

- There will be no material changes in exchange rates, interest rates, bases of taxes, legislative or regulatory requirements, during the remaining weeks of 2016, from those currently forecast that would have a material impact on Fyffes operations or its accounting policies;
- No material changes in tax rates in the territories in which Fyffes operates;
- There will be no material adverse weather events or natural catastrophes that affect Fyffes key products or markets during the remaining weeks of 2016;
- There will be no material impact from any political or economic events in the countries in which Fyffes, its competitors or customers trade during the remaining weeks of 2016;
- Assumes no account for any adverse outcome to any litigation, regulatory matter or government investigation; and
- There will be no business interruptions that materially adversely affect Fyffes, its key customers or its key suppliers during the remaining weeks of 2016.

#### ***Additional information***

The Fyffes board of directors is solely responsible for the Fyffes Profit Forecast.

The reports on the Fyffes Profit Forecast as required by Rule 28.3 of the Takeover Rules have been prepared by (1) KPMG and (2) Davy Corporate Finance and Lazard.

Copies of their respective reports are available at Sections B and C of this document.

## Section B – Report of KPMG on the Fyffes Profit Forecast



The Directors  
Fyffes plc  
Treasury Building  
29 North Anne Street  
Dublin 7  
Ireland

Lazard & Co Limited  
50 Stratton Street,  
London W1J 8LL,  
United Kingdom

Davy Corporate Finance  
Davy House  
49 Dawson Street  
Dublin 2  
Ireland

20 December 2016

Dear Sir or Madam:

### **Accountant's report on profit forecast**

#### **Fyffes plc**

We report on the profit forecast comprising a forecast of Adjusted Earnings before Interest, Tax, Depreciation and Amortisation, Adjusted Earnings before Interest, Tax and Amortisation and Adjusted Earnings per Share of Fyffes plc (the 'Company') and its subsidiary undertakings (the 'Group') for the year ending 31 December 2016 (the 'Profit Forecast'). The Profit Forecast, and the material assumptions upon which it is based, are set out on page 80 onwards of the scheme circular (the 'Document') dated 20 December 2016. This report is required by Rule 28.3(a) of the Irish Takeover Panel Act, 1997, Takeover Rules, 2013 (the 'Takeover Rules') and is given for the purpose of complying with that rule and for no other purpose. Accordingly, we assume no responsibility in respect of this report to the offeror or to any person connected to, or acting in concert with, the offeror, or to any other person who is seeking or may in future seek to acquire control of the Company (an 'Alternative Offeror') or to any person connected to, or acting in concert with, an Alternative Offeror.

#### **Responsibilities**

It is the responsibility of the directors of the Company (the 'Directors') to prepare the Profit Forecast in accordance with the requirements of the Takeover Rules.

It is our responsibility to form an opinion as required by the Takeover Rules as to the proper compilation of the profit forecast and to report that opinion to you.

Save for any responsibility which we may have to those persons to whom this report is expressly addressed, to the fullest extent permitted by law we do not assume any responsibility and will not accept any liability to any other person for any loss suffered by any such other person as a result of, arising out of, or in accordance with this report or our statement, required by and given solely for the purposes of complying with Rule 28.4 of the Takeover Rules, consenting to its inclusion in the Document.

### **Basis of Preparation of the Profit Forecast**

The Profit Forecast has been prepared on the basis stated at paragraph 2, Part IX on page 81 of the Document. The Profit Forecast is required to be presented on a basis consistent with the accounting policies of the Group.

### **Basis of opinion**

We conducted our work in accordance with Standards for Investment Reporting issued by the Auditing Practices Board of the United Kingdom and Ireland. Our work included evaluating the basis on which the historical financial information included in the Profit Forecast has been prepared and considering whether the Profit Forecast has been accurately computed based upon the disclosed assumptions and the accounting policies of the Group. Whilst the assumptions upon which the Profit Forecast are based are solely the responsibility of the Directors, we considered whether anything came to our attention to indicate that any of the assumptions adopted by the Directors which, in our opinion, are necessary for a proper understanding of the Profit Forecast have not been disclosed or if any material assumption made by the Directors appears to us to be unrealistic.

We planned and performed our work so as to obtain the information and explanations we considered necessary in order to provide us with reasonable assurance that the Profit Forecast has been properly compiled on the basis stated.

