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This brochure, called Part 2A of Form ADV, provides information about the qualifications and business practices of JANA Partners LLC (“JANA Partners,” “*Adviser*,” “*we*,” “*us*,” or “*our*”). If you have any questions about the contents of this brochure, please contact our Chief Compliance Officer, Lorelei Martin, at (212) 455-0900 or [lorelei.martin@janapartners.com](mailto:lorelei.martin@janapartners.com), or our General Counsel, Jennifer Fanjiang, at (212) 455-0900 or [jennifer.fanjiang@janapartners.com](mailto:jennifer.fanjiang@janapartners.com).

The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (the “*SEC*”) or by any state securities authority.

Additional information about us is also available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

We are a registered investment adviser under the Investment Advisers Act of 1940, as amended (the “*Advisers Act*”). Our registration under the Advisers Act does not imply any level of skill or training.

## **ITEM 2**

### **MATERIAL CHANGES**

Our most recent update to this brochure was made on March 30, 2012. During July 2012, we updated Part 2B of Form ADV. In addition, we are now updating this brochure to reflect the following change:

- **Items 11 & 17** – update to reflect the addition of our new Chief Compliance Officer

We will deliver to you a summary of any material changes to this brochure and subsequent brochures within 120 days of the close of our fiscal year. We will also continue to provide ongoing disclosure about material changes as such changes may arise.

Our brochure may be requested, free of charge, by contacting our Chief Compliance Officer, Lorelei Martin, at (212) 455-0900 or [lorelei.martin@janapartners.com](mailto:lorelei.martin@janapartners.com), or our General Counsel, Jennifer Fanjiang, at (212) 455-0900 or [jennifer.fanjiang@janapartners.com](mailto:jennifer.fanjiang@janapartners.com).

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## ITEM 4 ADVISORY BUSINESS

### A. General Description of Advisory Firm

We are a Delaware limited liability company and have been in business since April 2001. We provide Investment Advisory Services (as defined below) to (i) pooled investment vehicles that have been privately placed and that have not been registered under the Investment Company Act of 1940 (the “*Investment Company Act*”) (each, a “*Fund*”), and (ii) separate accounts and co-investment vehicles (each, a “*Managed Account*” and, together with the Funds, each, a “*Client*” or a “*Client Account*” and collectively, the “*Clients*” and/or the “*Client Accounts*”).

Client Accounts are managed on a discretionary basis according to the stated investment objectives and policies of each Client. Each Client Account is separately maintained consistent with our investment approach and the Client's investment goals. We have the authority and responsibility to formulate the investment strategy on behalf of our Clients, including deciding which securities to buy and sell, when to buy and sell, and in what amounts. Our principal owner is Barry Rosenstein.

### B. Description of Advisory Services

As an investment adviser, we are responsible for sourcing potential investments, conducting research and due diligence on potential investments, analyzing investment opportunities, structuring investments, and monitoring investments on behalf of our Clients. We also provide certain administrative services to Clients or arrange for such services to be provided by a third party. We refer to all of these services as “*Investment Advisory Services*.” We generate all of our advisory fees from Investment Advisory Services.

We do not limit the types of Investment Advisory Services we offer and there are no material limitations on the types of securities in which we may invest on behalf of our Clients. We may invest in any security and any sector of the market to carry out the overall objectives of our Clients. We have flexibility to create or organize (alone or in conjunction with others), or otherwise utilize special purpose subsidiaries or other special purpose investment vehicles, swaps or other derivatives or structured products. The foregoing is subject to the provisions of the relevant investment management agreement or similar agreement (“*IMA*”), offering memorandum, or organizational documents (together with the IMA and the offering memorandum, the “*Offering Documents*”).

### C. Availability of Customized Services for Individual Clients

The Offering Documents provide detailed descriptions of each Client's investment objectives and may contain investment guidelines, policies or restrictions. Certain investors may invest on terms that differ from the terms generally applicable to other investors, other classes of ownership interests may be established with terms that differ from those described in the relevant Offering Documents, and we may manage other Client Accounts with the same investment program as a Client Account under terms that differ from the terms described in the relevant Offering Documents. Such differing terms may be more favorable than the terms provided to other Clients (or underlying investors) and may include, but are not limited to, terms relating to

the ability to withdraw or redeem capital, access to information, management and performance fees and allocations, and special rights to make future investments in the relevant Client Account. Such modifications may in some cases be based upon, among other things, the size of an investor's investment, an agreement by an investor to maintain such investment for a specified period of time, a transfer from another Client Account managed by us, or other commitments by an investor.

