

Item 1. Cover Page



# **AVENUE EUROPE INTERNATIONAL MANAGEMENT, L.P.**

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## **FORM ADV PART 2**

March 30, 2011

**This brochure provides information about the qualifications and business practices of Avenue Europe International Management, L.P. If you have any questions about the contents of this brochure, please contact Eric L. Ross, Senior Managing Director and Chief Compliance Officer, at (212) 878-3520 or [eross@avenuecapital.com](mailto:eross@avenuecapital.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority. Registration as an investment adviser with the SEC does not imply a certain level of skill or training.**

**Additional information about Avenue Europe International Management, L.P. is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

## **Item 2. Material Changes**

This brochure represents the first time we have used the SEC's new Form ADV Part 2. Much of the information called for by the Form is new and many of our responses, therefore, differ from those in previous versions of our Form ADV. The last version of our Form ADV Part 2 was released in September of 2010. This brochure, because it is on the new Form, should be reviewed in its entirety.

### Item 3. Table of Contents

	<u>Page</u>
Item 2. Material Changes.....	i
Item 3. Table of Contents .....	ii
Item 4. Advisory Business .....	1
Structure; History and Ownership .....	1
Types of Advisory Services .....	2
Assets Under Management .....	2
Item 5. Fees and Compensation .....	2
Fees.....	2
Expenses .....	3
<i>Funds</i> .....	3
<i>Separately Managed Accounts</i> .....	4
Item 6. Performance-Based Fees and Side-by-Side Management .....	4
Item 7. Types of Clients .....	5
Item 8. Methods of Analysis, Investment Strategies and Risk of Loss .....	6
Methods of Analysis and Investment Strategies .....	6
<i>European Distressed Debt Strategy</i> .....	6
<i>High Yield Strategy</i> .....	7
Risks Associated with the Firm’s Investment Strategies .....	8
<i>Conflicts of Interest</i> .....	8
<i>Risks Related to Our Investment Strategies</i> .....	10
Item 9. Disciplinary Information.....	28
Item 10. Other Financial Industry Activities and Affiliations .....	28
Material Financial Industry Affiliations of the Firm .....	28
Other Activities .....	30
Item 11. Code of Ethics, Participation or Interest in Client Transactions and Personal Trading.....	31
Code of Ethics; Personal Trading.....	31
Participation or Interest in Client Transactions .....	32
Item 12. Brokerage Practices .....	33
Selection of Brokers .....	33
Soft Dollar and Directed Brokerage Arrangements.....	34
Aggregation of Orders .....	35
Allocation Procedures.....	35

Trade Errors .....	37
Item 13. Review of Accounts.....	37
Item 14. Client Referrals and Other Compensation .....	38
Compensation for Client Referrals; Placement Agents for Funds .....	38
Item 15. Custody .....	38
Item 16. Investment Discretion.....	38
Item 17. Voting Client Securities .....	38
Proxy Voting .....	39
Corporate Actions.....	39
Item 18. Financial Information .....	40

## **Item 4. Advisory Business**

### **Structure; History and Ownership**

Avenue Europe International Management, L.P. (the “firm”) is an investment adviser with its principal place of business in New York City. The firm provides investment advisory services to investment funds, including private funds and registered investment companies, and separately managed accounts. In addition to our offices in New York, we have offices in London, Luxembourg and Munich.

As of June 30, 2005, Avenue Europe International Management, LLC, a Delaware limited liability company, completed a legal reorganization whereby the company was converted to a Delaware limited partnership now known as “Avenue Europe International Management, L.P.”. Avenue Europe International Management, LLC commenced business in 2004. The firm has been registered as an investment adviser with the Securities and Exchange Commission (“SEC”) since July 2, 2004,

Marc Lasry (Chairman, Chief Executive Officer and Co-Founder) and Sonia E. Gardner (President, Managing Partner and Co-Founder) are the Senior Principals of the firm and together control the general partner of the firm, Avenue Europe International Management GenPar, LLC. Richard Furst is a Senior Portfolio Manager and is responsible for the firm’s strategy.

The firm is part of Avenue Capital Group (“Avenue”, “Avenue Capital” or “we”), an established global alternative investment firm founded in 1995. Avenue Capital has approximately 300 employees worldwide, including 102 investment professionals. Avenue Capital maintains an institutional infrastructure with extensive accounting, operations, legal, investor relations, risk management, compliance and information technology teams.

Our primary investment advisory service is to provide discretionary investment advice to investment funds, including private funds and registered investment companies.

Avenue Capital’s primary focus is investing in distressed debt and other special situations investments in the United States, Europe and Asia. The Senior Principals and the portfolio managers of the investment funds managed by the firm have spent virtually their entire careers in this space.

The firm’s primary investment strategy is a European Distressed Debt strategy pursuant to which the firm invests in distressed debt and other special situations investments in Europe. Historically, the firm has considered European companies to be companies that are headquartered or have a principal place of business in Europe or whose securities are denominated in European currency.

In addition to our European Distressed Debt strategy, a portion of the assets we manage may be invested using a High Yield strategy. Our High Yield strategy may be used to invest the assets of certain of our private funds as well as the assets of closed-end registered investment companies, or RICs, that are public funds. Thus, we advise both public and private funds.

Prospective investors in any fund are advised to review the fund’s private placement memorandum, explanatory memorandum, or confidential offering circular or, in the case of a RIC, the prospectus that is included in the registration statement that has been filed with the SEC, for a more in-depth description of that fund’s investment strategy and objectives and related risk factors.

Some of the private funds we advise are feeder funds to or parallel funds of other funds. In some cases, we advise successor funds to earlier funds that have concluded their investment period.

In addition to the funds, we also may advise separately managed accounts on a discretionary basis. The objective and strategy of a managed account may, but is not required to be, similar to the investment objective and strategy of a fund managed by the firm.

A list of the funds we manage can be found below at Item 10.

### **Types of Advisory Services**

As described above, we provide advisory services to investment funds, including private funds and registered investment companies, and separately managed accounts for institutional investors. The advisory services we provide to investment funds are provided on a discretionary basis. The advisory services we provide to managed accounts may be discretionary or non-discretionary.

The investment strategies we employ on behalf of the funds, including, as applicable, restrictions on permissible investments and/or investment guidelines, are described below at Item 8.

### **Assets Under Management**

As of February 28, 2011, we managed approximately \$3,919,200,000 of client assets, all on a discretionary basis.

## **Item 5. Fees and Compensation**

### **Fees**

Detailed information regarding fees is included in each fund's confidential offering memorandum. Because this brochure will only be delivered to qualified purchasers as defined in section 2(a)(51) of the Investment Company Act of 1940, a complete description of our compensation arrangements is not required to be included in this brochure. Fees paid for services provided to managed accounts are determined on a client-by-client basis and may, but are not required to, be substantially similar to those paid by funds.

The private funds we advise generally pay management fees and incentive allocations or carried interest, depending upon each fund's investment strategy. The registered investment companies we advise generally pay management fees. Management fees, calculated as a percentage of the net asset value or aggregate commitments of the fund attributable to each investor, are generally paid monthly, quarterly or semi-annually in advance. With respect to our funds that pay us a carried interest, management fees are *pro rated* for partial periods in the event that our investment management agreement with the fund is terminated or an investor makes a capital contribution or purchases shares at any time other than at the beginning of a fund's valuation period, but are payable in full for partial periods resulting from distribution of fund assets. With respect to our funds that pay us an incentive allocation, management fees are *pro rated* for partial periods. With respect to our funds that only pay us a management fee, management fees are *pro rated* for partial periods.

Incentive allocations or carried interest are calculated as a percentage of profits of the funds. Some funds pay incentive allocations, in whole or in part, on mark-to-market performance at the end of a period (year-end or upon a partial or full withdrawal), subject to a high watermark. Other funds pay a carried interest on realized returns. Such carried interest payments are not paid to us until investors receive 100% of their capital back plus a preferred return.

Management fees, incentive allocations and carried interest rates may be negotiable.

## Expenses

### *Funds*

The funds are generally responsible for their own operating expenses, and certain of the funds bear their organizational expenses. The payment of these expenses by a fund will reduce the value of each investor's investment in the fund.

Detailed information regarding the expenses to which each fund is subject is set out in the offering documents with respect to the particular fund. Generally, each feeder fund bears its own expenses and its *pro rata* share of the expenses of any master fund or intermediate fund, including, without limitation, the following categories of expenses:

- formation expenses;
- expenses incurred in connection with the evaluation, acquisition or disposition of investments, including:
  - private placement fees,
  - sales commissions,
  - appraisal fees,
  - taxes,
  - brokerage fees,
  - underwriting commissions and discounts,
  - travel expenses;
  - legal, accounting, investment banking, consulting, information services and professional fees;
  - research; and
  - other transaction costs.
- expenses incurred in connection with the carrying or management of investments, including custodial, trustee, record keeping and other administration fees;
- expenses incurred in connection with the preparation and distribution of its financial statements, tax returns and K-1's;
- attorneys' and accountants' fees and disbursements;
- taxes and other governmental charges levied against it;
- insurance, regulatory or litigation expenses (and damages), including regulatory expenses of the fund's general partner and the firm;
- expenses incurred in connection with its dissolution, liquidation or winding-up;
- expenses relating to defaults by investors in the payment of any capital contributions;
- expenses for transactions not consummated;
- expenses incurred in connection with any restructuring or amendments to its constituent documents and related entities, including the fund's general partner and the firm;

- expenses incurred in connection with distributions to investors and in connection with any meetings with investors called by the fund's general partner;
- expenses incurred in connection with the fund's obligation to indemnify the firm;
- litigation expenses; and
- such other expenses as are set forth in the fund's private placement memorandum and/or limited partnership agreement.

Public funds may bear certain additional expenses because they are registered investment companies, including:

- listing fees;
- dues and expenses incurred in connection with membership in investment company organizations;
- fees and expenses of transfer agents and registrars;
- expenses for portfolio pricing services by a pricing agent;
- expenses in connection with the issuance, offering and underwriting of shares issued;
- expenses relating to investor and public relations;
- expenses of registering or qualifying securities for public sale;
- expenses of preparation and distribution of reports, notices and dividends to shareholders;
- expenses of a dividend reinvestment plan;
- costs of stationery; and
- costs of shareholders' and other meetings.

### ***Separately Managed Accounts***

With respect to separately managed accounts, generally the client will be responsible for all custodial fees, brokerage commissions, clearing fees, interest and withholding or transfer taxes incurred in connection with trading for the client's account.

For more information regarding our brokerage practices and brokerage expenses that may be incurred, please see Item 12.

## **Item 6. Performance-Based Fees and Side-by-Side Management**

As discussed in Item 5 above, the private funds we advise generally pay incentive allocations or carried interest, depending upon the fund's investment strategy. Incentive allocations or carried interest are calculated as a percentage of profits of the funds. Some funds pay incentive allocations, in whole or in part, on mark-to-market performance at the end of a period (year-end or upon a partial or full withdrawal), subject to a high watermark. Other funds pay a carried interest on realized returns. Such carried interest payments are not paid to us until investors receive 100% of their capital back plus a preferred return. Incentive allocations and carried interest rates may be negotiable.

We also serve as the investment adviser to certain accounts that pay us an asset-based fee and not a performance-based fee. As a result we have a conflict of interest, because we can potentially receive



greater fees from accounts having a performance fee structure than from those accounts we charge asset-based fees only. We have an incentive to:

- direct the best investment ideas to, or allocate or sequence trades in favor of, the accounts that pay performance-based fees;
- use trades by an account that does not pay performance-based fees to benefit accounts that do pay performance-based fees, such as where the performance-based fee paying account sells short before a sale by the account that does not pay performance-based fees, or the performance-based fee paying account sells a security only after an account that does not pay performance-based fees has made a large purchase of the security; and
- benefit an account that pays performance-based fees over an account that does not pay performance-based fees and which has a different and potentially conflicting investment strategy.

We have a fiduciary duty to our clients not to favor the account of one client over that of another, without regard to the types and amounts of fees paid by those accounts. In light of the conflicts of interest described above, we have allocation and other policies and procedures in place to ensure that accounts are treated fairly. Generally allocations are made among accounts with a similar strategy that are managed by the same investment team on a *pro rata* basis, based on available cash. However, as described in Item 12, under the heading “Allocation Procedures”, there are a number of reasons for which a particular transaction may not be allocated on a *pro rata* basis. Explanations for variations from the applicable allocation procedure are required to be documented and are subject to the periodic review of our Chief Compliance Officer to ensure that all accounts are being treated fairly.

The public funds we advise are managed using our High Yield strategy and do not pay a performance fee. The public funds invest in securities that are similar to investments that may be held in our private funds in our European Distressed Debt strategy (which do pay a performance fee). In allocating investments between our public funds and our European Distressed Debt private funds, we employ an objective credit threshold test that takes into account the anticipated yield(s) of the relevant investment(s) as a basis for allocation. Although these funds are managed by the same team of investment professionals, the expected risk and return profile for the public funds is lower than for the private funds. Thus, we will allocate investments with a total yield at the time of investment below the credit thresholds to the public funds, and investments with a total yield above the credit thresholds to the private funds.

## **Item 7. Types of Clients**

We serve as the investment manager of, and provide investment advisory services to, investment funds, including private funds and registered investment companies, and may in the future serve as the investment manager for managed accounts. With respect to the funds, investment advice is provided directly to the funds and not individually to each of the funds’ limited partners or shareholders, as applicable. With respect to the managed accounts, the investment objective and strategy of each client will not involve a recommendation or determination by us as to the appropriate investment program for such client nor due diligence by us as to such client’s financial condition or risk profile.