Since the Profit Forecast and the assumptions on which it is based relate to the future and may therefore be affected by unforeseen events, we can express no opinion as to whether the actual results reported will correspond to those shown in the Profit Forecast and differences may be material.

Our work has not been carried out in accordance with auditing or other standards and practices generally accepted in the United States of America or other jurisdictions and accordingly should not be relied upon as if it had been carried out in accordance with those standards and practices.

### **Opinion**

In our opinion the Profit Forecast, so far as the accounting policies and calculations are concerned, has been properly compiled on the basis of the assumptions made by the Directors and the basis of accounting used is consistent with the accounting policies of the Group.

Yours faithfully,

**KPMG**

*Chartered Accountants*

Dublin, Ireland

## Section C – Report of Davy Corporate Finance and Lazard on Fyffes Profit Forecast



Davy Corporate Finance  
Davy House  
49 Dawson Street  
Dublin 2  
Ireland

The Directors  
Fyffes plc  
29 North Anne Street  
Dublin 7  
Ireland

20 December, 2016

Dear Sirs,

# L A Z A R D

Lazard & Co., Limited  
50 Stratton Street,  
London W1J 8LL,  
United Kingdom

**Fyffes plc – recommended cash offer by Swordus Ireland Holding Limited,  
a wholly owned subsidiary of Sumitomo Corporation, to be implemented by way of a Scheme of  
Arrangement under Chapter 1 of Part 9 of the Companies Act 2014 (the “Offer”)**

We report on the profit forecast comprising<sup>5</sup>:

- forecast adjusted earnings before interest, tax, depreciation and amortisation of €63m – €69m
- forecast adjusted earnings before interest, tax and amortisation of €49m – €55m
- forecast adjusted earnings per share of 12.8 cent – 14.5 cent

of Fyffes plc (the ‘Company’ or ‘Fyffes’) and its subsidiary undertakings (together the ‘Group’) for the year ending 31 December 2016 (together the “Profit Forecast”). These full year target earnings ranges were reconfirmed by the Company on 2 September 2016 at the time of publication of its interim results for the period ended 30 June 2016.

The Profit Forecast, and the material assumptions upon which it is based, are set out in the Profit Forecast issued by the Company and included together with this report in the scheme circular.

We have discussed the Profit Forecast and the bases and assumptions, on which it has been prepared with you as directors of Fyffes, the senior management of Fyffes and with KPMG, Fyffes’ auditors.

We have assumed with your consent that the Profit Forecast reflects the best currently available estimates and judgments of the management of Fyffes as to the future financial performance of Fyffes for the period to which it relates. We have also discussed the accounting policies and bases of calculation for the Profit Forecast with the directors and the senior management of Fyffes and with KPMG. We have also considered KPMG’s report of today’s date addressed to you and us on this matter. You have confirmed to us that all information relevant to the Profit Forecast has been disclosed to us.

For purposes of rendering this report, we have, with your consent, relied upon and assumed the accuracy and completeness of all the financial, legal, regulatory, tax, accounting and other information provided to, discussed with or reviewed by, us, without any independent verification or investigation thereof.

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<sup>5</sup> <http://investors.fyffes.com/fyffesplc/uploads/finreports/interim-results-2016.pdf>

This report is provided to you solely in connection with Rule 28 of the Irish Takeover Panel Act, 1997, Takeover Rules 2013 and for no other purpose. We are acting exclusively as financial advisers to Fyffes and no one else in connection with the Offer, and it was solely for the purposes of complying with this provision of Irish law that Fyffes requested that Davy Corporate Finance and Lazard & Co., Limited prepare a report on the Profit Forecast. No person other than the directors of Fyffes can rely on the contents of this report and, to the fullest extent permitted by law, we assume no responsibility, and we exclude and disclaim all liability (whether in contract, tort or otherwise), to any person other than the directors of Fyffes in respect of this report, the work undertaken by us in connection with this report, any written or oral information provided in connection with this report and any results that can be derived from this report.

This report is not an opinion regarding, and we express no view as to, the reasonableness or achievability of the Profit Forecast. Instead, this report will address solely the matters required to be addressed by Rule 28 of the Takeover Rules and does not address any other matter; it does not address, among other things, the relative merits of the Offer as compared to any other transaction or business strategy, the merits of the decision by Fyffes to engage in the Offer, the fairness to Fyffes shareholders of the consideration offered in the Offer, or the price at which Fyffes' shares will trade at any time.