**D. Wrap Fee Programs**

We do not participate in any wrap fee programs.

**E. Assets Under Management**

As of December 31, 2011, we had approximately \$4.2 billion in regulatory assets under management on a discretionary basis and no regulatory assets under management on a non-discretionary basis.

## **ITEM 5**

### **FEES AND COMPENSATION**

#### **A. Advisory Services and Fees**

We or our affiliates receive management and performance-based incentive fees or allocations (each, a “*Fee*” and collectively, “*Fees*”) for the Investment Advisory Services we provide to our Clients in accordance with the terms set forth in the relevant Offering Documents.

The standard fee schedule for Clients is comprised of a 2% base management fee and a 20% incentive fee or allocation based on the Client’s investment performance, although such fees may vary. Certain investors may invest on terms that differ from the terms generally applicable to other investors, other classes of ownership interests may be established with terms that differ from those described in the relevant Offering Documents, and we may manage other Client Accounts with the same investment program as a Client Account under terms that differ from the terms described in the relevant Offering Documents. Such differing terms may be more favorable than the terms provided to other Clients (or underlying investors) and may include, but are not limited to, terms relating to ability to withdraw or redeem capital, access to information, management and performance fees and allocations, and special rights to make future investments in the relevant Client Account. Such modifications may in some cases be based upon, among other things, the size of an investor’s investment, an agreement by an investor to maintain such investment for a specified period of time, a transfer from another Client Account managed by us, or other commitments by an investor. Additionally, our officers and employees may invest on terms that differ from those of the Clients.

We structure any Fee arrangement in accordance with Section 205(a)(1) of the Advisers Act and the rules and regulations thereunder, including the exemption set forth in Rule 205-3 permitting performance fee or allocation arrangements with “*qualified clients*.”

#### **B. Payment of Fees**

The applicable Offering Documents govern the terms of compensation and the manner in which we are compensated by each Client. Subject to the terms of such documents, Clients may elect to be billed directly for Fees or may arrange to have such Fees debited directly from the Client’s account. Our base management fees are paid quarterly or monthly, in advance or arrears, depending on the Client, based on net assets at the beginning or end of the applicable period. Incentive fees or allocations are typically paid annually in arrears. Fees are prorated for partial periods.

#### **C. Additional Expenses and Fees**

Our Fees are exclusive of other charges, fees, and expenses associated with the provision of Investment Advisory Services that are paid by Clients. Such charges, fees, and expenses may include, among other items, legal, audit and accounting expenses, all investment expenses such as commissions, research fees, interest on margin accounts and other indebtedness, borrowing charges on securities sold short, fees to the administrator, custodial fees, bank service fees, fees or expenses associated with insuring a Client’s assets and any other reasonable expenses related

to the purchase, sale or transmittal of a Client's assets. Exchange-traded funds in which we invest also charge internal management fees, which are disclosed in the prospectus of the pertinent fund.

We do not receive any portion of these charges, fees, and expenses and shall not receive a brokerage commission or other compensation attributable to the sale of a security or other investment product. For an in-depth discussion of the factors that we consider in selecting or recommending broker-dealers for Client transactions and determining the reasonableness of commissions and compensation for such broker-dealers, please see Item 12, "*Brokerage Practices -- Selection of Broker-Dealers and Reasonableness of Compensation*," below.

**D. Prepayment of Fees**

In certain cases, Clients pre-pay management fees in advance. In the case of a Managed Account, the Offering Documents typically provide that either we or the Client may terminate the agreement at any time upon 30-90 days' written notice, and if such Client pre-pays a management fee and then terminates its Offering Document before the end of the billing period, such Client may obtain a refund of the unearned portion of the management fee (prorated for the partial period) by contacting us, or the refund will automatically be credited as specified in the relevant Offering Document. In the case of a Fund investor, the investor may withdraw or redeem its ownership interest quarterly or annually (depending on the class of Fund investor) upon 60 days' written notice without penalty; and at other times, the Fund investor may be subject to a penalty payable to the Fund. The Fund investor will automatically be credited with a refund of the unearned portion of the management fee (prorated for the partial period) as specified in the relevant Offering Document. In each case, the Client or Fund investor will pay the Fees to us prorated to the date of liquidation or transfer of assets.