The funds’ investors may consist of one or more of the following: individuals, pension and profit sharing plans, financial institutions (including funds of funds), trusts, university endowments, charitable organizations and corporations or other business entities.

Each fund investor or managed account client is required to be a “Qualified Client” as such term is defined in SEC Rule 205-3 under the Investment Advisers Act of 1940 and meet such other eligibility requirements as we determine on a case by case basis. Managed account clients may consist of one or more of the following: individuals, pension and profit sharing plans, financial institutions (including funds of funds), trusts, university endowments, charitable organizations and corporations or other business entities.

There is no minimum size for the funds or managed accounts we advise. The funds have minimum investment amounts ranging from \$5,000,000 to €10,000,000. These minimums may be reduced or waived by the general partners of the funds that are partnerships or the board of directors or trustees of the funds that are companies or trusts, subject in certain cases to applicable statutory minimums.

## **Item 8. Methods of Analysis, Investment Strategies and Risk of Loss**

### **Methods of Analysis and Investment Strategies**

The firm’s primary investment strategy is a European Distressed Debt strategy pursuant to which we invest in distressed debt and other special situations investments in Europe. Historically, the firm has considered European companies to be companies that are headquartered or have a principal place of business in Europe or whose securities are denominated in European currency.

We believe that successful European special situations investing requires broad and comprehensive knowledge of the many diverse economies, industries, cultures, legal systems and markets that comprise Europe. To that end, the firm generally focuses on special situations investment opportunities in European companies rather than pursuing a more general global and/or multi-strategy mandate.

In addition to our European Distressed Debt strategy, a portion of the assets we manage may be invested using a High Yield strategy. Our High Yield strategy may be used to invest a portion of the assets of certain of our private funds as well as the assets of RICs, that are public funds.

Our investment strategies and certain risks associated with our investment strategies are described in this Item 8. Prospective investors in any fund(s) are advised to review the respective funds’ private placement memorandum, explanatory memorandum, or confidential offering circular or, in the case of a RIC, the prospectus that is included in the registration statement that has been filed with the SEC, for a more in-depth description of that fund’s investment strategy and objectives and related risk factors.

#### ***European Distressed Debt Strategy***

The firm’s European Distressed Debt strategy focuses on the distressed debt and undervalued securities of European companies or non-European companies that have issued European denominated securities.

The strategy generally focuses on:

- companies that are in financial distress or undergoing restructuring, reorganization or bankruptcy;
- companies experiencing operational or financial difficulty in which the firm anticipates a turnaround;

- companies in industries that are in turmoil; and
- companies that are undervalued because of discrete extraordinary events.

In pursuing our European Distressed debt strategy, we:

- typically invest in creditor-friendly jurisdictions;
- seek to create investments at low valuations;
- purchase securities denominated in benchmark currencies;
- devote significant time and resources to researching the bankruptcy laws and precedents of the various jurisdictions within the firm's investment mandate to determine the creditor protections of each locale;
- maximize risk-adjusted returns through investing in debt securities that are senior in the capital structure, often with first lien status, and, as a result, generally have less volatility than subordinated securities;;
- pursue active, but non-control investments;
- focus on companies in asset rich industries or industries with predictable cash flows; and
- actively manage the portfolio by tactically allocating assets across products, industries and countries.

In investing in the distressed debt and undervalued securities of companies, the firm's European Distressed Debt investment professionals firms with sustainable businesses and positive cash flow but whose financial situation is distressed. The firm typically does not seek to gain operational control of companies we invest in, but we may have operational control of such companies from time to time. The firm's European Distressed Debt investment professionals generally focus on pre-investment research and analysis rather than post-investment operating issues.

As a general matter, we do not use leverage as part of our European Distressed Debt strategy, although we may in the future. Leverage is, however, employed as part of our High Yield strategy, and certain of our private funds may invest a portion of their assets in high yield securities in addition to distressed securities.

Prospective investors in any of our funds employing our European Distressed Debt strategy are advised to review the fund's private placement memorandum, explanatory memorandum, or confidential offering circular for a more in-depth description of that fund's investment strategy and objectives and related risk factors.

### ***High Yield Strategy***

The firm's High Yield strategy is used to manage the assets of the registered investment company we advise as well as certain of our private funds, which may invest a portion of their assets in Collateralized Loan Obligations, or CLOs. Funds employing our High Yield strategy generally use leverage as an integral part of that strategy, although there can be no assurance that they will do so. These funds opportunistically invest primarily in credit obligations, including senior secured floating rate and fixed rate loans of issuers which operate in a variety of industries and geographic regions. This strategy is actively managed.

Investments in our High Yield strategy will normally include:

- senior secured floating rate and fixed rate loans;
- second lien or other subordinated or unsecured floating rate and fixed rate loans or debt;
- other debt obligations, including high-yield, high-risk obligations (i.e., securities that are rated below investment grade by a nationally recognized credit rating organization, or unrated securities that are deemed to be of comparable quality, which are commonly known as “junk” securities and are regarded as predominantly speculative with respect to the issuer’s capacity to pay interest and repay principal);
- structured products, including collateralized debt and loan obligations that increase or decrease exposure to credit obligations;
- swaps and other derivative instruments (including credit default, total return, index and interest rate swaps, options, forward contracts, futures contracts and options on futures contracts) that increase or decrease exposure to credit obligations;
- foreign currencies and foreign currency derivatives (including foreign currency related swaps, futures contracts and forward contracts) acquired for the purpose of hedging currency risk; and
- short-term debt securities such as U.S. government securities, commercial paper and other money market instruments and cash equivalents (including shares of money market funds).

Prospective investors in any of our funds employing our High Yield strategy are advised to review the fund’s private placement memorandum, explanatory memorandum, or confidential offering circular or, in the case of a RIC, the prospectus that is included in the registration statement that has been filed with the SEC, for a more in-depth description of that fund’s investment strategy and objectives and related risk factors.

## **Risks Associated with the Firm’s Investment Strategies**

The investment strategies described above that we use for the funds cover a wide range of investment types. Material risks involved in our investment strategies are described below. Prospective investors in any fund are advised to review the fund’s private placement memorandum, explanatory memorandum, or confidential offering circular or, in the case of a RIC, the prospectus that is included in the registration statement that has been filed with the SEC, for a more in-depth description of that fund’s investment strategy and objectives and related risk factors.

### ***Conflicts of Interest***

An investment in a fund or managed account involves certain potential conflicts of interest, including those described below.

**Other Clients.** In addition to responsibilities with respect to the management and investment activities of any particular fund or managed account, the firm will have similar responsibilities with respect to various other existing and future pooled investment vehicles and client. The existence of such multiple vehicles and accounts necessarily creates a number of potential conflicts of interest.

**Investment Activities of Funds and Other Clients; Allocation of Investment Opportunities Among Funds and Other Clients.** The firm conducts the various funds’ investment programs in a manner that is similar to the investment programs of other clients, particularly where the investment objectives and policies of various clients overlap. As a result, there may be conflicts between clients with respect to the allocation of investment opportunities. See Item 12 (“Brokerage Practices”) below for a description of how the firm addresses such potential or action conflicts.

**Combined Orders; Nominee Arrangements.** If the firm has determined to invest at the same time for one or more Other Clients, the firm will generally place combined orders for all such accounts simultaneously and if all such orders are not filled at the same price, it will generally average the prices paid. Similarly, if an order on behalf of more than one vehicle or account cannot be fully executed under prevailing market conditions, the firm will allocate the investments among the different vehicles or accounts on a basis that it considers equitable. Situations may occur where a client could be disadvantaged because of the investment activities conducted by investment managers for other clients. A fund may also serve as a nominee or hold securities as a nominee for the other Avenue funds and any other client that is participating in an investment alongside the fund.

**Time Commitment.** The firm and its principals and their respective affiliates are not obligated to devote any specific amount of time to the affairs of any fund or managed account. The principals and their respective affiliates spend substantial time on other business activities, including those related to the other Avenue clients. The firm's senior principals and their affiliates currently engage in and will be free to continue to engage in investment activities for their own accounts.

**Transactions with Affiliates.** A client may engage in transactions with the firm or its affiliates. The firm may cause a fund or managed account to engage in cross trades. The value of any affiliated transactions or any cross trades with any affiliated funds will be determined in a manner that is consistent with the fair valuation methodologies that are used by the firm.

**Investments Involving Other Clients.** A client may, from time to time, make an investment in a portfolio company in which one or more other clients invests in a different part of the capital structure. As a result, there may be conflicts between clients with respect to voting the securities of such issuers and other matters relating to various investments. See Item 11 ("Code of Ethics, Participation or Interest in Client Transactions and Personal Trading – Participation or Interest in Client Transactions") and Item 17 ("Voting Client Securities") for a description of how the firm addresses such potential or actual conflicts.

**Diverse Investment Management Firm.** The firm and the other investment managers that make up Avenue engage in a broad range of investment management activities, including sponsoring and managing other pooled investment vehicles, client accounts and other activities. Although the relationships and activities of the Avenue managers should enable these entities to offer attractive opportunities and services to their clients, such relationships and activities, in the ordinary course of business, may also give rise to circumstances in which the interests of these entities and other affiliates of the Avenue managers conflict with the interests of certain of Avenue's clients, including, without limitation, competition with other investment vehicles (proprietary or third-party managed) in which clients may have an interest, purchasing and selling investments in entities in which clients may have an interest, or taking or advocating positions in certain transactions that may be considered adverse to the interests of certain clients.

**Other Activities.** None of the firm or any of its principals are required to manage the investments of any particular client as their sole and exclusive function and each may engage in other business ventures and other activities unrelated to the affairs of any client, including directly or indirectly purchasing, selling, holding or otherwise dealing with any securities for the account of other investment funds, for their own accounts or for the accounts of their family or other clients. Without limiting the foregoing, the firm's principals may invest in, participate on advisory boards of and/or provide other services to, funds that are unaffiliated with the firm and its family of funds. The firm and/or its principals may become aware of business opportunities in which clients will not be given an opportunity to participate.

**Investment Management Fee; Incentive Allocation and/or Carried Interest.** The investment management fees and the incentive allocations or carried interest borne by funds have generally not been established on the basis of an arm's-length negotiation between the fund, on the one hand, and the firm or

its affiliates, on the other hand. However, the firm's principals believe that the investment management fees, and the terms of the incentive allocations or carried interest, generally reflect prevailing market terms. The existence of an incentive allocation or carried interest may create an incentive for the firm to cause a fund to make, more speculative investments than it would otherwise make in the absence of such performance-based compensation. In addition, the investment management fees will be charged on capital contributions that have not yet been returned or redeemed. In the case of a fund that pays carried interest on drawn capital, which may create an incentive for a fund to draw down capital more quickly.

Although an incentive allocation, such as is paid to the general partners of certain of our private funds, has largely become a customary standard for private investment funds, this type of relative allocation of profits and losses can be characterized as creating an incentive to the general partner for speculative investment and thus a potential conflict with the interests of the limited partners. In addition, since the incentive allocation of certain of our private funds (our hedge funds) is based upon portfolio gains, both realized and unrealized (net of realized and unrealized losses), it is possible that the general partner may receive an incentive allocation based upon unrealized appreciation in particular positions that was not in fact achieved upon disposition of such positions. Further, while the general partner is entitled to receive an incentive allocation based upon the realized and unrealized net profits initially allocated to each limited partner, it is allocated net losses solely on the basis of its invested capital.

The firm believes that (i) a "waterfall" in which the investors in certain of our European Distressed Debt funds (our funds that are structured like private equity funds) must receive a full return of cash contributions and a preferred return thereon prior to the fund's general partner's receipt of any carried interest and (ii) alignment of the general partner's interests with those of the limited partners by the general partner's investment of its own capital alongside the limited partners' capital, are important safeguards that help to mitigate potential and actual conflicts of interest. There can be no assurance, however, that certain investment decisions made with respect to a fund and one or more other clients will not adversely affect the fund or its limited partners, even if such investment decisions are made in good faith. In addition, it is often difficult to anticipate or predict all circumstances under which the interests of a fund's general partner and the firm may conflict with investors in the fund, the fund itself or other clients.

**Diverse Investors.** Each fund's investors may include taxable and tax-exempt entities and persons or entities resident of or organized in various jurisdictions. As a result, conflicts of interest may arise in connection with decisions made by the firm or an affiliate that may be more beneficial for one type of investor. In making such decisions, the firm and its affiliates intend to consider the investment objectives of the fund as a whole, not the investment objectives of any investor individually.

**Minority Investor in Avenue Capital Group.** In the ordinary course of a fund's investment activities, from time to time the fund may enter into transactions with parties related to the Morgan Stanley, which is an affiliate of Avenue. Such transactions may include, among other things, the fund purchasing securities from, or settling trades with, a party related to Morgan Stanley.

### ***Risks Related to Our Investment Strategies***

#### **Risks Associated With Market Conditions And Investment Opportunities**

**General Economic Conditions and Recent Events.** Various sectors of the global financial markets have been experiencing an extended period of adverse conditions. Since 2007, market uncertainty in the United States has increased dramatically and adverse market conditions have expanded to other markets. These conditions have resulted in reduced liquidity, greater volatility, general widening of credit spreads and a lack of price transparency. These difficult global credit market conditions have adversely affected the market values of equity, fixed-income and other securities and these circumstances may continue or

even deteriorate further. The short- and longer-term impact of these events is uncertain, but could have a material effect on general economic conditions, consumer and business confidence and market liquidity. Investments made by the funds are expected to be sensitive to the performance of the overall economy. A negative impact on economic fundamentals and consumer and business confidence would likely increase market volatility and reduce liquidity, both of which could have a material adverse effect on the performance of the funds and these or similar events may affect the ability of the funds to execute their investment strategies.