Furthermore, this report has been prepared independently of publication of the Profit Forecast and may not be relied on by you in recommending that Fyffes shareholders vote to approve the Offer. This report is not intended to, and does not constitute, a recommendation to any shareholder as to how such shareholder should vote or act with respect to the Offer or any matter related thereto.

On the basis of the foregoing, we consider that the Profit Forecast, for which you as directors of Fyffes are solely responsible, has been made with due care and consideration.

Yours faithfully,

For and on behalf of  
**Davy Corporate Finance**

For and on behalf of  
**Lazard & Co., Limited**

## NOTICE OF FIRST SCHEME MEETING

### IN THE HIGH COURT

### IN THE MATTER OF FYFFES PLC

– and –

### IN THE MATTER OF THE COMPANIES ACT 2014

NOTICE IS HEREBY GIVEN that by an Order made in the above matters, the High Court has (in accordance with section 450 of the Companies Act 2014) directed a meeting (the “**Scheme Meeting**”) to be convened of the holders of the Scheme Shares (other than Sumitomo Class Shares) (both as defined in the proposed scheme of arrangement referred to below) in the capital of Fyffes plc (the “**Company**”) for the purpose of considering and, if thought fit, approving a resolution to approve (with or without modification) a scheme of arrangement pursuant to Chapter 1 of Part 9 of the Companies Act 2014 proposed to be made between the Company and the holders of the Scheme Shares (the “**Scheme**”) and any motion by the Chairman to adjourn the Scheme Meeting, or any adjournments thereof, to another time and place if necessary or appropriate to solicit additional proxies if there are insufficient votes at the time of the Scheme Meeting to approve the Scheme (and that such meeting will be held at Ballsbridge Hotel, Pembroke Road, Dublin 4, Ireland on 16 January 2017, at 10.00 am (together the “**Scheme Meeting Proposals**”), at which place and time all holders of the said shares are invited to attend; such resolutions being in the following terms. The Scheme Meeting Proposals may be voted on in such order as is determined by the Chairman of the Scheme Meeting:

*“That the Scheme in its original form or with or subject to any modification(s), addition(s) or condition(s) approved or imposed by the High Court be agreed to.”*

To be passed, the resolution to approve the Scheme requires the approval of a simple majority (more than 50%) in number of Fyffes Shareholders of record representing not less than three-fourths (75%) in value of the Scheme Shares held by such holders voting in person or by proxy.

A copy of the said scheme of arrangement and a copy of the Explanatory Statement required to be furnished pursuant to Section 452 of the above-mentioned Act are incorporated in the document of which this Notice forms part.

**Shareholders may vote in person at the said meeting or they may appoint another person or persons, whether a member of the Company or not, as their proxy to attend, speak and vote in their stead. A Form of Proxy or a Form of Direction, as the case may be, (as defined in the document of which this Notice forms part) for use at the said meeting is enclosed with this Notice. Completion and return of a Form of Proxy will not preclude a shareholder from attending and voting in person at the said meeting, or any adjournment thereof, if that shareholder wishes to do so.**

It is required that forms appointing proxies be lodged with the Company’s Registrars, Computershare Investor Services (Ireland) Limited, at Heron House, Corrig Road, Sandyford Industrial Estate, Dublin 18, Ireland not less than 48 hours before the time appointed for the said meeting but if forms are not so lodged they may be handed to the Chairman of the meeting before the start of the meeting and will still be valid.

If you hold your Fyffes shares through CREST and you wish to appoint a proxy or proxies through the CREST electronic proxy appointment service, you may do so by using the procedures described in the CREST Manual. CREST personal members or other CREST sponsored members, and those CREST members who have appointed a voting service provider(s), should refer to their CREST sponsor or voting service provider(s), who will be able to take the appropriate action on their behalf. In order for a proxy appointment or instruction made using the CREST service to be valid, the appropriate CREST Proxy Instruction must be properly authenticated in accordance with the specifications of Euroclear UK & Ireland Limited (“EUI”) and must contain the information required for such instructions, as described in the CREST Manual. The message, regardless of whether it constitutes the appointment of a proxy or an amendment to the instruction given to a previously appointed proxy must, in order to be valid, be transmitted so as to be