**E. Additional Compensation and Conflicts of Interest**

We do not receive a brokerage commission or any other compensation attributable to the sale of securities or investment products and our personnel do not receive such compensation.



## **ITEM 6**

### **PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

While the specific terms may vary by Client, we typically receive Fees from our Clients in consideration of our provision of Investment Advisory Services. We do not charge Clients any other type of fee, such as an hourly or flat fee. For a more detailed discussion of our performance-based incentive fees and allocations, please see Item 5, "*Fees and Compensation*," above.

The incentive fee or allocation made to us or our affiliates may create an incentive for us to make investments that are riskier or more speculative than we would otherwise make. In addition, the incentive fee or allocation may not be the product of an arm's length negotiation with any third party, and because the incentive fee or allocation is calculated on a basis which includes unrealized appreciation of a Client's net assets, it may be greater than if such compensation were based solely on realized gains. In order to address this potential conflict, we have implemented policies and procedures to ensure that we trade securities in a manner that is fair and equitable to all Clients.

**Conflicts of Interest.** We are subject to a number of actual and potential conflicts of interest. We serve as the investment manager to several Client Accounts, some of which may have similar investment programs. Each Client Account may be subject to Fees, liquidity terms and other terms which differ from those of another Client Account.

We or our affiliates may also give advice and recommend securities to one or more Client Accounts which may differ from advice given to, or securities recommended or bought for, another Client Account, even though their investment programs may be the same or similar.

From time to time, we may execute cross transactions between two or more Clients. The use of cross transactions often increases the probability of completing a transaction at a better price by possibly avoiding an unfavorable price movement that may be created through entrance into the market with a purchase or sell order. We may have a potentially conflicting division of responsibilities to both parties of a cross transaction.

We and our officers and employees will devote as much of our time to the Client Accounts as we deem necessary and appropriate. Except as may be provided in an Offering Document, we and our affiliates are not restricted from forming additional investment funds, from entering into other investment advisory relationships, or from engaging in other business activities including, but not limited to, subletting or providing office space or services, even though such activities may be in competition with the Client Accounts and/or may involve substantial time and resources. These activities could be viewed as creating a conflict of interest in that the time and effort of us and our officers and employees may not be devoted exclusively to the business of any particular Client Account, but may be allocated between the business of the Client Accounts, the management of money for other advisees, and other business activities.

Our officers and employees may acquire or sell securities for their personal accounts (including, but not limited to, investments in private funds or third party advisers), or the accounts of other individuals including other officers and employees. Such securities may be the

same or different as those traded or held by the Client Accounts. We have established policies and procedures governing such trading. Additionally, our officers and employees may invest, directly or indirectly, in the Funds on a no-fee basis and may receive other more favorable terms.

While we select our prime brokers, counterparties and service providers in accordance with our fiduciary obligations to our Clients, from time to time, such parties may also invest in a Client Account managed by us.

Placement agents that may solicit investors for a Client Account are subject to a conflict of interest because they will be compensated in connection with their solicitation activities. All payments made to placement agents for Client or investor referrals will be made in accordance with the provisions of Rule 206(4)-3 under the Advisers Act and any other applicable laws.

Our portfolio managers are responsible for making investment decisions. Trade orders are implemented by one or more traders, who review the participating Client Accounts and generate orders in accordance with their respective investment restrictions, guidelines and strategies. Generally, orders are generated based on predetermined groupings and target weightings. In determining the allocation amounts, consideration may be given to each participating Client Account's size, diversification, cash availability, investment objectives, and any other relevant factors. If there are insufficient securities to satisfy an order, the partial amount executed normally will be allocated among participating Client Accounts in accordance with the principles set forth above. In certain limited situations, we may determine that it is fair and equitable to give designated Client Accounts with special investment objectives and policies some degree of priority over other types of Client Accounts.

For a further discussion of how we address actual and potential conflicts of interest, please see Item 11, "*Code of Ethics, Participation or Interest in Client Transactions and Personal Trading*," below.