In recent periods both the SEC and Congress have devoted increased attention to the issue of whether hedge funds, fund of funds, and other private investment vehicles should be subject to increased or different modes of regulation. On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act, which, among other things, imposes registration requirements on many investment advisers to hedge funds, private equity funds and other private investment funds that are presently exempt from registration with either the SEC or the states, imposes new recordkeeping and reporting requirements on many fund advisers, and makes certain other changes to the regulatory landscape affecting investment advisers and private investment funds. Future changes in applicable securities laws or regulations could impose additional compliance or financial burdens upon the firm or its clients, including funds managed by the firm, or affect their operations in other respects.

**Market Disruptions.** The funds may incur major losses in the event of market disruptions and other extraordinary events in which historical pricing relationships (on which we base a number of the funds' trading positions) become materially distorted. The risk of loss from pricing distortions is compounded by the fact that in disrupted markets many positions become illiquid, making it difficult or impossible to close out positions against which the markets are moving. Certain of Avenue's previous investments have benefited from favorable borrowing conditions in the debt markets, which historically have been cyclical. The financing available to the funds from their banks, dealers and other counterparties is typically reduced during market disruptions. Market disruptions caused by unexpected political, military and terrorist events may from time to time cause dramatic losses for the funds and such events can result in otherwise historically low-risk strategies performing with unprecedented volatility and risk.

**Availability of Suitable Investments.** While we believe that many attractive investments of the type in which the funds invest are currently available, there can be no assurance that such investments will continue to be available or that available investments will continue to meet the funds' investment criteria. Furthermore, the funds may be unable to find a sufficient number of attractive investment opportunities to meet their investment objectives. Past performance is not necessarily indicative of future performance.

**Competition.** The markets for securities in the funds' investment programs are highly competitive. The funds will be competing for investment opportunities with a significant number of financial institutions and other private funds as well as various institutional investors. Some of these competitors are larger and have greater financial, human and other resources than the funds and may in certain circumstances have a competitive advantage over the funds. As a result of this competition, there may be fewer attractively priced investment opportunities than in the past, which could have an adverse impact on the ability of the funds to meet their investment goals or the length of time that is required for the funds to become fully invested. There can be no assurance that the returns on any fund's investments will be commensurate with the risk of investment in the fund.

**No Assurance of Investment Return.** The funds' task of identifying and evaluating investment opportunities, managing such investments and realizing a significant return for investors is difficult. Many organizations operated by persons of competence and integrity have been unable to make, manage and realize a profit on such investments successfully. Avenue believes that its investment strategy and investment approach moderate this risk through a careful selection of securities and other financial

instruments. However, there is no assurance that the funds will be able to invest their capital on attractive terms or generate returns for their investors. Investors in the funds could experience losses on their investment.

### **Risks Relating to the European Region**

**Economic and Political Risks.** There is often a high degree of government regulation in European economies, including in the securities markets. Action by such governments may directly affect foreign investment in securities in those countries and may also have a significant indirect effect on the market prices of securities and of the payment of dividends and interest.

Changes in policy with regard to taxation, fiscal and monetary policies, repatriation of profits, and other economic regulations are possible, any of which could have an adverse affect on private investments. The European economies may differ favorably or unfavorably from the U.S. economy and other economies with regard to the rate of growth of gross domestic product, the rate of inflation, capital reinvestment, resource self-sufficiency and balance of payments.

Governments in certain of the countries in Europe participate to a significant degree, through ownership interests or regulation, in their respective economies. Action by these governments could have a significant adverse effect on market prices of securities and payment of dividends.

Many countries in Europe have undergone a substantial political and social transformation and there can be no assurance that the economic, educational and political reforms necessary to complete political and economic transformation will continue. The state of development of certain political systems in Europe makes them susceptible to changes and potential weakening from economic hardship and social instability. In certain European countries, the extent of the success of economic reform is difficult to evaluate. Information on these economies is often contradictory or absent. In certain countries, much of the workforce remains under-employed or unemployed. Continued unemployment could hinder the ability of various governments to keep deficit spending in check.

Changing political environments, regulatory restrictions, and changes in government institutions and policies in Europe could adversely affect private investments. Civil unrest, ethnic conflict or regional hostilities may contribute to instability in some countries of Europe. Such instability may impede business activity and adversely affect the environment for foreign investments. The firm does not intend to obtain political risk insurance. Actions in the future of one or more European governments could have a significant effect on the various economies, which could affect market conditions, prices and yields of securities in the funds' portfolios. Political and economic instability in any of the countries in Europe in which the funds invest could adversely affect the funds' investments.

**Legal Infrastructure.** Laws affecting international investment and business continue to evolve, although at times in an uncertain manner that may not coincide with local or accepted international practices. Laws and regulations, particularly those concerning foreign investment and taxation, can change quickly and unpredictably. Inconsistencies and discrepancies among the vast number of local, regional and national laws, the lack of judicial or legislative guidance on unclear or conflicting laws and broad discretion on the part of government authorities implementing the laws produce additional legal uncertainties. The burden of complying with conflict laws may have an adverse impact on the operations of the funds.

**Accounting Standards.** Investments may be made in countries where generally accepted accounting standards and practices differ significantly from those practiced in the United States. The evaluation of potential investments and the ability to perform due diligence may be affected. The financial information appearing on the financial statements of a company operating in one or more European countries may not reflect its financial position or results of operations in the way they would be reflected if the financial



statements had been prepared in accordance with accounting principles generally accepted in the United States.

**Tax Risks.** The funds and/or investors could become subject to additional or unforeseen taxation in jurisdictions in which the Fund operates and invests. Changes to taxation treaties (or their interpretation) between the U.S. and the countries in which the Fund invests may adversely affect the Fund's ability to efficiently realize income or capital gains.

**Permanent Establishment Risks.** The firm generally intends to conduct the funds' operations in a manner that will not cause them to have a "permanent establishment" in any country outside the United States, as such term is defined in the relevant income tax treaty. There can be no assurance that a particular country will not assert that a fund has a permanent establishment in such country, and if such assertion were upheld, it can potentially result in adverse tax consequences to the funds.

### **Risks Associated with the Firm's Investments and Investment Activities**

**Nature of Investments.** Our investment strategy involves investing in senior and subordinated, secured or unsecured, debt obligations, securities and assets that are inefficiently priced as a result of business, financial, market or legal uncertainties. The level of analytical sophistication, both financial and legal, necessary for successful returns on such investments is unusually high. There can be no assurance that we will evaluate correctly the nature and magnitude of the various factors that could affect the value of these investments.

In particular, the funds will purchase securities and other obligations of companies that are experiencing significant financial or business distress, including companies involved in bankruptcy or other reorganization and liquidation proceedings. Many of these securities typically remain unpaid unless and until the company reorganizes and/or emerges from bankruptcy proceedings. In addition, it frequently may be difficult to obtain information as to the conditions of these securities. The market prices of these securities are also subject to abrupt and erratic market movements and above average price volatility, and the spread between the bid and asked prices of such securities may be greater than normally expected. Although such investments may result in significant returns to the funds, they involve a substantial degree of risk and may not show any return for a considerable period of time, if at all.

Distressed investment opportunities can occur in companies that have filed for, or plan to file for, reorganization. Sourcing, diligence, structuring and governance of private distressed investments require consideration of factors that are often not present in standard private equity investing or investments in the senior and secured debt of financially sound companies. If our evaluation of the anticipated outcome of an investment situation should prove incorrect, the funds could experience losses. Successful investing requires a specialized skill set that includes:

- the capacity to accurately value a company's assets and analyze its capital structure;
- a sophisticated knowledge of the complex legal environment in which such investing occurs, particularly bankruptcy, securities, corporate and indenture law;
- the experience necessary to determine accurately the financial interests and legal rights of the debtor and each of its creditor constituencies; and
- refined negotiating skills.

A wide variety of considerations makes any evaluation of the outcome of an investment in a financially distressed company uncertain. These considerations include the possibility of litigation between the

participants in a reorganization or liquidation proceeding or a requirement to obtain consents from governmental authorities or others, as well as numerous other factors. In addition, we may not have access to reliable and timely information concerning material developments affecting a company. The uncertainties inherent in evaluating such investments may be increased by legal and practical considerations which limit our access to reliable and timely information concerning material developments affecting an investment, or which cause lengthy delays in the completion of a reorganization or liquidation proceeding. Competition from other investors may also render it unadvisable for us to pursue intended results or promptly effect transactions.

Troubled company and other asset-based investments require active monitoring and will, at times, require participation in business strategy or reorganization proceedings by Avenue. To the extent that Avenue becomes involved in such proceedings, the funds may have a more active participation in the affairs of the issuer. In addition, involvement by Avenue in a company's reorganization proceedings could result in the imposition of restrictions limiting a fund's ability to liquidate its position in the securities of the company.

A portion of the funds' investments may be in obligations or securities that are rated below investment grade by recognized rating services such as Moody's and Standard & Poor's. Securities rated below investment grade and unrated securities generally offer a higher current yield than that available from higher grade issues but typically involve greater risk. The value of securities rated below investment grade and unrated securities is typically sensitive to adverse changes in general economic conditions and changes in the financial condition of their issuers and subject to price fluctuation in response to changes in these conditions or in interest rates. During periods of economic downturn or rising interest rates, issuers of securities rated below investment grade and unrated instruments may experience financial stress that could adversely affect their ability to make payments of principal and interest and increase the possibility of default. Adverse publicity and investor perceptions, whether or not based on fundamental analysis, may also decrease the values and liquidity of securities rated below investment grade and unrated securities, especially in a market characterized by a low volume of trading. In addition, the secondary market for high yield securities, which is concentrated in relatively few market makers, may not be as liquid as the secondary market for more highly rated securities. As a result, the funds could find it more difficult to sell these securities or may be able to sell the securities only at prices lower than if such securities were widely traded. The prices quoted by different dealers may vary significantly, and the spread between the bid and asked price is generally much larger for high yield securities than for higher quality instruments. Under continuing adverse market or economic conditions, the secondary market for high-yield securities could contract further, independent of any specific adverse changes in the condition of a particular issuer, and these securities may become illiquid.

To the extent that a secondary market does exist for debt obligations, including senior secured floating rate and fixed rate loans and subordinated or unsecured loans, the market is more volatile than for liquid, listed securities and may be subject to irregular trading activity, wide bid/ask spreads and extended trade settlement periods. Markets for other investments of the funds, including derivative instruments, bonds, currencies and other instruments can also be highly volatile. Purchasers of leveraged loans are predominantly commercial banks, investment funds and investment banks. As secondary market trading volumes increase, arrangers and obligors of new leveraged loans are frequently adopting standardized documentation to facilitate trading that should improve market liquidity. There can be no assurance, however, that the current level of liquidity will continue or that future levels of supply and demand in leveraged loan trading will provide an adequate degree of liquidity. No assurance can be given that a fund that purchases a leveraged loan will be able to sell that loan if the obligor has deteriorated in credit quality. Even in the absence of a default with respect to any leveraged loan, due to potential market volatility, the market value of such loan at any time will vary, and may vary substantially, from the price at which such loan was initially purchased and from the principal amount of such loan. The market value of leveraged loans will generally fluctuate with, among other things, the financial condition of the

obligors of the loans, general economic conditions, the condition of certain financial markets, political events, developments or trends in any particular industry and changes in prevailing interest rates. No assurance can be given as to the amount of proceeds of any sale or disposition of any leveraged loan, or that the proceeds of any such sale or disposition would be sufficient to repay principal of and interest or other amounts due on the notes that may have been issued by a fund using such leveraged loan as collateral, and/or pay other amounts payable prior thereto.

The funds may invest in securities which are subject to legal or other restrictions on transfer or for which no liquid market exists, or acquire illiquid securities, *e.g.*, through bankruptcy reorganization proceedings. The sale of restricted and illiquid securities often requires more time and results in higher brokerage charges or dealer discounts and other selling expenses than does the sale of securities eligible for trading on national securities exchanges or in the over-the-counter markets. Restricted securities may sell at a price lower than similar securities that are not subject to restrictions on resale. Because the markets for such securities are still evolving, liquidity in these securities is limited and liquidity with respect to lower-rated and unrated subordinated classes may be even more limited. The funds may be unable to liquidate all or a portion of their positions in such securities. In addition, the market prices, if any, for such securities tend to be more volatile and the funds may not be able to realize what it perceives to be their fair value in the event of a sale. The high yield securities markets have suffered periods of extreme illiquidity for certain types of instruments in the past. For these reasons, among others, calculating the fair market value of the funds' holdings may be difficult. The funds may, in their discretion, utilize the assistance of internal or external pricing services or valuation sources in calculating such fair market values when and if available.

Debt investments are subject to credit and interest rate risks. "Credit risk" refers to the likelihood that an issuer will default in the payment of principal and/or interest on an instrument. Financial strength and solvency of an issuer are the primary factors influencing credit risk. In addition, lack or inadequacy of collateral or credit enhancement for a debt instrument may affect its credit risk. Credit risk may change over the life of an instrument, and debt obligations, which are rated by rating agencies, are often reviewed and may be subject to downgrade. Senior loans, like most other debt obligations, are subject to credit risks of default. In addition, because second lien or other subordinated or unsecured loans or debt are subordinated in payment and/or lower in lien priority to senior loans, they are subject to additional risk that the cash flow of the borrower and property securing the loan or debt, if any, may be insufficient to meet scheduled payments after giving effect to the senior secured obligations of the borrower. This risk is generally higher for subordinated unsecured loans or debt, which are not backed by a security interest in any specific collateral.