received by Computershare Investor Services (Ireland) Limited (ID 3RA50) by no later than 48 hours before the time set for the meeting (or if the meeting is adjourned for any reason, 48 hours before the time set for the relevant adjourned meeting). For this purpose, the time of receipt will be taken to be the time (as determined by the timestamp applied to the message by the CREST Applications Host) from which Computershare Investor Services (Ireland) Limited is able to retrieve the message by enquiry to CREST in the manner prescribed by CREST. After this time, any change of instructions to proxies appointed through CREST should be communicated to the appointee through other means. CREST members and, where applicable, their CREST sponsors or voting service providers should note that EUI does not make available special procedures in CREST for any particular messages. Normal system timings and limitations will therefore apply in relation to the input of CREST Proxy Instructions. As a CREST member, it is your responsibility to take (or, if you are a CREST personal member or sponsored member or have appointed a voting service provider(s), to procure that your CREST sponsor or voting service provider(s) take(s)) such action as shall be necessary to ensure that a message is transmitted by means of the CREST system by any particular time. In this connection, CREST members and, where applicable, their CREST sponsors or voting service providers are referred, in particular, to those sections of the CREST Manual concerning practical limitations of the CREST system and timings. Fyffes may treat as invalid a CREST Proxy Instruction in the circumstances set out in Regulation 35(5)(a) of the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996 (as amended).

In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, will be accepted to the exclusion of the vote(s) of the other joint holder(s) and for this purpose, seniority will be determined by the order in which the names stand in the register of members of the Company in respect of the joint holding.

Entitlement to attend and vote at the meeting, or any adjournment thereof, and the number of votes which may be cast thereat, will be determined by reference to the register of members of the Company at 6.00 pm on 14 January 2017 or, in the event that this meeting is adjourned, at 6.00 pm on the day that is two days before the time of any adjourned meeting. In each case, changes to the register of members of the Company after such time shall be disregarded.

If the Form of Proxy is properly executed and returned, it will be voted in the manner directed by the shareholder executing it, or if no directions are given, will be voted at the discretion of the Chairman of the Scheme Meeting or any other person duly appointed as proxy by the shareholder.

In the case of a corporation, the Form of Proxy must be either under its Common Seal or under the hand of an officer or attorney, duly authorised.

By the said Order, the High Court has appointed David McCann, Chairman of Fyffes, or, failing him, Tom Murphy, Finance Director of Fyffes, or, failing him, Coen Bos, Chief Operating Officer of Fyffes, to act as Chairman of the said meeting and has directed the Chairman to report the result thereof to the High Court.

The said scheme of arrangement will be subject to the subsequent sanction of the High Court.

Dated: 20 December 2016

Arthur Cox Earlsfort Centre Earlsfort Terrace Dublin 2 Ireland

Solicitors for the Company



## NOTICE OF SECOND SCHEME MEETING

### IN THE HIGH COURT

### IN THE MATTER OF FYFFES PLC

– and –

### IN THE MATTER OF THE COMPANIES ACT 2014

NOTICE IS HEREBY GIVEN that by an Order made in the above matters, the High Court has directed a meeting (the “**Scheme Meeting**”) to be convened of the holders of the Sumitomo Class Shares (as defined in the proposed scheme of arrangement referred to below) in the capital of Fyffes plc (the “**Company**”) for the purpose of considering and, if thought fit, approving (with or without modification) a scheme of arrangement pursuant to Chapter 1, Part 9 of the Companies Act 2014 proposed to be made between the Company and the holders of the Scheme Shares (as defined in the said proposed scheme of arrangement) and that such meeting will be held at the Ballsbridge Hotel, Pembroke Road, Dublin 4, Ireland on 16 January 2017, at 10.10 am (or, if later, as soon thereafter as the First Scheme Meeting (as defined in the said proposed scheme of arrangement) shall have been concluded or adjourned) at which place and time all holders of the said shares are invited to attend. The proposal to be voted on at the Scheme Meeting is as follows:

*“That the Scheme in its original form or with or subject to any modification(s), addition(s) or condition(s) approved or imposed by the High Court be agreed to.”*

A copy of the said scheme of arrangement and a copy of the Explanatory Statement required to be furnished pursuant to Section 452 of the above-mentioned Act are incorporated in the document of which this Notice forms part.