## **ITEM 7**

### **TYPES OF CLIENTS**

We currently provide Investment Advisory Services to domestic and offshore Funds and Managed Accounts that are offered to high net worth, financially sophisticated individual and institutional investors

The Funds for which we act as investment adviser typically require a \$1,000,000 initial minimum investment. Investors in the Funds generally must be “*Accredited Investors*,” and may also need to be “*Qualified Clients*” (as those terms are defined under Federal securities laws). For our Managed Accounts, the minimum target account size is generally \$100,000,000.

Depending on individual circumstances (including the size, strategy, and level of portfolio servicing), we may impose a different minimum, in our discretion.

## ITEM 8

### METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS

#### A. Methods of Analysis and Investment Strategies

While our methods of analysis and investment strategy may vary to some extent for each Client Account, we primarily employ a long/short “*value + catalyst*” strategy to identify attractive investment opportunities over the full cycle of market and economic conditions. We primarily seek investments that can be made at discounts to our estimates of intrinsic value as determined by fundamental analysis and where there are one or more identifiable catalysts for recognition of that value within a defined investment timeframe. Such catalysts may include, among other events, a material corporate event (such as a sale of the company, restructuring or recapitalization), a significant change in the business model or a change in management, competitive position, or market recognition. Our short strategy typically represents the inverse of our long strategy. Also, in some cases, we effect short sales of securities for portfolio balance.

Investments span a broad spectrum of industries and geographies, generally focusing on companies with large market capitalizations. Investments include, but are not limited to, equity and debt securities of companies, options and other derivatives, and private investments. In certain situations, we may seek to bring about change at companies in which we have invested by either working with management to effect change or, where management is unwilling to do so, pursuing a shareholder activist strategy. In addition, in some cases, we may seek to capitalize on research efforts that do not lead to suitable “*value + catalyst*” investments, by structuring pair trades, going long and short different securities in the same industry, or employing other strategies to identify attractive investment opportunities.

Our investment team conducts fundamental market research and draws on diverse sources of information such as company reports, research from third parties, press releases, prospectuses, SEC filings, financial and trade newspapers and magazines, government and trade association data, scholarly journals, on-line quotation services and databases compiled by government agencies and others, and meetings with management, suppliers, competitors and industry consultants.

#### B. Risk of Loss

Investing with us involves significant risks and is suitable only for those investors who can bear the economic risk of the loss of their entire investment and who have limited need for liquidity in their investment. There can be no assurance that Clients will achieve their investment objective. An investment with us carries with it the inherent risks associated with investments in equity securities, corporate debt, and other instruments.

##### **Risk Factors**

Prospective investors should carefully consider the risks involved in an investment with us, including, but not limited to, those discussed below. Prospective investors should consult their own legal, tax, and financial advisers as to all of these risks and as to an investment with us generally.

**Limited Operating History.** The Client Accounts and we have a limited operating history. The past investment performance of us, our partners, principals or employees or other entities with which we may have been affiliated is not an indication of the future results of any Client Account. A Client's investment program should be evaluated on the basis that there can be no assurance that our assessments of the short-term or long-term prospects of investments will prove accurate or that a Client's investment program will prove successful.

**More Concentrated.** A Client Account will tend to have higher position concentrations than many investment funds. A Client's overall return may depend in part on the success of certain concentrated positions from time to time.

**Risks of Special Situation Investing.** Special situation investing requires the investor to make predictions about (i) the likelihood that an event will occur and (ii) the impact such event will have on the value of a company's securities. If the event fails to occur or it does not have the effect foreseen, losses can result. For example, the adoption of new business strategies or completion of asset dispositions or debt reduction programs by a company may not be valued as highly by the market as we had anticipated, resulting in losses. In addition, a company may announce a plan of restructuring which promises to enhance value and fail to implement it, resulting in losses to investors. In liquidations and other forms of corporate reorganization, the risk exists that the reorganization either will be unsuccessful, will be delayed or will result in a distribution of cash or a new security, the value of which will be less than the purchase price to the Client of the security in respect of which such distribution was made.

**Distressed Securities.** A Client's investments in distressed securities will be investments in business enterprises involved in workouts, liquidations, reorganizations, bankruptcies, and similar situations. Since there is substantial uncertainty concerning the outcome of transactions involving such business enterprises, there is a high degree of risk of loss by a Client of its entire investment in such companies. In addition, distressed securities can often be expected to consist of financial instruments or obligations for which no market exists and which are restricted as to their transferability under Federal or state securities laws. The sale of such investments may be possible only at substantial discounts.