"Interest rate risk" refers to the risks associated with market changes in interest rates. Interest rate changes may affect the value of a debt instrument indirectly (especially in the case of fixed rate debt securities) and directly (especially in the case of debt instruments whose rates are adjustable). In general, rising interest rates will negatively impact the price of a fixed rate debt instrument and falling interest rates will have a positive effect on price. Adjustable rate instruments also react to interest rate changes in a similar manner although generally to a lesser degree (depending, however, on the characteristics of the reset terms, including the index chosen, frequency of reset and reset caps or floors, among other factors). Interest rate sensitivity is generally more pronounced and less predictable in instruments with uncertain payment or prepayment schedules. In addition, interest rate increases generally will increase the interest carrying costs to the funds of borrowed securities and leveraged investments (*e.g.*, derivative transactions). If interest rates fall, it is possible that issuers of fixed income securities with high interest rates will prepay or "call" their securities before their maturity dates. In this event, the proceeds from the prepaid or called securities would likely be reinvested in securities bearing the new, lower interest rates, resulting in a possible decline in the funds' income.

In addition, the funds may agree to buy or sell bank claims or other similar private paper, with an understanding that formal written contracts for the purchase or sale will be prepared at a later date. The terms of these contracts may be less favorable than the funds anticipated. In some circumstances, they may be so unfavorable that a fund decides to terminate a proposed transaction.

The funds may from time to time make investments in securities of private companies without an active trading market. Traditional exit opportunities for such investments have consisted primarily of initial public offerings and acquisitions of portfolio companies by publicly traded companies, often for stock. The ability of the funds to sell securities and realize investment gains will depend upon favorable market conditions. As recent history indicates, initial public offering and merger and acquisition opportunities may be limited or non-existent for extended periods of time, whether due to economic, regulatory, or other factors. In addition, general fluctuations in the market prices of securities may affect the value of the investments held by the funds. Therefore, there is no assurance that the funds will be able to realize liquidity for such investments in a timely manner, if at all.

The funds' investments may also be adversely affected by changes in economic conditions or political events that are beyond their or our control. For example, a market crash, a war, or the death of a major political figure may have significant adverse effects on the funds' investment results.

**Nature of Bankruptcy Proceedings.** There are a number of significant risks when investing in companies involved in bankruptcy cases, including the following:

- Many events in a bankruptcy case are the product of contested matters and adversary proceedings that are beyond the control of the creditors. While creditors are generally given an opportunity to object to significant actions, there can be no assurance that a bankruptcy court in the exercise of its broad powers would not approve actions that would be contrary to the interests of the funds.
- A bankruptcy filing may have adverse and permanent effects on a company. For instance, the company may lose its market position and key employees and otherwise become incapable of restoring itself as a viable entity. Further, if the reorganization case becomes a liquidation, the liquidation value of the company may not equal the liquidation value that was believed to exist at the time of the investment.
- The duration of a bankruptcy case is difficult to predict. A creditor's return on investments can be adversely impacted by delays while the plan of reorganization is being negotiated, voted on by the creditors and confirmed by the bankruptcy court, until it ultimately becomes effective.
- The administrative costs in connection with a bankruptcy case are frequently high and may be paid out of the debtor's estate prior to any return to creditors. Reorganizations can be contentious and adversarial. It is by no means unusual for participants to use the threat of, as well as actual, litigation as a negotiating technique. We anticipate that Avenue and/or the funds may be named as defendants in civil proceedings. For example, if a proceeding involves protracted or difficult litigation, or turns into a liquidation, substantial assets may be devoted to administrative costs.
- Creditors can be subject to equitable subordination and lose their ranking and priority if they engage in certain inequitable conduct or they exercise "domination and control" over a debtor and other creditors can demonstrate that they have been harmed by such actions, especially in the case of investments made prior to the commencement of bankruptcy cases.
- Bankruptcy law in certain jurisdictions permits the classification of "substantially similar" claims in determining the classification of claims in a reorganization. Because the standard

for classification is vague, there exists the risk that a fund's influence with respect to the class of securities or other obligations it owns can be lost by increases in the number and amount of claims in that class or by different classification and treatment.

- In the early stages of a bankruptcy case, it is often difficult to estimate the extent of, or even to identify, any contingent claims that may be made.
- Certain claims, such as claims for taxes, may have priority by law over the claims of certain creditors.
- If a fund seeks representation on creditor's committees, it may owe certain obligations generally to all similarly situated creditors that the committee represents and it may be subject to various trading or confidentiality restrictions. As the funds will indemnify any person serving on a committee or the board of directors on its behalf for claims arising from breaches of those obligations, indemnification obligations could adversely affect the return on any investment related to a reorganization.
- Certain European jurisdictions may present different risks.

**Concentration.** Because a significant portion of a fund's aggregate capital commitments may be invested in a single company, any single loss may have a significant adverse impact on the fund's capital. Accordingly, the fund's assets may be subject to greater risk of loss than if they were more widely diversified since the failure of one or a limited number of investments could have a material adverse effect on the fund. The funds generally are not subject to any requirement to diversify by industry. Moreover, given the research intensive nature of the firm's Asian Distressed Debt strategy, the exposure of certain of the funds will be highly concentrated in financially troubled or distressed companies and the aggregate return of the funds may be substantially adversely affected by the unfavorable performance of the overall relative performance of the distressed sector. Concentration in financially troubled or distressed companies may subject the funds to greater volatility than a more diversified portfolio of investments. In addition, because any fund may invest a higher percentage of its assets in a relatively small number of issuers, each fund is more susceptible to any single economic, market, political or regulatory event affecting those issuers than is a more broadly diversified fund.

**Control Investments and Provision of Managerial Assistance.** The funds may make control investments in issuers, obtain rights to participate substantially in and to influence substantially the conduct of the management of issuers or obtain rights to designate directors (and non-executive chairmen) to serve on the boards of directors of issuers. Control investments, or the obtaining of these rights, could expose the funds to risk of claims by issuers and their security holders and creditors, risk of liability for environmental damage, product defect, failure to supervise management, violation of governmental regulations and other types of liability, in which the limited liability characteristic of business operations may be ignored.

The funds may also be exposed to risk in connection with the disposition of control investments. Disposition of these investments may be more difficult than if the firm did not have a close relationship with the issuer. The funds may be required to make representations and warranties about the business and financial affairs of the investments typical of those made in connection with the sale of any business, or may be responsible for the contents of disclosure documents under applicable securities law. The funds may also be required to indemnify the purchasers of such investment or underwriters to the extent that any such representations and warranties or disclosure documents turn out to be incorrect, inaccurate or misleading. These arrangements may result in contingent liabilities, which will be borne by the funds and such liabilities may exceed the value of the funds' investments.

In addition, the funds may not be able to dispose of these investments when they desire to do so. Some of these investments may be subject to legal or contractual restrictions on resale by the funds. In some instances, the disposition of these investments may require lengthy negotiations and/or take extended periods of time to complete.

**Risk of Minority Positions.** The funds may hold minority positions in issuers. Accordingly, the funds may not be able to exercise control over such issuers. In addition, in certain situations, including where the issuer is in bankruptcy or undergoing a reorganization, minority investors may be subject to the decisions taken by majority investors and the outcome of the funds' investments may depend on such majority controlled decisions, which decisions may not be consistent with the funds' objectives.

**Exchange Risk Exposure.** Some of the funds are denominated in Euros and others are denominated in U.S. dollars. Certain of the assets of the funds may, however, be invested in securities and other investments which are denominated in currencies other than U.S. dollars or Euros. Accordingly, the value of such assets may be affected favorably or unfavorably by fluctuations in currency rates. In addition, prospective investors whose assets and liabilities are predominantly in other currencies should take into account the potential risk of loss arising from fluctuations in value between U.S. dollars and such other currencies. The funds may enter into forward contracts to hedge exchange risk exposure.

**Counterparty Risk.** Some of the markets in which the funds may effect transactions are "over-the-counter" or "interdealer" markets. The participants in such markets are typically not subject to credit evaluation and regulatory oversight as are members of "exchange-based" markets. This exposes the funds to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a dispute over the terms of the contract (whether or not bona fide) or because of a credit or liquidity problem, thus causing the relevant fund to suffer a loss. Such "counterparty risk" is accentuated for contracts with longer maturities where events may intervene to prevent settlement, or where a fund has concentrated its transactions with a single or small group of counterparties. The funds are generally not restricted from dealing with any particular counterparty or from concentrating any or all of their transactions with one counterparty. Moreover, the funds' internal credit function, which evaluates the creditworthiness of their counterparties, may prove insufficient. The lack of a complete and "foolproof" evaluation of the financial capabilities of the funds' counterparties and the absence of a regulated market to facilitate settlement may increase the potential for losses by the funds. Changes in the credit quality of the companies that serve as the funds' counterparties with respect to derivatives, swaps or other transactions supported by the counterparty's credit will affect the value of those instruments. Certain entities that have served as counterparties in the markets for these transactions have recently incurred significant financial hardships including bankruptcy and losses as a result of exposure to subprime mortgages or other lower quality credit investments that have experienced recent defaults or otherwise suffered extreme credit deterioration. As a result, such hardships have reduced such entities' capital and called into question their continued ability to perform their obligations under such transactions. By using derivatives, swaps or other transactions, a fund assumes the risk that its counterparties could experience similar financial hardships. In the event of default by, or the insolvency of, a counterparty, such fund may sustain losses or be unable to liquidate a derivative or swap position.

**Projections.** The funds may make investments relying upon projections developed by the firm, a prospective portfolio company or other third-party source concerning such company's future performance and cash flow. Projections are inherently subject to uncertainty and factors beyond the control of the firm, the portfolio company or such other sources. The inaccuracy of certain assumptions, the failure to satisfy certain financial requirements and the occurrence of other unforeseen events could impair the ability of a portfolio company to realize projected values.

**Fraud.** Instances of fraud and other deceptive practices committed by senior management of certain companies in which the funds invest may undermine our due diligence efforts with respect to such companies, and if such fraud is discovered, negatively affect the valuation of the funds' investments. In addition, when discovered, financial fraud may contribute to overall market volatility, which can negatively impact the funds' investment programs.

### **Risks Associated with the Firm's Investments**

**Bank Loans, Participations and Assignments.** The firm's investment program may include investments in significant amounts of bank loans and participations. These obligations are subject to unique risks, including:

- the possible invalidation of an investment transaction as a fraudulent conveyance under relevant creditors' rights laws;
- so-called lender-liability claims by the issuer or creditors of the obligations;
- environmental liabilities that may arise with respect to collateral securing the obligations; and
- limitations on the ability of the funds to directly enforce their rights with respect to participations.

In analyzing each bank loan or participation, we compare the relative significance of the risks against the expected benefits of the investment. Successful claims by third parties arising from these and other risks will be borne by the funds.

In the event of the insolvency of the selling institution, a fund, by owning a participation interest, may be treated as a general unsecured creditor of the selling institution and may not benefit from any set off between the selling institution and the borrower. In addition, a fund may purchase a participation interest from a selling institution that does not itself retain any portion of the applicable loan and, therefore, may have limited interest in monitoring the terms of the loan agreement and the continuing creditworthiness of the borrower. When a fund holds a participation interest in a loan it will not have the right to vote under the applicable loan agreement with respect to every matter that arises thereunder and it is expected that each selling institution will reserve the right to administer the loan sold by it as it sees fit and to amend the documentation evidencing such loan in all respects. Selling institutions voting in connection with such matters may have interests different from those of the funds and may fail to consider the interests of the funds in connection with their votes.

The purchaser of an assignment of an interest in a loan typically succeeds to all the rights and obligations of the assigning selling institution and becomes a lender under the loan agreement with respect to that loan. As a purchaser of an assignment, a fund generally will have the same voting rights as other lenders under the applicable loan agreement, including the right to vote to waive enforcement of breaches of covenants or to enforce compliance by the borrower with the terms of the loan agreement and the right to set off claims against the borrower and to have recourse to collateral supporting the loan. Assignments are, however, arranged through private negotiations between assignees and assignors and in certain cases the rights and obligations acquired by the purchaser of an assignment may differ from, and be more limited than, those held by the assigning selling institution.

Assignments and participations are sold strictly without recourse to the selling institutions and the selling institutions will generally make no representations or warranties about the underlying loan, the borrowers, the documentation of the loans or any collateral securing the loans. In addition, the funds will be bound by provisions of the underlying loan agreements, if any, that require the preservation of the confidentiality of information provided by the borrower. Because of certain factors including confidentiality provisions,

the unique and customized nature of the loan agreement and the private syndication of the loan, loans are not purchased or sold as easily as are publicly traded securities.

**Bankruptcy Claims.** The funds may invest in bankruptcy claims, including trade claims, which are amounts owed to creditors of companies in financial difficulty. Bankruptcy claims are illiquid, generally do not pay interest and there can be no guarantee that the debtor will ever be able to satisfy the obligation on the claim. The markets in bankruptcy claims are not generally regulated by foreign securities laws or regulators. Because bankruptcy claims are frequently unsecured, holders of such claims may have a lower priority in terms of payment than certain other creditors in a bankruptcy proceeding. In addition, under certain circumstances, such investments may be adversely affected by laws relating to, among other things, fraudulent conveyances, voidable preferences, lender liability and the bankruptcy court's discretionary power to disallow, subordinate and disenfranchise certain claims.