**Shareholders may vote in person at the said meeting or they may appoint another person or persons, whether a member of the Company or not, as their proxy to attend, speak and vote in their stead. A Form of Proxy for use at the said meeting is enclosed with this Notice. Completion and return of a Form of Proxy will not preclude a shareholder from attending and voting in person at the said meeting, or any adjournment thereof, if that shareholder wishes to do so.**

It is required that forms appointing proxies be lodged with the Company’s Registrars, Computershare Investor Services (Ireland) Limited, at Heron House, Corrig Road, Sandyford Industrial Estate, Dublin 18, Ireland not less than 48 hours before the time appointed for the said meeting but if forms are not so lodged they may be handed to the Chairman of the meeting before the start of the meeting and will still be valid.

In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, will be accepted to the exclusion of the vote(s) of the other joint holder(s) and for this purpose, seniority will be determined by the order in which the names stand in the register of members of the Company in respect of the joint holding.

Entitlement to attend and vote at the meeting, or any adjournment thereof, and the number of votes which may be cast thereat, will be determined by reference to the register of members of the Company at 6.00 pm on 14 January 2017 or, in the event that this meeting is adjourned, in the register of members at 6.00 pm on the day that is two days before the time of any adjourned meeting. In each case, changes to the register of members of the Company after such time shall be disregarded.

If the Form of Proxy is properly executed and returned, it will be voted in the manner directed by the shareholder executing it, or if no directions are given, will be voted at the discretion of the Chairman of the Scheme Meeting or any other person duly appointed as proxy by the shareholder.

In the case of a corporation, the Form of Proxy must be either under its Common Seal or under the hand of an officer or attorney, duly authorised.

By the said Order, the High Court has appointed David McCann, Chairman of Fyffes, or, failing him, Tom Murphy, Finance Director of Fyffes, or, failing him, Coen Bos, Chief Operating Officer of Fyffes, to act as Chairman of the said meeting and has directed the Chairman to report the result thereof to the High Court. The said scheme of arrangement will be subject to the subsequent sanction of the High Court.

Dated: 20 December 2016

Arthur Cox Earlsfort Centre Earlsfort Terrace Dublin 2 Ireland

Solicitors for the Company

**NOTICE OF EXTRAORDINARY GENERAL MEETING**  
**OF**  
**FYFFES PLC**

NOTICE IS HEREBY GIVEN that an EXTRAORDINARY GENERAL MEETING (“**EGM**”) of Fyffes plc (the “**Company**”) will be held at the Ballsbridge Hotel, Pembroke Road, Dublin 4, Ireland on 16 January 2017 at 10.25 am (or, if later, as soon thereafter as the Second Scheme Meeting (as defined in the document of which this Notice forms part) shall have been concluded or adjourned) for the purpose of considering and, if thought fit, passing the following resolutions of which resolutions 2 and 4 will be proposed as ordinary resolutions and resolutions 1 and 3 as special resolutions (the “**EGM Proposals**”). The EGM Proposals may be voted on in such order as is determined by the Chairman of the EGM:

**1. Special Resolution: Cancellation of Scheme Shares**

Subject to the passing of Resolutions 2 and 3 (below) and to the confirmation of the High Court, the issued (but not the authorised) capital of the Company be reduced pursuant to Section 84 of the Companies Act 2014 by cancelling and extinguishing all the Cancellation Shares (as defined in the Scheme) without thereby reducing the authorised share capital of the Company.

**2. Ordinary Resolution: Directors’ authority to allot securities and application of reserve**

Subject to and forthwith upon the reduction of capital referred to in Resolution 1 above taking effect:

- (a) the directors of the Company be and are hereby generally authorised pursuant to and in accordance with Section 1021 of the Companies Act 2014 to give effect to this resolution and accordingly to effect the allotment of the New Fyffes Shares (as defined in the Scheme) referred to in paragraph (b) below provided that (i) this authority shall expire on the End Date (as defined in the Scheme), (ii) the maximum aggregate nominal amount of shares which may be allotted hereunder shall be an amount equal to the nominal value of the Cancellation Shares and (iii) this authority shall be without prejudice to any other authority under the said Section 1021 previously granted before the date on which this resolution is passed; and
- (b) the distributable reserve arising in the books of account of the Company as a result of the cancellation of the Cancellation Shares be applied in paying up in full at par such number of New Fyffes Shares as shall be equal to the aggregate of the number of Cancellation Shares cancelled pursuant to Resolution 1 above, such new Fyffes Shares to be allotted and issued to Bidco, credited as fully paid up and free from all liens, charges, encumbrances, rights of pre-emption and any other third party rights of any nature whatsoever.