**Short-Swing Liability and Other Limitations.** From time to time, a Client, acting alone or as part of a group, may acquire beneficial ownership of more than 10% of a certain class of securities of a public company, or may place a director on the board of directors of such a company. As a result, under Section 16 of the Securities Exchange Act of 1934, as amended, a Client may be subject to certain additional reporting requirements and may be required to disgorge certain short-swing profits arising from purchases and sales of such securities. In addition, in such circumstances the Client will be prohibited from entering into a short position in such issuer's securities, and therefore limited in its ability to hedge such investments. Other jurisdictions in which a Client trades may have similar laws that may be triggered at different levels of holdings.

**Inside Information.** From time to time, we or our affiliates, or members of a group of investors or managers with which we are acting, may work with the management team of a company in which a Client has invested or proposes to invest in order to design an alternate strategic plan and assist them in its execution, and may secure the appointment of persons

selected by us or other members of the group to the company's management team or board of directors. In the course of such activities, we may come into possession of material, non-public information concerning such company, and the possession of such information may limit our ability to cause a Client to buy or sell the securities issued by such company. Therefore, a Client may be required to refrain from buying or selling such securities at times when we might otherwise wish to cause the Client to buy or sell such securities.

**Leverage.** A Client may leverage its securities positions by borrowing funds from securities broker-dealers, banks or others. This leverage increases both the possibilities for profit and the risk of loss on any securities position so leveraged. The amount of borrowings which a Client may have outstanding at any time may be large in relation to its capital. The amount of a Client's borrowings and the interest rates on those borrowings, which may fluctuate from time to time, will have a marked effect on the Client's results of operations.

**"Master-Feeder" Structure.** Our Funds are typically "feeder funds." A feeder fund ("*Feeder Fund*") generally will invest substantially all of its capital in the corresponding master fund ("*Master Fund*"). The "master-feeder" fund structure, in particular the existence of multiple Feeder Funds investing in a Master Fund, presents certain risks. Smaller Feeder Funds may be materially affected by the actions of larger Feeder Funds.

While we generally will not consider tax issues applicable to any particular investors, we generally will take into account the tax positions of a Feeder Fund that invests in a Master Fund. However, the use of a "master-feeder" structure may create a conflict of interest in that different tax considerations for other Feeder Funds may cause or result in the corresponding Master Fund structuring or disposing of an investment in a manner or at a time that is more advantageous (or disadvantageous) for tax purposes to one Feeder Fund or its investors.

**Effect of Withdrawal or Redemption of Investment in a Client Account.** A withdrawal or redemption by an investor of a significant portion of their investment, at any time when their investment represents a substantial portion of the total assets of a Client Account, could have a material adverse impact on such Client Account. We may manage Client Accounts or other funds with substantially the same investment program as other Client Accounts, and a withdrawal or redemption of investments in such other Client Accounts may have a similar impact.

**Illiquidity.** Because of the limitations on withdrawal or redemption rights and the fact that shares or interests are not tradable, an investment in a Client Account is a relatively illiquid investment and involves a high degree of risk. A subscription for shares or interests in a Client Account should be considered only by persons financially able to maintain their investment and who can afford the loss of all or a substantial part of such investment. Furthermore, a Client Account may hold investments of an illiquid nature which may be difficult to sell except at substantially discounted prices in the event the Client Account has need to monetize such investments to meet investor withdrawals or redemptions.

**Importance of the Adviser.** The authority to make decisions and to exercise business discretion on behalf of a Client is delegated to us. The success of a Client Account is therefore expected to significantly depend on the expertise of Barry Rosenstein and certain other of our

key personnel. Therefore, the death, incapacity or withdrawal of Mr. Rosenstein or such other personnel could materially adversely affect a Client Account, including by triggering a material number of investor withdrawals or redemptions.

**No Limitations on Investments.** Subject to the applicable Offering Documents, we may employ such trading methods as we, in our sole discretion, determine and may alter a Client's portfolio at any time and from time to time, without approval or notice. The Offering Documents do not normally contain any limitations with respect to the size of or types of positions that may be taken or the percentage of a Client Account's assets that may be employed for different types of investment or trading activities.

**Transaction Costs.** The conduct of a Client's investment activities may involve a high level of trading, and the turnover of its securities portfolio in the aggregate may generate substantial transaction costs. These costs must be borne by the Client regardless of the profitability of the Client's investment activities.