The trade claims market, in particular, is highly specialized and consists of purchasing the unsecured debt, or the priority and administrative debt, owed to trade vendors by companies in financial distress. Such claims often involve non-economic sellers who lack the expertise to assess the value of their claims in the context of bankruptcy or financial distress and choose to divest them for liquidity purposes. This may allow for the purchase of trade claims at substantial discounts to where *pari passu* unsecured bonds are trading. In addition to the risks otherwise associated with low-quality obligations and inherent in investments in entities experiencing financial distress, the risks associated with trade claims include:

- the possibility that the amount of the claim may be disputed by the obligor,
- difficulties in obtaining information regarding the obligor's true financial condition,
- fraud on the part of the assignor of the claim and
- logistical and mechanical issues that may affect the ability of the fund or its agents to collect on the claim in whole or in part.

**DIP Loans.** Debtor-in-possession ("DIP") loans involve a fundamental credit risk based on the borrower's ability to make principal and interest payments and the inherent risks in the bankruptcy process. DIP loans are subject to a court approval process in which parties-in-interest may be heard but there can be no assurance that the funds would be successful in obtaining favorable results. If our calculations as to the outcome or timing of a reorganization are inaccurate, a company that has filed for bankruptcy may not be able to make payments on a DIP loan on time or at all. In addition, DIP loans may be privately negotiated transactions, each of which has individualized terms. These positions may be illiquid and difficult to value. DIP loans may be subject to price volatility due to various factors including, but not limited to, changes in interest rates, market perception of the creditworthiness of the borrower and general market liquidity.

**High Yield Debt Obligations.** High yield debt obligations are generally unsecured and may be subordinated to certain other obligations of the obligor thereof. The lower rating of securities in the high yield sector reflects a greater possibility that adverse changes in the financial condition of an obligor or in general economic conditions or both may impair the ability of the obligor to make payments of principal and interest. In addition, the market for high yield debt securities is not liquid at all times and for all obligors. Particular issues may be held by only a few investors, many of such obligations are not registered under the Securities Act, most are not listed on a securities exchange and market-making activity, if any, may cease at any time during the life of such obligations. Due to potential market volatility, the market value of such high yield debt obligations at any time will vary, and may vary substantially, from the price at which such high yield debt obligations were initially purchased and from the principal amount of such high yield debt obligations. No assurance can be given as to the amount of



proceeds of any sale or disposition of any high yield debt obligations (whether upon default or otherwise), or that the proceeds of any such sale or disposition would be sufficient to repay principal of and interest or other amounts due on the notes that may have been issued by a fund using such high yield debt obligations as collateral and pay other amounts payable prior thereto in an amount equal to the outstanding principal and accrued and unpaid interest of such high yield debt obligations.

**Loan Origination.** The funds may seek to originate loans, including, but not limited to, senior, second lien and mezzanine loans and other similar investments. The funds may subsequently offer such investments for sale to third parties; *provided, however*, that, there is no assurance that a fund will complete the sale of such an investment. In determining the target amount to allocate to an originated investment, we may take into consideration the fact that a fund may sell, assign or offer participations in such investment to third parties. Accordingly, if the fund is not successful in offering such participations, this could result in the fund being “overweighted” with respect to a particular borrower.

**Investments in Equity Securities.** The funds may invest their assets in equity securities, including preferred or common stocks. Investments in equity securities of small or medium-sized market capitalization companies will have more limited marketability than the securities of larger companies. In addition, securities of smaller companies may have greater price volatility. All of the funds’ investments in stocks will be subject to normal market risks. While diversification among issuers may mitigate these risks, investors must expect fluctuations in value of equity securities held by the funds based on market conditions.

**Options.** The funds may purchase and sell (“write”) options on equities on national and international securities exchanges and in the domestic and international over-the-counter market. The seller (“writer”) of a put option which is covered (*e.g.*, the writer has a short position in the underlying security) assumes the risk of an increase in the market price of the underlying security above the sales price (in establishing the short position) of the underlying security, plus the premium received and gives up the opportunity for gain on the underlying security below the exercise price of the option. The seller of an uncovered put option assumes the risk of a decline in the market price of the underlying security below the exercise price of the option. The buyer of a put option assumes the risk of losing its entire investment in the put option. If the buyer of the put holds the underlying security, the loss on the put will be offset in whole or in part by any gain on the underlying security.

The writer of a call option which is covered (*e.g.*, the writer holds the underlying security) assumes the risk of a decline in the market price of the underlying security below the value of the underlying security less the premium received and gives up the opportunity for gain on the underlying security above the exercise price of the option. The seller of an uncovered call option assumes the risk of a theoretically unlimited increase in the market price of the underlying security above the exercise price of the option. The buyer of a call option assumes the risk of losing its entire investment in the call option. If the buyer of the call sells short the underlying security, the loss on the call will be offset, in whole or in part, by any gain on the short sale of the underlying security.

Options may be cash settled, settled by physical delivery or by entering into a closing purchase or closing sale transaction. In entering into a closing purchase transaction, the funds will be subject to the risk of loss to the extent that the premium paid for entering into such closing purchase transaction exceeds the premium received when the option was written.

**Stock Index and Market Options.** The funds may also purchase and sell call and put options on stock indices and exchange traded funds (“ETFs”) listed on national securities exchanges or traded in the over-the-counter market for the purpose of realizing their investment objectives or for the purpose of hedging their portfolios. A stock index or ETF fluctuates with changes in the market values of the stocks included in the index or ETF. The effectiveness of purchasing or writing stock index or ETF options for hedging

purposes will depend upon the extent to which price movements in the funds' portfolios correlate with price movements of the stock indices or ETFs selected. Because the value of an index or ETF option depends upon movements in the level of the index or ETF rather than the price of a particular stock, whether the funds will realize gains or losses from the purchase or writing of options on indices or ETFs depends upon movements in the level of stock prices in the stock market generally or, in the case of certain indices or ETFs, in an industry or market segment, rather than movements in the price of particular stocks. Accordingly, successful use by the funds of options on stock indices or ETFs will be subject to our ability to correctly predict movements in the direction of the stock market generally or of particular industries or market segments. This requires different skills and techniques than predicting changes in the price of individual stocks.

**Repurchase Agreements and Reverse Repurchase Agreements.** A fund may invest in repurchase agreements and reverse repurchase agreements. In its purchase of repurchase agreements, such fund does not bear the risk of a decline in the value of the underlying security unless the seller defaults under its repurchase obligation. In the event of the bankruptcy or other default of a seller of a repurchase agreement, the fund could experience both delays in liquidating the underlying securities and losses, including possible decline in the value of the underlying security during the period while the fund seeks to enforce its rights thereto, possible lack of access to income on the underlying security during this period, and expenses of enforcing its rights.

**Credit Derivative Transactions.** As part of its investment strategy, a fund may enter into credit derivative transactions. Credit derivatives are transactions between two parties which are designed to isolate and transfer the credit risk associated with a third-party (the "reference entity"). Credit derivative transactions in their most common form consist of credit default swap transactions under which one party (the "credit protection buyer") agrees to make one or more fixed payments in exchange for the other party's (the "credit protection seller") obligation to assume the risk of loss if an agreed-upon "credit event" occurs with respect to the reference entity. Credit events are specified in the contract and are intended to identify the occurrence of a significant deterioration in the creditworthiness of the reference entity (mainly a default on a material portion of its outstanding obligations, a bankruptcy or a restructuring of its debt). Upon the occurrence of a credit event, credit default swaps may be cash settled (either directly or by way of an auction) or physically settled. If the transaction is cash settled, the amount payable by the credit protection seller following a credit event will usually be determined by reference to the difference between the nominal value of a specified obligation of the reference entity and its market value after the occurrence of the credit event (which sometimes may be established in an industry-wide auction process). If the transaction is physically settled, the credit protection buyer will deliver an obligation of the reference entity that is either specified in the contract or the general characteristics are described therein to the credit protection seller in return for the payment of its nominal value.

Credit derivatives may be used to create an exposure to the underlying asset or reference entity, to reduce existing exposure or to create a profit through trading differences in their buying and selling prices. The funds may enter into credit derivatives transactions as protection buyers or sellers.

Credit derivative transactions are an established feature of the financial markets and both the number of participants and range of products available have significantly increased over the years. Credit derivative transactions dependent upon credit events are priced incorporating many variables including the pricing and volatility of the common stock of the reference entity, potential loss upon default by the reference entity on any of its obligations, and the shape of the curve of the applicable risk-free rate, among other factors. As such, there are many factors upon which market participants may have divergent views. Additionally, credit derivatives may require the posting of collateral. A bankruptcy of the collateral

holder may result in losses to the extent posted collateral exceeds the obligations of the pledging party under the credit derivative transaction.

As with short selling, securities regulators have implemented, and/or are implementing, certain prohibitions and disclosure requirements with respect to derivatives transactions which may negatively impact the funds and, therefore, adversely affect the performance of the funds.

**Other Derivatives.** The funds may take advantage of opportunities in the area of swaps, options on various underlying instruments and certain other customized derivative instruments. The funds may enter into swap transactions, including credit default, total return, index and interest rate swap agreements, as well as options thereon, and may purchase or sell interest rate caps, floors and collars. In addition, the funds may take advantage of opportunities with respect to certain other derivative instruments which are not presently contemplated for use by the funds or which are currently not available. Derivative instruments contain much greater leverage than do non-margined purchases of the underlying instrument in as much as only a very small portion of the value of the underlying instrument is required to be paid in order to effect such investments. Other risks may include market risk, liquidity risk, counterparty credit risk, legal risk and operations risk. Swaps generally do not involve delivery of securities, other underlying assets or principal. Accordingly, the risk of loss with respect to swaps generally is limited to the net amount of payments that the fund is contractually obligated to make, or in the case of the other party to a swap defaulting, the net amount of payments that the fund is contractually entitled to receive. If the firm is incorrect in its forecast of market values, interest rates or currency exchange rates, the investment performance of the funds would be less favorable than it would have been if these investment techniques were not used.

Transactions in certain derivatives are subject to clearance on a U.S. national exchange and to regulatory oversight. In addition, recent market developments related to swaps have prompted increased scrutiny with respect to these instruments. As a result of the Dodd• Frank Wall Street Reform and Consumer Protection Act (which was passed into law in July 2010), swaps may in the future be subject to increased regulation. Such regulation may limit the funds' ability to use swaps and increase the cost of using swaps.

Special risks may apply to instruments which are invested in by the funds in the future which cannot be determined at this time or until such instruments are developed or invested in by the funds. For example, such derivative instruments are expected to be highly illiquid and it is possible that the funds will not be able to terminate such derivative instruments prior to their expiration date or that the penalties associated with such a termination might impact the funds' performance in a material adverse manner. If the funds seek to participate through the use of such derivative instruments, the funds will not acquire any voting interests or other shareholder rights that would be acquired with a direct investment in the underlying securities or financial instruments. Accordingly, the funds will not participate in matters submitted to a vote of the shareholders. In addition, the funds may not receive all of the information and reports to shareholders that the funds would receive with a direct investment. Further, the funds will pay the counterparty to any such derivative instrument structuring fees and ongoing transaction fees, which will reduce the investment performance of the funds. Finally, certain aspects of the appropriate U.S. federal income tax treatment of such derivative instruments are uncertain and, if the funds' U.S. federal income tax treatment of such instruments proves to be inappropriate, an investor's after tax return from its investment in a fund may be adversely affected.

**Synthetic Obligations.** Synthetic obligations, *i.e.*, swap transactions, structured investments or other investments purchased from, or entered into by a fund, with respect to a reference debt security or other obligation, present risks in addition to those resulting from direct purchases of the reference obligations underlying such synthetic obligations. With respect to each synthetic obligation, the relevant fund will

usually have a contractual relationship only with the counterparty of such synthetic obligation, and not the reference obligor on the reference obligation. The fund generally will have no right directly to enforce compliance by the reference obligor with the terms of the reference obligation nor any rights of set-off against the reference obligor (and may be subject to setoff rights exercised by the reference obligor against the counterparty or another person or entity), nor have any voting or other consensual rights of ownership with respect to the reference obligation. The fund will not directly benefit from any collateral supporting the reference obligation and will not have the benefit of the remedies that would normally be available to a holder of such reference obligation. In addition, in the event of the insolvency of the counterparty, the fund will be treated as a general creditor of such counterparty, and will not have any claim with respect to the reference obligation. Consequently, the fund will be subject to the credit risk of the counterparty as well as that of the reference obligor.

**Structured Products.** Structured products, including collateralized debt obligations, or CDOs, collateralized bond obligations, or CBOs, collateralized loan obligations, or CLOs, structured notes, credit-linked notes and other types of structured products, representing a non-recourse or limited-recourse obligation issued by a special purpose vehicle, may present risks that are greater than those presented by other types of collateralized loan obligations. Holders of structured products bear risks of the underlying investments, index or reference obligation and are subject to counterparty risk. The holder of a structured product may have the right to receive payments to which it is entitled only from the issuer of the structured product, and generally does not have direct rights against the issuer of, or the entity that sold, assets underlying the structured product. Certain structured products may be thinly traded or have a limited trading market and may have the effect of increasing a fund's illiquidity to the extent that the fund, at a particular point in time, may be unable to find qualified buyers for, and may have difficulty valuing, these securities. CBOs, CLOs and other CDOs are typically privately offered and sold, and thus, are not registered under the securities laws. Structured products may also be subject to prepayment risk, credit risk, structural risk, legal risk and interest rate risk (which may be exacerbated if the interest rate payable on a structured finance obligation changes based on multiples of changes in interest rates or inversely to changes in interest rates). In addition, the performance of a structured product will be affected by a variety of factors, including its priority in the capital structure of the obligor thereof, the availability of any credit enhancement, the level and timing of payments and recoveries on and the characteristics of the underlying loans or other assets that are being securitized, remoteness of those assets from the originator or transferor, the adequacy of and ability to realize upon any related collateral and the capability of the servicer of the securitized assets.