**3. Special Resolution: amendment to Articles of Association**

With effect from the passing of this Resolution, the Articles of Association of the Company be amended by adding the following new paragraphs (d) to (g) at the end of the existing paragraphs (a) to (c) of Article 3:

- (d) In this Article, the “**Scheme**” means the scheme of arrangement dated 20 December 2016 between the Company and the holders of Scheme Shares (which comprise the ordinary shares of the Company that are cancelled or transferred under the Scheme (the “**Scheme Shares**”) under Chapter 1, Part 9 of the Companies Act 2014 in its original form or with or subject to any modification, addition or condition approved or imposed by the High Court and expressions defined in the Scheme and (if not so defined) in the document containing the Explanatory Statement circulated with the Scheme under Section 452 of the Companies Act 2014 shall have the same meanings in this Article.
- (e) Despite anything else in these Articles, if the Company allots and issues any Fyffes Shares (other than to Swordus Ireland Holding Limited (“**Bidco**”) on or after the adoption of this Article and prior to 6.00 pm on the last business day in Dublin or London, whichever is later, before the date on which the Scheme becomes effective (the “**Scheme Record Time**”), such shares shall be allotted and issued subject to the terms of the Scheme and the holder or holders of those shares shall be bound by the Scheme accordingly.

- (f) If any new Fyffes Shares are allotted or issued to any person (a “**new member**”) (other than under the Scheme to Bidco on or after the Scheme Record Time, the new member shall, provided the Scheme has become effective, have such shares transferred immediately to Bidco in consideration of and conditional on the payment by Bidco to the new member of the amount of cash to which the new member would have been entitled under the terms of the Scheme had each ordinary share transferred to Bidco hereunder been a Scheme Share at the Scheme Record Time, such new Fyffes Shares of the Company to rank *pari passu* in all respects with all other ordinary shares of the Company for the time being in issue and ranking for any dividends or distributions made, paid or declared thereon following the date on which the transfer of such new Fyffes Shares of the Company is executed.
- (g) In order to give effect to any such transfer required by this Article 3, the Company may appoint any person to execute and deliver a form of transfer on behalf of the new member in favour of Bidco. Pending the registration of Bidco as a holder of any share to be transferred under this Article 3, the new member shall not be entitled to exercise any rights attaching to any such shares unless so agreed by Bidco and Bidco shall be irrevocably empowered to appoint a person nominated by Bidco to act as attorney or agent on behalf of any holder of that share in accordance with any directions Bidco may give in relation to any dealings with or disposal of that share (or any interest in it), exercising any rights attached to it or receiving any distribution or other benefit accruing or payable in respect of it and any holders of that share must exercise all rights attaching to it in accordance with the directions of Bidco.

#### 4. Ordinary Resolution: Management Incentive Arrangements

THAT the Management Incentive Arrangements, summarised in Part III of the document to Fyffes’ shareholders dated 20 December 2016, of which this notice forms part (the “**Offer Document**”) are hereby approved in or substantially in such form for the purposes of Rule 16 of the Takeover Rules, notwithstanding that such arrangements are not extended to all shareholders of Fyffes (capitalised terms are as defined in the Offer Document).

By order of the Board

**Seamus Keenan**

*Company Secretary*

Fyffes plc

29 North Anne Street

Dublin

Dated: 20 December 2016

#### Notes

1. A member entitled to attend and vote at the meeting is entitled to appoint one or more proxies to attend and vote on his behalf. A proxy need not be a member of Fyffes. Appointment of a proxy will not preclude a member from attending and voting at the meeting should the member subsequently wish to do so. You may appoint more than one proxy provided that each proxy is appointed to exercise the rights attached to a different share or shares held by him. Should you wish to appoint more than one proxy, please read carefully the explanatory notes accompanying the Form of Proxy.
2. As a member, you have several ways to exercise your right to vote:
  - (a) By attending the Extraordinary General Meeting in person;
  - (b) By appointing (either electronically or by returning a completed Form of Proxy) the Chairman or another person as a proxy to vote on your behalf;
  - (c) By appointing a proxy via the CREST System if you hold your shares in CREST.

In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, will be accepted to the exclusion of the votes of the other registered holder(s) and, for this purpose, seniority will be determined by the order in which the names stand in the register of members.