**Incentive Fee or Allocation.** The incentive fee or allocation made to us or our affiliates may create an incentive for us to make investments that are riskier or more speculative than we would otherwise make. In addition, the incentive fee or allocation was not the product of an arm's length negotiation with any third party, and because the incentive fee or allocation is calculated on a basis which includes unrealized appreciation of a Client's net assets, it may be greater than if such compensation were based solely on realized gains.

**Absence of Regulatory Oversight.** Our Client Accounts are not registered under the Investment Company Act (in reliance upon an exemption available to privately offered investment companies and other applicable exemptions), and, accordingly, the provisions of the Investment Company Act (which, among other matters, require investment companies to have a majority of disinterested directors, require securities held in custody to at all times be individually segregated from the securities of any other person and marked to clearly identify such securities as the property of such investment company and regulate the relationship between the adviser and the investment company) will not be applicable. We are currently registered as an investment adviser under the Advisers Act

**Significant Percentage of Less-Liquid Securities.** Client Accounts may hold less-liquid securities, which are securities that do not allow ease of exit under normal trading conditions. Although we expect that the enhanced return potential of such positions will justify the sacrifice of liquidity, such positions may be difficult to accumulate and to liquidate at prevailing market prices.

**Special Situation Sub-Accounts.** The terms of our Funds may provide that when a Fund invests in securities or instruments which, in our discretion, are illiquid and lack a readily assessable market value, such investments may be held in special situation sub-accounts. Only investors with capital in a Fund at the time the investment is made will participate in the special situation sub-account holding such investment. Investors who are admitted to a Fund subsequent to the creation of a special situation sub-account will not participate in such account and, thus, returns among Fund investors may differ. Notwithstanding the fact that price quotations may be

difficult to obtain, certain securities and instruments may be held outside of special situation sub-accounts. We have the authority to value such illiquid investments.

**Hedging Transactions.** A Client may on occasion, as permitted under its Offering Documents, utilize financial instruments such as forward contracts, options and interest rate swaps, caps and floors to seek to hedge against declines in the values of its portfolio positions as a result of changes in currency exchange rates, certain changes in the equity markets and market interest rates. Hedging against a decline in the value of portfolio positions does not eliminate fluctuations in the values of portfolio positions or prevent losses if the values of such positions decline, but establishes other positions designed to gain from those same developments, thus offsetting the decline in the portfolio positions' value. Such hedging transactions also limit the opportunity for gain if the value of the hedged portfolio positions should increase. Moreover, it may not be possible for a Client to hedge against a change at a price sufficient to protect the Client's assets from the decline in value of the portfolio positions anticipated as a result of such change. In addition, it may not be possible to hedge against certain risks at all. We are not obligated to establish hedges for portfolio positions and may decline to do so. Moreover, for a variety of reasons, we may not seek to hedge certain portfolio holdings or establish a perfect correlation between hedging instruments and the portfolio holdings being hedged. Such imperfect correlation may prevent a Client from achieving the intended hedge or expose a Client to additional risk of loss.

**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 creates the risk of an unlimited loss, in that the price of the underlying security could theoretically increase without limit, thus increasing the cost of buying those securities to cover the short position. The securities necessary to cover a short position may be unavailable for purchase except at much higher prices.

**Possibility of Taxation of Income without Corresponding Distribution.** A Client Account may derive income from its investments that is not matched by corresponding distributions of cash. As a result, a Client Account's income tax liabilities with respect to its income in a particular tax year could exceed the cash distributions to such Client Account for such year.

**Long-Biased, Not Market-Neutral.** Except as noted in the applicable Offering Documents, a Client will not be compelled to maintain a continual level of short exposure. A Client's largest positions will tend to be long positions. As a result, the portfolio's correlation to the overall market and exposure to adverse markets may be higher than for other alternative strategies.