**Forward Trading.** The funds may invest in forward contracts and options thereon, which, unlike futures contracts, are not traded on exchanges and are not standardized; rather banks and dealers act as principals in these markets, negotiating each transaction on an individual basis. Forward contracts may be entered into, for among other reasons, to hedge exchange risk exposure. Forward and "cash" trading is substantially unregulated; there is no limitation on daily price movements and speculative position limits are not applicable. The principals who deal in the forward markets are not required to continue to make markets in the currencies or commodities they trade and these markets can experience periods of illiquidity, sometimes of significant duration. There have been periods during which certain participants in these markets have refused to quote prices for certain currencies or commodities or have quoted prices with an unusually wide spread between the price at which they are prepared to buy and that at which they were prepared to sell. Disruptions can occur in any market traded by the funds due to unusually high trading volume, political intervention or other factors. The imposition of controls by government authorities might also limit such forward (and futures) trading to less than that which we would otherwise recommend, to the possible detriment of the funds. Market illiquidity or disruption could result in major losses to the funds.

**Futures Transactions.** Futures transactions involve the execution and clearing of trades on an exchange, the laws and regulations of which will vary depending on the country in which the transaction occurs. The funds may not be afforded certain protections, including the right to use domestic alternative-dispute-resolution procedures depending on the exchange on which it participates in futures transactions. Also, funds received to margin foreign futures transactions may not be provided the same protections in all jurisdictions. In addition, the price of any futures or option contract and, therefore, the potential profit and loss resulting therefrom, may be affected by any fluctuation in the exchange rate between the time the order is placed and the futures contract is liquidated or the option contract is liquidated or exercised.

**Liquidity of Futures Contracts.** The funds may at some future time use futures as part of their investment program. Avenue will determine and pursue all steps that are necessary and advisable to ensure compliance with the U.S. Commodity Exchange Act, as amended, and the rules and regulations promulgated thereunder. Futures positions may be illiquid because certain commodity exchanges limit fluctuations in certain futures contract prices during a single day by regulations referred to as “daily price fluctuation limits” or “daily limits.” Under such daily limits, during a single trading day no trades may be executed at prices beyond the daily limits. Once the price of a particular futures contract has increased or decreased by an amount equal to the daily limit, positions in that contract can neither be entered into nor liquidated unless traders are willing to effect trades at or within the limit. Futures prices have occasionally moved beyond the daily limits for several consecutive days with little or no trading. Over-the-counter instruments generally are not as liquid as instruments traded on recognized exchanges. These constraints could prevent the funds from promptly liquidating unfavorable positions and subject the funds to substantial losses. In addition, the Commodity Futures Trading Commission and various exchanges impose speculative position limits on the number of positions that may be indirectly held or controlled in particular commodities.

**Hedging Transactions.** The distressed market in which the funds may invest is subject to fluctuations and the market value of any particular investment may be subject to substantial variation. The entire market or, particular securities traded on a market may decline even if earnings or other factors improve since the prices of debt securities and equity securities are subject to numerous economic, political, procedural and other factors that have little or no correlation to the performance of a particular company. The funds may utilize a variety of financial instruments, such as derivatives, options, interest rate swaps, caps and floors, futures and forward contracts, both for investment purposes and for risk management purposes. When used for hedging purposes, an imperfect or variable degree of correlation between price movements of the derivative instrument and the underlying investment sought to be hedged may prevent the funds from achieving the intended hedging effect or expose the funds to risk of loss. While the funds may enter into hedging transactions to seek to reduce risk, such transactions may result in a poorer overall performance for the funds than if they had not engaged in any such hedging transaction. We may determine not to hedge a position. Moreover, it should be noted that the funds’ portfolios will always be exposed to certain risks that cannot be hedged.

**General Risks of Real Estate Ownership.** The funds may acquire, indirectly, debt interests in real estate. The real estate investments of the funds will be subject to the risks generally incident to the ownership and the development and/or redevelopment of real property, including:

- the risk that construction may not be completed within budget or on schedule because of cost overruns, work stoppages, shortages of building materials, the inability of contractors to perform their obligations under construction contracts, defects in plans and specifications or in construction or other factors;
- uncertainty of cash flow to meet fixed and other obligations;

- adverse changes in local market conditions, population trends, neighborhood values, community conditions, general economic conditions, local employment conditions, interest rates, and real estate tax rates;
- changes in fiscal policies;
- competition from other properties; and

uninsured losses and other risks that are beyond the control of the funds such as the threat of terrorism and their consequences.

There can be no assurance of profitable operations because the cost of owning the funds' investments may exceed the income produced, particularly since certain expenses related to real estate and its development and ownership, such as property taxes, utility costs, maintenance costs and insurance, tend to increase over time and are largely beyond the control of the owner.

**Follow-On Investments.** The funds may be called upon to make investments to increase their investments in certain portfolio companies or to make investments that help preserve, protect or enhance the value of an existing investment in a portfolio company. There can be no assurance that the funds will want to make such investments or that the funds will have sufficient funds to do so. Any decision not to make such investment or the inability to make such investment could potentially have a substantial negative impact on an investment in a portfolio company. Moreover, to the extent that a fund does not make such investment in a company, such company may seek capital from other investors. Any such arrangements with other investors could rank senior to, and/or cause the dilution of, or otherwise negatively impact, the investment of the fund.

**Other Investments.** As we consider appropriate, and to the extent consistent with the funds' investment strategies, we may invest a portion of the funds' assets in one or more money market funds, collective investment trusts, mutual funds and/or exchange-traded funds. When any such investments are made, a fund investor will effectively be paying, in addition to the compensation payable to Avenue, such fund investor's proportionate share of any management fees, or other compensation, charged by the manager of such money market fund, collective investment trust, mutual fund or exchange fund, as well as a *pro rata* portion of the expenses incurred by such entity.

**Use of Leverage.** Certain of the funds, particularly those employing our High Yield strategy, may obtain leverage using any form or combination of financial leverage instruments, including reverse repurchase agreements, credit facilities such as bank loans or commercial paper, and the issuance of preferred shares or notes. These fund may use leverage opportunistically and may choose to increase or decrease leverage, or use different types or combinations of leveraging instruments, at any time based on the firm's assessment of market conditions and the investment environment. There can be no assurance that any fund will use leverage as part of its investment program, or that it will do so successfully.

Leverage creates risks, including the likelihood of greater volatility of net asset value and the risk that fluctuations in the costs to borrow may affect the return to holders of interests in the funds. To the extent the income derived from investments purchased with proceeds received from leverage exceeds the cost of leverage, the funds' distributions will be greater than if leverage had not been used. Conversely, if the income from the investments purchased with such proceeds is not sufficient to cover the cost of the financial leverage, the amount available for distribution to investors will be less than if leverage had not been used. In the latter case, the funds may nevertheless maintain leveraged position if such action is deemed to be appropriate based on market conditions.

The costs of a financial leverage program will be borne by the relevant funds and consequently will result in a reduction of the net asset value of the funds. Leverage increases the size of a fund's portfolio. Because the firm gets paid fees on the basis of the size of the funds' portfolios, without deduction for potential exposure, whether created by leverage or otherwise, during periods in which a fund is using leverage, the fees paid by the fund for investment advisory services will be higher than if the fund did not use leverage. This may create a conflict of interest between the firm, on the one hand, and holders of interests in the funds, on the other hand.

Any lender in connection with a credit facility may impose specific restrictions as condition to borrowing. The credit facility fees may include, among other things, up front structuring fees and on-going commitment fees (including fees on amounts undrawn on the facility) in addition to the traditional interest expense on amounts borrowed. The credit facility may involve a lien on the relevant fund's assets. Similarly, to the extent a fund issues preferred shares or notes for which it seeks a credit rating from one or more rating agencies, the fund may be subject to fees, covenants and investment restrictions required by the rating agency as a result. Such covenants and restrictions imposed by a rating agency or lender may include asset coverage or portfolio composition requirements that are more stringent than those imposed by applicable law.

The funds also expect to enter into other transactions that may give rise to a form of leverage including, among others, swaps, futures and forward contracts, options and other derivative transactions.

**Short Selling.** The funds' investment program may include short selling. Short selling involves selling securities which may or may not be owned and borrowing the same securities for delivery to the purchaser, with an obligation to replace the borrowed securities at a later date. Short selling allows the investor to profit from declines in market prices to the extent such decline exceeds the transaction costs and the costs of borrowing the securities. The extent to which a fund engages in short sales will depend upon its investment strategy and perception of market direction. A short sale creates the risk of a theoretically unlimited loss, in that the price of the underlying security could theoretically increase without limit, thus increasing the cost to the funds of buying those securities to cover the short position. There can be no assurance that the securities necessary to cover a short position will be available for purchase. Purchasing securities to close out the short position can itself cause the price of the securities to rise further, thereby exacerbating the loss.

In response to recent dislocations in the financial services industry and other market events, securities regulators of many jurisdictions have implemented, and/or are considering implementing, certain prohibitions and disclosure requirements on short selling of securities, which may negatively impact the funds. Limitations on the short selling of securities could interfere with the ability of the funds to execute certain aspects of their investment strategies, including its ability to hedge certain exposures and execute transactions to implement its risk management guidelines and any such limitations may adversely affect the performance of the funds.

**Securities Lending.** The risks in lending portfolio securities, as with other extensions of credit, consist of the failure of another party, in this case the approved intermediary, to comply with the terms of agreement entered into between the lender of the securities (*i.e.*, a fund) and the approved intermediary (*i.e.*, the prime broker). Such failure to comply can result in the possible loss of rights in the collateral put up by the borrower of the securities, the inability of the approved intermediary to return the securities deposited by the fund and the possible loss of any corporate benefits (including, without limitation, certain voting rights) accruing to the fund from the securities deposited with the approved intermediary.

## **Item 9. Disciplinary Information**

This Item is not applicable to us.

## **Item 10. Other Financial Industry Activities and Affiliations**

### **Material Financial Industry Affiliations of the Firm**

The firm currently has direct relationships with the following private funds:

- Avenue Europe International, Ltd.
- Avenue Europe International Master, L.P.
- Avenue Europe Investments, L.P.
- Avenue Europe Special Situations Fund II (Euro), L.P.
- Avenue Europe Special Situations Fund II (U.S.), L.P.
- Avenue Europe Special Situations Fund, L.P.
- Avenue Europe Special Situation Fund (Parallel), L.P.
- Avenue Europe Special Situations Fund (Parallel II), L.P.
- Avenue-SLP European Opportunities Fund, L.P.
- Avenue Europe Opportunities Fund, L.P.
- Avenue Europe Opportunities Fund, Ltd.
- Avenue Europe Opportunities Intermediate Fund, L.P.
- Avenue Europe Opportunities Master Fund, L.P.

Through affiliated entities, the firm currently has indirect relationships with the following additional private funds:

- Avenue Special Situations Fund IV, L.P.
- Avenue Special Situations Fund IV (Parallel), L.P.
- Avenue Special Situations Fund V, L.P.
- Avenue Special Situations Fund VI (A), L.P.
- Avenue Special Situations Fund VI (B-Feeder), L.P.
- Avenue Special Situations Fund VI (B), L.P.
- Avenue Special Situations Fund VI (C-Feeder), L.P.
- Avenue Special Situations Fund VI (C), L.P.
- Avenue Special Situations Fund VI (Master), L.P.
- Avenue Investments, L.P.
- Avenue International, Ltd.



- Avenue International Master, L.P.
- Avenue CLO Fund, Ltd.
- Avenue CLO II, Ltd.
- Avenue CLO III, Ltd.
- Avenue Real Estate Fund LP
- Avenue Real Estate Fund Parallel LP
- Avenue-CDP Global Opportunities Fund, L.P.
- Avenue TC Fund, L.P.
- Avenue Blue TC Fund, L.P.
- Avenue Strategic Partners Feeder, L.P.
- Avenue Strategic Partners, L.P.
- Avenue Strategic Partners Feeder, Ltd.
- Avenue Strategic Partners, Ltd.
- Avenue Asia Special Situations Fund II, L.P.
- Avenue Asia Capital Partners, L.P.
- Avenue Asia Special Situations Fund III, L.P.
- Avenue Asia Special Situations Fund III (Parallel), L.P.
- Avenue Asia Special Situations Fund IV, L.P.
- Avenue Asia Investments, L.P.
- Avenue Asia International, Ltd.
- Avenue Asia International Master, L.P.

The firm serves as sub-adviser to an Invesco Van Kampen fund (the “Invesco Van Kampen RIC”) and an Avenue fund (the “Avenue RIC”), both of which are registered investment companies under the Investment Company Act of 1940 (*i.e.*, public funds).

An affiliate of the firm, Avenue Capital Management II, L.P., serves as adviser to the Avenue RIC.

An affiliate of the firm, Avenue Asia Capital Management, L.P., manages the assets of one or more liquidating trusts established to manage the liquidation of certain assets formerly held by Avenue Asia Investments, L.P., Avenue Asia International, Ltd., and Avenue Asia International Master, L.P.