3. You may appoint the Chairman of Fyffes or another individual as your proxy. You may appoint a proxy by completing the enclosed Form of Proxy, making sure to sign and date the form at the bottom and return it to Fyffes registrars, Computershare Investor Services (Ireland) Limited. If you are appointing someone other than the Chairman as your proxy, then you must fill in the contact details of your representative at the meeting on the Form of Proxy. If you appoint the Chairman or another person as

a proxy to vote on your behalf, please make sure to indicate how you wish your votes to be cast by ticking the relevant boxes on the Form of Proxy.

Alternatively, a member may appoint a proxy or proxies electronically by logging on to the website of the registrars, Computershare Investor Services (Ireland) Limited: at [www.eproxyappointment.com](http://www.eproxyappointment.com). Shareholders will be asked to enter the Control Number, their Shareholder Reference Number and PIN Number as printed on your Form of Proxy and agree to certain conditions.

4. To be valid, forms of proxy duly signed together with the power of attorney or such other authority (if any) under which they are signed (or a certified copy of such power or authority) must be lodged with Fyffes registrar, Computershare Investor Services (Ireland) Limited, Heron House, Corrig Road, Sandyford, Dublin 18 by not later than 10.25 am on 14 January 2016.
5. Fyffes, pursuant to Regulation 14 of the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996 (as amended), specifies that only those shareholders registered in the register of members of Fyffes as at 6.00 pm (Irish time) on 14 January 2016 (or in the case of an adjournment as at 6.00 pm (Irish time) on the day that is two days before the date of the adjourned meeting) shall be entitled to attend and vote at the meeting in respect of the number of shares registered in their names at the time. Changes to entries in the register after that time will be disregarded in determining the right of any person to attend and/or vote at the meeting.
6. If you hold your Fyffes shares through CREST and you wish to appoint a proxy or proxies through the CREST electronic proxy appointment service you may do so by using the procedures described in the CREST Manual. CREST personal members or other CREST sponsored members, and those CREST members who have appointed a voting service provider(s), should refer to their CREST sponsor or voting service provider(s), who will be able to take the appropriate action on their behalf. In order for a proxy appointment or instruction made using the CREST service to be valid, the appropriate CREST Proxy Instruction must be properly authenticated in accordance with the specifications of Euroclear UK & Ireland Limited ("EUI") and must contain the information required for such instructions, as described in the CREST Manual. The message, regardless of whether it constitutes the appointment of a proxy or an amendment to the instruction given to a previously appointed proxy must, in order to be valid, be transmitted so as to be received by Computershare Investor Services (Ireland) Limited (ID 3RA50) by no later than 48 hours before the time set for the meeting (or if the meeting is adjourned for any reason, 48 hours before the time set for the relevant adjourned meeting). For this purpose, the time of receipt will be taken to be the time (as determined by the timestamp applied to the message by the CREST Applications Host) from which Computershare Investor Services (Ireland) Limited is able to retrieve the message by enquiry to CREST in the manner prescribed by CREST. After this time, any change of instructions to proxies appointed through CREST should be communicated to the appointee through other means. CREST members and, where applicable, their CREST sponsors or voting service providers should note that EUI does not make available special procedures in CREST for any particular messages. Normal system timings and limitations will therefore apply in relation to the input of CREST Proxy Instructions. As a CREST member, it is your responsibility to take (or, if you are a CREST personal member or sponsored member or have appointed a voting service provider(s), to procure that your CREST sponsor or voting service provider(s) take(s)) such action as shall be necessary to ensure that a message is transmitted by means of the CREST system by any particular time. In this connection, CREST members and, where applicable, their CREST sponsors or voting service providers are referred, in particular, to those sections of the CREST Manual concerning practical limitations of the CREST system and timings. Fyffes may treat as invalid a CREST Proxy Instruction in the circumstances set out in Regulation 35(5)(a) of the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996 (as amended).
7. In the case of ordinary resolution 2, the proposal will be passed if a majority of the votes cast by those members present (in person or by proxy) and voting, are in favour of the proposal.
8. In the case of special resolutions (1 and 3), the proposal will be passed if not less than 75% of the votes cast by those members present (in person or by proxy) and voting, are in favour of the proposal.
9. Resolution 4 will be voted on by way of a poll. Under Rule 16.2(b)(iii) of the Takeover Rules, any Fyffes Shareholders participating in the arrangements, as well as any other Fyffes Shareholders who are not regarded by the Takeover Panel as independent, will not be eligible to vote on the resolution. In the case of ordinary resolution 4, the proposal will be passed if a majority of the votes cast by those eligible members present (in person or by proxy) and voting, are in favour of the proposal.