**Counterparty Default.** The stability and liquidity of repurchase agreements, swap transactions, forward transactions, and other over-the-counter derivative transactions depend in large part on the creditworthiness of the parties to the transactions. We monitor the creditworthiness of firms with which we enter into repurchase agreements, interest rate swaps, caps or other over-the-counter derivatives. If there is a default by the counterparty to such a transaction, we will under most normal circumstances have contractual remedies pursuant to the agreements related to the transaction. However, exercising such contractual rights may involve



delays or costs which could result in the net asset value of a Client being less than if the Client had not entered into the transaction. If one or more of a Client's counterparties were to become insolvent or the subject of liquidation proceedings in the United States (either under the Securities Investor Protection Act or the United States Bankruptcy Code) or elsewhere, there exists the risk that the recovery of the Client's securities and other assets from such prime broker or broker-dealer will be delayed or be of a value less than the value of the securities or assets originally entrusted to such prime broker or broker-dealer.

In addition, a Client may use counterparties located in jurisdictions outside the United States. Such local counterparties are subject to the laws and regulations in foreign jurisdictions that are designed to protect their customers in the event of their insolvency. However, the practical effect of these laws and their application to a Client's assets are subject to substantial limitations and uncertainties. Because of the large number of entities and jurisdictions involved and the range of possible factual scenarios involving the insolvency of any counterparty, it is impossible to generalize about the effect of their insolvency on a Client and its assets. Investors should assume that the insolvency of any counterparty would result in a loss to the investor, which could be material.

**Business and Regulatory Risks of Hedge Funds.** The legal, tax and regulatory environment worldwide for private investment funds and their managers is evolving, and changes in the regulation of private investment funds, their managers and their trading and investing activities may have a material adverse effect on our ability to pursue our investment program and the value of investments held by us. There has been an increase in scrutiny of the alternative investment industry by governmental agencies and self-regulatory organizations. New laws and regulations or actions taken by regulators that restrict our ability to pursue our investment program or employ brokers and other counterparties could have a material adverse impact on a Client's portfolio. In addition, subject to restrictions set forth under any applicable Offering Documents, we may, in our sole discretion, cause a Client to be subject to certain laws and regulations if we believe that an investment or business activity is in the Client's interest, even if such laws and regulations may have a detrimental effect on one or more Clients.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "*Dodd-Frank Act*") was enacted in July 2010. The Dodd-Frank Act requires extensive rulemaking and regulatory changes that will affect private fund managers, the funds they manage and the financial industry as a whole. Additionally, under the Dodd-Frank Act the SEC is expected to mandate new recordkeeping and reporting requirements for investment advisers, which would add costs to the legal, operational and compliance obligations of us and possibly our Clients and increase the amount of time that we spend on non-investment related activities. Until the SEC and other agencies implement the new requirements, it is unknown how burdensome such requirements will be. The Dodd-Frank Act will affect a broad range of market participants with whom we will interact or may interact, including banks, broker-dealers, non-bank financial institutions and rating agencies and may change the way in which we conduct business with our counterparties. It may take years to understand the impact of the Dodd-Frank Act on the financial industry as a whole, and, therefore, the continued uncertainty may make markets more volatile and make it difficult for us to execute our investment program.

**Increased Regulatory Oversight.** The financial services industry generally, and the activities of hedge funds and their managers in particular, have been subject to intense and increasing regulatory scrutiny. Such scrutiny may increase our exposure to potential liabilities and to legal, compliance and other related costs. Increased regulatory oversight can also impose administrative burdens on us, including, without limitation, responding to investigations and implementing new policies and procedures. Such burdens may divert our time, attention and resources from portfolio management activities.

In addition, it is anticipated that, in the normal course of business, our officers and employees will have contact with governmental authorities, and/or be subjected to responding to questionnaires or examinations. A Client may also be subject to regulatory inquiries concerning its positions and trading.

**Current Market Conditions and Governmental Actions.** Beginning in September 2008, world financial markets experienced extraordinary market conditions, including, among other things, extreme losses and volatility in securities markets and the failure of credit markets to function. In reaction to these events, regulators in the U.S. and several other countries undertook unprecedented regulatory actions.

The U.S. Government and securities regulators of many other jurisdictions continue to consider and implement other measures to stabilize U.S. and global financial markets. However, despite these efforts and the efforts of securities regulators of other jurisdictions, global financial markets may continue to be extremely volatile. It is uncertain whether the regulatory actions described above or any other regulatory actions will be able to prevent further losses and volatility in securities markets, or stimulate the credit markets.