The firm also has relationships with the following entities that act as investment advisers:

- Avenue Capital Management II, L.P. (registered as an investment adviser with the SEC since 2000)
- Avenue Asia Capital Management, L.P. (registered as an investment adviser with the SEC since 2001 and registered with the Securities Exchange Board of India as a Foreign Institutional Investor since 2008)

- 12th Avenue Management, L.P. (registered as an investment adviser with the SEC since 2007)
- Avenue Europe Management, LLP (authorized by the U.K. Financial Services Authority since 2004)
- Avenue Germany Management GMBH

In October 2006, Morgan Stanley became an indirect minority owner of Avenue. From time to time, certain funds may utilize Morgan Stanley for prime brokerage, consulting and other services.

Avenue is affiliated with Amroc Investments, LLC. Marc Lasry and Sonia Gardner, the Senior Principals of Avenue, own Amroc. As of January 1, 2008, all of Amroc's employees became employees of Avenue entities and there are no commissions or other fees paid to Amroc for sourcing investments. We do not believe that the firm's relationship with Amroc is material to our ongoing business activities.

FCB Firmen-Credit Bank GmbH (f/k/a Yapi Kredi Bank (Deutschland) AG), a bank located in Frankfurt, Germany, is owned by Avenue Europe Investments, L.P., a Delaware limited partnership, and Avenue Europe Opportunities Fund, L.P., a Delaware limited partnership, each of which is managed by the firm. See disclosure under the heading "Participation or Interest in Client Transactions" in Item 11.

A number of entities with which the firm is affiliated serve as the general partners of private funds whose investment programs are managed by the firm and/or by affiliates of the firm.

## **Other Activities**

None of Avenue, its principals, nor any of their affiliates (including the firm), or their respective affiliates, employees, officers, directors, principals, shareholders and members, or affiliates of any such persons or entities is required to manage any of the funds or managed accounts as its sole and exclusive function and each may engage in other business ventures and other activities unrelated to the affairs of the funds or managed accounts. Any Avenue person may become aware of business opportunities in which any fund or managed account is not expected to be given an opportunity to participate.

Except as otherwise set forth in a fund's offering documents, no Avenue person is obligated to devote any specific amount of time to the affairs of the funds or managed accounts. Avenue persons spend substantial time on other business activities, including those related to various existing and future pooled investment vehicles and other client accounts sponsored, formed, offered and managed by Avenue and its affiliates.

Furthermore, the Senior Principals of Avenue, and other officers and employees of Avenue and its affiliates, may, from time to time, serve on the boards of directors, credit committees, or other committees, of one or more entities in which one or more of the Avenue funds or managed accounts has invested. In addition, certain Avenue persons may, from time to time, provide certain services to the firm, the funds, one or more of the firm's other affiliates, and/or one or more of the investments or companies in which the funds invest. As a result, there may be a number of conflicts of interest which may arise, which could adversely affect the funds and/or managed accounts of the firm. Please see the disclosure provided elsewhere in this brochure under Item 8 as well as in the offering documents of the applicable fund.

Avenue persons engage in a broad range of investment management activities, including sponsoring and managing other private funds and other activities. Certain Avenue persons also expect to sponsor and operate future pooled investment vehicles and other client accounts that pursue similar investment objectives or other lines of investment activity. Although the relationships and activities of Avenue

persons should enable these entities to offer attractive opportunities and services to the funds and investors, such relationships and activities, in the ordinary course of business, may also give rise to circumstances in which the interests of these entities and other affiliates of the Avenue persons conflict with the interests of the funds and investors, including, by way of example but not limitation, competition with other investment vehicles (proprietary or third-party managed) in which investors may also have an interest, purchasing and investments in entities in which investors may have an interest, or taking or advocating positions in certain transactions that may be considered adverse to the interests of investors.

The Avenue persons, the funds, the general partners of such funds (if applicable) or their respective members, officers, directors, employees, principals or affiliates may come into possession of material, non-public information. The possession of such information may limit the ability of the funds to buy or sell a security or otherwise to participate in an investment opportunity.

## **Item 11. Code of Ethics, Participation or Interest in Client Transactions and Personal Trading**

### **Code of Ethics; Personal Trading**

We have adopted a written code of ethics that applies to the firm, our employees and certain related persons. Our code of ethics is administered by our chief compliance officer or his designees. Employees are given training with respect to our code of ethics when they are hired and annually thereafter. Each client may obtain a copy of our code of ethics by submitting a written request to Eric L. Ross at 399 Park Avenue, 6th Floor, New York, New York 10022 or by contacting Mr. Ross at (212) 878-3520.

The following general principles and standards of conduct are established by our code of ethics:

- We must operate at the highest level of ethical standards in keeping with our fiduciary duties to clients, and in compliance with all applicable laws.
- We have a duty to place the interests of clients first and to avoid conflicts of interest.
- Information about our operations and investment strategies, as well as information about our clients (other than, possibly, their name), unless otherwise consented to by the investor, is strictly confidential and will not be disclosed to anyone outside the firm and its consultants and agents, unless required by law or a government agency and upon prior notice to the chief compliance officer.
- Our employees may not use any confidential information or otherwise take inappropriate advantage of their position for the purpose of furthering any private interest or as a means of making any personal gain.
- Our employees and their immediate families may not accept any benefit from a client or person who does business with us, except for normal business courtesies and non-cash gifts of nominal value.
- Insider trading is prohibited and may expose an employee to stringent penalties.

Our code of ethics deals with a range of topics including, without limitation, the following:

- Categories of persons related to the firm who are covered by the code of ethics.
- Opening of personal securities accounts by covered persons.
- Pre-approval requirement for most personal securities transactions.

- Submission to the firm of information concerning personal securities holdings and transactions.
- Restrictions on trading in securities of particular issuers.
- Gifts and entertainment.
- Political contributions and payments.
- Reporting of violations and our whistle-blower policy.
- How the code of ethics is administered.
- How exceptions to the code of ethics may be granted by our chief compliance officer.

Each covered person is required to acknowledge that he or she has received and reviewed, and understands the Code of Ethics.

### **Participation or Interest in Client Transactions**

A principal transaction occurs when an investment adviser, acting for its own account (or the account of an affiliate) buys a security from, or sells a security to, a client's account. A cross transaction, or cross trade, occurs when an investment advisor arranges a transaction between two clients. The funds have different procedures with respect to completing principal and cross transactions that are set forth in each fund's operative documents. Accordingly, the portfolio managers are required to identify any potential principal transaction, and any potential cross trade between two or more funds, prior to effecting the transaction and to contact the firm's chief compliance officer. The chief compliance officer, in consultation with outside counsel (if necessary), will determine whether or not the trade would constitute a principal transaction or a cross trade, and if so, whether such transaction is permissible and what procedures must be followed to complete the transaction. The firm may cause the funds to engage in cross trades, including the purchase or acquisition of participations in originated investments, typically for purposes of rebalancing the portfolios of the funds or for other reasons consistent with the investment and operating guidelines of the funds. These rebalancing transactions may, or may not, be subject to commissions. Notwithstanding the foregoing, it is our more customary policy to rebalance funds and accounts by trading in the market rather than by effecting cross trades.

The funds may, from time to time, make an investment in a portfolio company in which one or more of Avenue's other clients invests in a different part of the capital structure. There may be instances where such a portfolio company may seek to take an action where the funds' and the other clients' interests in such portfolio company may conflict. To the extent that the funds hold securities in a portfolio company with rights, preferences and privileges that are different than those held by other clients in the same portfolio company, Avenue's principals and their representative affiliates may be presented with decisions when the interests of the funds and the other clients are in conflict. It is possible that a fund's interests may be subordinated or otherwise adversely affected by virtue of the other clients' involvement and actions relating to their investment. Avenue has adopted procedures to address and, in some cases, mitigate the actual conflicts of interest that may arise. Any deviation from these procedures must be approved in advance by the chief compliance officer.

The funds may engage in certain transactions with, and pay fees in connection with sourcing investments to, FCB Firmen-Credit Bank GmbH (f/k/a Yapi Kredi Bank (Deutschland) AG) ("FCB"), a bank located in Frankfurt, Germany. FCB was originally acquired by a fund that is managed by the firm. FCB was acquired because it is believed to be an appropriate investment opportunity and its acquisition will enable the acquiring fund, through FCB, to originate loans across the entire European Union as direct assignments. In connection with the funds' pursuing investments sourced by FCB, the funds will pay

certain fees to FCB (and thus indirectly to the funds that own FCB). The fees to be charged by FCB for providing services to the funds and their affiliated entities depend partly on the quality of the underlying assets, as more distressed assets will require greater involvement and resources from FCB. Because FCB is owned by some of the funds, any transaction between FCB and any fund may be a principal transaction subject to Section 206(3) of the Investment Advisers Act. The fees to be paid by the funds are required to be reasonable and no less advantageous to the funds than are available from unaffiliated persons.

The firm may, from time to time, recommend a security in which the firm, directly or indirectly, has an interest. For instance, it may be expected that one or more of the funds may invest capital in another of the funds or in securities of issuers in which one or more of the other funds hold positions. In addition, the general partners of certain of the funds have invested their own capital in their funds. Given the likely frequency of these occurrences, clients and investors in the funds will not be provided with notification of them. This may represent a conflict of interest for the firm.

We will not be engaged as an investment adviser to advise investors as to the appropriateness of investing in the funds or managed accounts we manage. Although we will not receive any compensation for selling interests in the funds, we will receive compensation in our capacity as manager of these funds based in part upon the amount invested in the funds.

Accounts that are beneficially owned by the firm's employees, principals and affiliates may from time to time transact in trade claims of distressed companies. These transactions will be subject to our personal account trading policy.

## **Item 12. Brokerage Practices**

### **Selection of Brokers**

In effecting securities transactions, the firm generally seeks to negotiate with brokers a combination of the most favorable commission and the best price obtainable on each transaction. Consequently, brokers are selected primarily on the basis of their execution capability and trading expertise consistent with the effective execution of the transaction.

In determining the broker or dealer to be used and the commission rates to be paid, the firm considers the utility and reliability of brokerage services, including:

- execution capability and performance,
- financial responsibility and investment information,
- market insights, and
- other research provided by the brokers.

Accordingly, the commissions charged by brokers may be greater than the amount another broker might charge if the firm determines in good faith that the amount of these commissions is reasonable in relation to the value of the brokerage services and research information provided by the brokers. The firm's authority to select the broker or dealer to be used may be limited by legal restrictions such as those imposed under the U.S. Employee Retirement Income Security Act of 1974, as amended (ERISA).

Consistent with the requirements of best execution, brokerage commissions may be directed to brokers in recognition of investment research and information furnished as well as for services rendered in the execution of orders by such brokers. By allocating transactions in this manner, the firm is able to

supplement its research and analysis with the views and information of brokerage firms. The funds may also allocate a portion of their brokerage business to brokerage firms whose employees participate as brokers in the introduction of investors to the funds or who agree to bear the expense of capital introduction, marketing or related services by third parties.

The firm may effect securities transactions, to the extent permitted by law, with brokerage firms affiliated with the firm or with investment companies registered under the Investment Company Act of 1940, if it reasonably believes that the quality of execution and the commission are comparable to that available from other qualified firms. Certain broker-dealers, through which the Avenue RIC may effect securities transactions, may be affiliated persons (as defined in the Investment Company Act) of the firm or the applicable registered fund. Avenue has adopted certain policies incorporating the standards of Rule 17e-1 issued by the SEC under the Investment Company Act which require that the commissions paid to affiliates of the Avenue RIC be reasonable and fair compared to the commissions, fees or other remuneration received or to be received by other brokers in connection with comparable transactions involving similar securities during a comparable period of time. The rule and procedures also contain review requirements and require the firm and Avenue Capital Management II, L.P. (an affiliate of the firm that acts as the adviser to Avenue RIC) to furnish reports to the trustees of the Avenue RIC and to maintain records in connection with these reviews.

### **Soft Dollar and Directed Brokerage Arrangements**

Research or brokerage services provided by brokers through which portfolio transactions for the funds and managed accounts are executed may include:

- research reports on particular industries and companies,
- economic surveys and analyses,
- recommendations as to specific securities,
- online quotations,
- news and research services,
- financial publications, and
- other products and services (*e.g.*, software based applications for market quotes and news and database programs providing portfolio company and industry data)

that prove lawful and appropriate assistance to the firm in the performance of its investment decision-making responsibilities on behalf of the funds, managed accounts and other accounts which its affiliates manage (these are all referred to collectively as “soft dollar items”). Avenue generally uses soft dollar items for the benefit of all of its clients. Whether an individual managed account client authorizes the firm to engage in soft dollar arrangements will be set forth in that client’s investment management agreement.

Soft dollar items may be provided directly by brokers, by third parties at the direction of brokers or purchased by or on behalf of the funds and managed accounts with credits or rebates provided by brokers. Soft dollar items obtained in connection with portfolio transactions for the funds and for managed accounts are intended to fall within the “safe harbor” of Section 28(e) of the U.S. Securities Exchange Act of 1934, as amended. The commissions to be paid to the brokers providing soft dollar items may be greater than the amount another broker might charge if the firm determines in good faith that the amount of these commissions is reasonable in relation to the value of the brokerage services and research products and services provided by the brokers.

During the most recent fiscal year, the firm did not use any soft dollar items or engage in directed brokerage transactions.

### **Aggregation of Orders**

If the firm has determined to purchase (or sell) an investment at the same time for more than one investment vehicle or account, the firm will generally place combined orders for all such accounts simultaneously, and if all such orders are not filled at the same price, it will generally average the prices paid. Similarly, if an order on behalf of more than one vehicle or account cannot be fully executed under prevailing market conditions, the firm will allocate (or sell, as applicable) the investments among the different vehicles or accounts on a basis that it considers equitable. Situations may occur where the funds and or managed accounts could be disadvantaged because of the investment activities conducted by the firm for other investment vehicles or accounts.

### **Allocation Procedures**

In addition to our responsibilities with respect to the management and investment activities of the funds and the managed accounts, we and our affiliates will have similar responsibilities with respect to various other existing pooled investment vehicles and managed accounts (such clients, together with clients of the firm, are referred to as “Avenue clients”). The existence of such multiple vehicles and accounts necessarily creates a number of potential conflicts of interest.

We expect that investments will be allocated between and among Avenue clients, particularly where the investment objectives and policies of the Avenue clients overlap (in whole or in part). There are, or are expected to be, differences between and among the Avenue clients with respect to, among other considerations:

- investment objectives,
- investment strategies,
- investment parameters and restrictions,
- portfolio management personnel,
- tax considerations,
- liquidity considerations,
- hedging considerations,
- legal and/or regulatory considerations,
- asset levels,
- timing and size of investor capital contributions and redemptions,
- cash flow considerations,
- market conditions,
- existing exposures to an investee company or security, and
- other criteria we deem relevant (the nature and extent of the differences will vary from client to client).

In addition, certain investments may be purchased in odd lots, or there may exist stub amounts, either of which are not readily allocable to multiple clients. Notwithstanding the differences between and among

Avenue clients, and the possible existence of hard to allocate investments, there may be circumstances where some or all of the Avenue clients participate in parallel investment transactions. If we deem it appropriate, taking into account the investment objectives and policies of the various clients, this participation will be on a *pro rata* basis (based on either an “available cash” or “net asset value” concept developed by Avenue), at the same time and on the same terms; this will be the case most commonly with respect to Avenue clients that have similar investment objectives and investment strategies.

However this will not always be the case. There will be circumstances where:

- only some of the Avenue clients participate in parallel investment transactions;
- the level of participation between and among the Avenue clients in parallel investment transactions is not on a *pro rata* basis;
- the terms of parallel investment transactions vary between and among one or more of the Avenue clients;
- one or more of the Avenue clients effectively engage in opposite transactions with respect to a particular investment (*e.g.*, an Avenue client acquires a long position in a security while one or more of the other Avenue clients sells or shorts the security); and/or
- investment transactions between and among the Avenue clients vary in other respects.

Such non-parallel and/or non-*pro rata* investment transactions between and among the Avenue clients will be made in the discretion of Avenue when deemed:

- appropriate given the differences between the clients involved,
- appropriate because the target holdings of the particular investment that Avenue has established with respect to the clients involved differ from client to client, and/or
- otherwise to be in the best interests of the clients involved.

From time to time, we may review Avenue clients’ exposure to certain investments and determine exposure targets for clients on a net asset value basis. Where the exposure targets with respect to a particular investment differ from client to client, Avenue, prior to entering a transaction, may prepare a report that sets forth (i) the target exposures, on a net asset value basis, for certain clients with respect to specific investments and (ii) a consistent methodology for the allocation of transactions in these investments among these clients. After that, until the net asset value exposure targets are achieved or modified, purchases or sales, as applicable, in the relevant investments (which will generally be made on an aggregated basis) will be allocated to clients in the amounts (expressed as a percentage of the aggregate amount purchased or sold) determined pursuant to the report rather than on a *pro rata* basis.

It is our general policy that no Avenue client will receive inappropriate preferential treatment or otherwise be treated unfairly; and we will seek to uphold this policy when making decisions regarding investment allocations.

In certain cases, opportunities during a particular period and up to a certain size may be offered only to one or more funds and not to other Avenue clients.

The firm may from time to time provide advisory or sub-advisory services to one or more public funds, including, without limitation, the Invesco Van Kampen RIC and the Avenue RIC. The public funds we advise are managed using our High Yield strategy and do not pay a performance fee. The public funds invest in securities that are similar to investments that may be held in those of our private funds that are managed using our European Distressed Debt strategy (which do pay a performance fee). In allocating investments between our public fund clients and our European Distressed Debt private funds, we employ



an objective credit threshold test that takes into account the anticipated yield(s) of the relevant investment(s) as a basis for allocation. Although these funds are managed by the same team of investment professionals, the expected risk and return profile for the public funds is lower than for the private funds. Thus, we will allocate investments with a total yield at the time of investment below the credit thresholds to the public funds, and investments with a total yield above the credit thresholds to the private funds. Notwithstanding this, the firm may sell short (including entering into a credit default swap) investments below the credit thresholds for hedging and other purposes and is permitted to borrow or buy investments below the credit thresholds in connection with covering or closing short positions for such other clients. The firm may also invest in cash and other liquid investments that do not meet the credit thresholds.

Avenue Capital Management II, L.P., an affiliate of the firm, currently serves as an investment advisor to the Avenue RIC and, pursuant to its advisory agreement with that investment company, is responsible for investing its assets. The Avenue RIC, like the Invesco Van Kampen RIC, invests in securities that have a yield below the credit thresholds. Investment opportunities that may be appropriate for both registered investment companies will be allocated on a *pro rata* basis between them, based upon the portion of the available cash of each such fund as calculated periodically. To the extent that the firm or Avenue Europe International Management, L.P. serves as an investment manager to other accounts in the future that have the same investment strategy as the Avenue RIC and/or the Invesco Van Kampen RIC, investment opportunities within such strategy will, to the extent practicable, be allocated among all such funds and other accounts on a similar *pro rata* basis.

## **Trade Errors**

We have adopted a policy for the purpose of addressing trade errors that may arise, from time to time, with respect to the securities transactions of the funds and the managed accounts. An example of a trade error is the sale of a security when it should have been purchased. Pursuant to the policy, we will seek to identify and correct any trade errors in an expeditious manner. Trade errors that result in losses for a private fund or managed account that are the result of our gross negligence or willful misconduct will be reversed, and we will be responsible to make the affected funds and managed accounts whole. Trade errors that result in losses for a fund, other than a fund that is a registered investment company, or managed account that are not the result of our gross negligence or willful misconduct will be reversed and we may, but are not required to, bear such losses in whole or in part. Any such losses we do not bear will be borne by the affected funds and/or managed accounts. Trade errors that result in losses for a fund that is a registered investment company, whether or not they are the result of our gross negligence or willful misconduct, will be reversed, and we will be responsible to make the affected registered investment company whole. Gains from trade errors will be credited to the affected funds or managed accounts. Gains from trade errors may not be used to offset losses from trade errors. “Soft dollars” or “client commissions” will not be used, either directly or indirectly, to correct trade errors. We document each trade error and maintain a trade error file. The determination of whether or not a trade error has occurred will be in our sole discretion.

## **Item 13. Review of Accounts**

Each fund and managed account is maintained, supervised and reviewed on a regular basis by its respective investment principals. Matters reviewed include specific investments held, the percentage of assets in various types of asset classes and the relative and absolute performance of each account. The investment principals for each fund are listed in that fund’s confidential offering memorandum.

With respect to the private funds and registered investment companies for which the firm serves as the investment manager, each investor receives annual audited financial statements of each such fund. In addition, investors in the registered investment companies the firm advises receive semi-annual unaudited reports, and investors in the various private funds receive additional financial statements and reports as described in the confidential offering memorandum for each private fund.

With respect to other clients for whom we serve as the investment manager on a managed account or sub-advisory basis, we will provide such clients with reports and statements, the content and frequency of which will be as agreed.

## **Item 14. Client Referrals and Other Compensation**

### **Compensation for Client Referrals; Placement Agents for Funds**

The firm is one of four registered investment advisers that are part of Avenue Capital Group. Any one of our four registered advisers, or another member of Avenue Capital Group, may retain the services of one or more placement agents in connection with the solicitation of prospective investors. Avenue has retained Spoonhill Asset Management, Inc., J.P. Morgan Securities Inc., Morgan Stanley Smith Barney, Jefferies & Co., Inc., Credit Suisse, Aspen Capital Partners, Ltd. and Lazard Freres & Co., Inc as placement agents. Typically, placement agents retained by Avenue are paid a fee based upon a percentage of the investor's investment or of the applicable Avenue adviser's management fee. These fees are borne by Avenue. If an investor that is placed with Avenue by one of the placement agents we have retained has a brokerage or other relationship with that placement agent, that investor may pay additional fees to the placement agent if the terms of its relationship with the placement agent so provide. To the extent applicable, solicitations of prospective managed clients are made in accordance with SEC Rule 206(4)-3 adopted under the Investment Advisers Act of 1940.

## **Item 15. Custody**

We have custody, as defined in Rule 206(4)-2 under the Investment Advisers Act of 1940, of the assets of the private funds as a result of the service of certain of our affiliates as general partners of some of the private funds we manage and our ability to remove the independent directors of some of the private funds we manage. The private funds are audited annually and deliver audited financial statements to their investors within 120 days' of the applicable fiscal year-end.

## **Item 16. Investment Discretion**

Item 4 includes a description of the investment discretion that we exercise.

## **Item 17. Voting Client Securities**

We have policies and procedures in place for the voting of proxies and processing of corporate actions on behalf of the funds and managed accounts we advise that are designed to ensure compliance with the proxy voting, disclosure and record keeping requirements under SEC Rules 206(4)-6 and 204-2 adopted under the Investment Advisers Act. Our policies and procedures are also designed to ensure that all corporate actions are voted in the best interest of each fund, provide disclosure to fund investors and

ensure that certain documentation is retained. As a general matter, clients may not direct our vote in a particular solicitation.

The Firm's objective is to ensure that its proxy voting and corporate action activities on behalf of the funds are conducted in a manner consistent, under all circumstances, with the best interest of the Funds.

## **Proxy Voting**

With respect to certain proxy proposal issues, we vote in accordance with predetermined "for" or "against" designations, except when we determine the best interests of the client require a contrary vote. We vote other proxy proposals on a "case by case" analysis in the best interests of the client.

In the event that the firm votes contrary to the proxy voting guidelines, we will document the basis for our contrary voting decision.

In addition, the firm may choose not to vote proxies in certain situations or for certain funds, such as (i) where a fund has informed the firm that it wishes to retain the right to vote the proxy, (ii) where the firm deems the cost of voting would exceed any anticipated benefit to the fund, (iii) where the proxy is received for a fund that has been terminated, or (iv) where a proxy is received by the firm for a security it no longer manages on behalf of a fund. The firm will document the basis for the decision not to vote.

We may occasionally be subject to conflicts of interest in the voting of proxies. If at any time the firm becomes aware of an actual conflict of interest relating to a particular proxy proposal, the firm will handle the proposal as follows:

- If the proposal is designated in the proxy voting policies as "For" or "Against," the proposal will be voted by the firm in accordance with the proxy voting policies; or
- If the proposal is designated in the proxy voting policies above as "Case by Case" (or not addressed in the proxy voting policies), the firm will notify the fund of such conflict and will vote the fund's shares in accordance with the fund's instructions.

Each investor in a private fund and each managed account client may obtain information on how we voted with respect to the securities of such fund or managed account, as applicable, and obtain a copy of proxy voting policies and procedures by submitting a written request to Eric L. Ross at 399 Park Avenue, 6th Floor, New York, New York 10022 or by contacting Mr. Ross at 212-878-3520. With respect to any registered investment company, the firm shall promptly provide information to the registered investment company regarding how the registered investment company's proxies and corporate actions were voted to enable the registered investment company to make the required disclosures regarding the proxy voting.

## **Corporate Actions**

Conflicts of interest may arise where multiple funds simultaneously hold securities representing different parts of the capital structure of a financially troubled or distressed issuer. Conflicts of interest may also arise where multiple funds simultaneously hold different investment positions with respect to the same issuer. Avenue has adopted procedures to address and, in some cases, mitigate the actual conflicts of interest that may arise. Any deviation from these procedures must be approved in advance by the firm's Chief Compliance Officer.

Where multiple funds hold different securities of the same issuer and either a specific right, such as a vote with respect to a security or the grant of a waiver, or an ongoing right, such as an opportunity to serve on

a creditor's committee or otherwise engage in discussions with an issuer, arises, and Avenue does not identify a conflict of interest, the following procedures will apply:

- Avenue will exercise the right or ongoing right in the best interest of the relevant fund(s).
- Avenue will be responsible for determining whether the course of action that is in the best interest of the relevant fund is clear.
- The Chief Compliance Officer must be notified prior to the exercise of the right.

If Avenue does identify an unresolved conflict of interest, the following procedures will apply:

- If the course of action that is in the best interest of each fund is not clear, or if the course of action involves an ongoing right, then Avenue will designate an independent representative to make a recommendation with respect to, or assume responsibility for, the exercise of the right or undertaking the ongoing right for one or more of the funds.
- Avenue will be responsible for determining whether the course of action that is in the best interest of the relevant fund(s) is clear.
- The Chief Compliance Officer must be notified prior to the designation of an independent representative.
- In the case of a RIC, the independent representative may be the manager, if Avenue is acting as sub-adviser, or Board of Directors (or Trustees) of the RIC.
- In the case of a private fund, the independent representative may be an advisory committee established by the fund to handle such matters or, if permitted under the fund's organizational documents, a third-party advisor.
- If an independent representative is designated, Avenue employees who communicate with the independent representative must be careful not to disclose material non-public information to the independent representative unless the prior approval of the Chief Compliance Officer is obtained and such party has a duty of confidentiality with regard to such material non-public information (such as through the execution of a confidentiality agreement or service as a manager or board member of a RIC).

## **Item 18. Financial Information**

We have included herewith a balance sheet for our most recent fiscal year.