**Systemic Risk.** Credit risk may arise through a default by or because of one of several large institutions that are dependent on one another to meet their liquidity or operational needs, so that a default by or because of one institution may cause a series of defaults by the other institutions. This is sometimes referred to as a “*systemic risk*” and may adversely affect financial intermediaries, such as clearing houses, banks, securities firms and exchanges with which we interact. A systemic failure could have material adverse consequences on us and on the markets for the securities in which we seek to invest.

**Systems and Operational Risks.** We develop and implement appropriate systems for our Clients’ activities. We rely heavily and on a daily basis on financial, accounting and other data processing systems to execute, clear and settle transactions across numerous and diverse markets and to evaluate certain securities, to monitor our portfolios and capital, and to generate risk management and other reports that are critical to oversight of our activities. Certain of our activities will be dependent upon systems operated by third parties, including prime brokers, administrators, market counterparties and other service providers, and we may not be in a position to verify the risks or reliability of such third-party systems. Failures in the systems employed by us, prime brokers, administrators, counterparties, exchanges and similar clearance and settlement facilities and other parties could result in mistakes made in the confirmation or settlement of transactions, or in transactions not being properly booked, evaluated or accounted for. Disruptions in our operations may cause a Client to suffer, among other things, financial loss, the disruption of its businesses, liability to third parties, regulatory intervention or

reputational damage. Any of the foregoing failures or disruptions could have a material adverse effect on our Clients.

**Fair Value Measurements and Disclosures; Potential GAAP vs. Valuation Policy Reporting Difference.** Our Clients' assets and liabilities are valued in accordance with our valuation policies and procedures, as may be amended from time to time (the "*Valuation Policy*"). Specifically, for purposes of GAAP-compliant financial reporting, we are required to follow a specific framework for measuring the fair value of our Clients' assets and liabilities, and are required to provide certain additional disclosures regarding the use of fair value measurements in our audited financial statements. Financial Accounting Standards Board ("*FASB*") Accounting Standards Codification ("*ASC*") 820, formerly known as FAS 157 ("*ASC 820*"), defines and establishes a framework for measuring fair value under GAAP and expands financial statement disclosure requirements relating to fair value measurements. Other valuation-related requirements are contained in other provisions of GAAP, and sections of the codification. Additional FASB ASCs and updates and additional provisions of GAAP that may be adopted in the future may also impose additional, or different, specific requirements as to the valuation of assets and liabilities for purposes of GAAP-compliant financial reporting. Generally, accounting rules (including ASC 820) applicable to investment funds and various assets in which they invest are evolving. Such changes may adversely affect the Clients. For example, the evolution of rules governing the determination of the fair market value of assets to the extent such rules become more stringent would tend to increase the cost and/or reduce the availability of third-party determinations of fair market value.

**Accounting Changes; Effect on Net Asset Value.** Pursuant to FASB ASC 740, formerly known as FIN 48 ("*ASC 740*"), which provides guidance for how uncertain tax positions should be recognized, measured, presented and disclosed in financial statements, we are required to determine whether a tax position, based on its technical merits, meets a more-likely-than-not recognition threshold that the position will be sustained upon examination. As a result of such a determination, we may be required to recognize a contingent tax liability in our net asset value calculation if the related tax position meets the recognition criterion in ASC 740 and, conversely, may be required to unrecognize a contingent tax liability in its net asset value calculation if the related tax position does not meet the recognition criterion in ASC 740. In addition, the net asset value may be adjusted if an uncertain tax position is settled. Since the adoption of ASC 740, we may be required to recognize in our financial statements contingent liabilities that under prior custom and practice in the industry would not have been recognized. Such contingent liabilities may also relate to time periods that predate a Client's investment with us. Recognition and measurement of each tax position, including any tax position for which there is a lack of authority and audit experience, should be based on the facts and circumstances known at the time. There can be no assurance that any such determination will not change over time. Adjustments made to the net asset value in connection with the recognition or unrecognition of contingent tax liabilities may have a material positive or negative effect on certain Clients, depending on the circumstances.

The foregoing list of risk factors does not purport to be a complete enumeration or explanation of the risks involved in an investment in a Client Account.

**C. Recommendation of a Particular Type of Security**

We do not recommend any particular type of security. There are no material limitations on the types of securities in which we may invest on behalf of our Clients (subject to any limitations or restrictions set forth in the relevant Offering Documents).

**ITEM 9**  
**DISCIPLINARY INFORMATION**

To the best of our knowledge, there are no legal or disciplinary events that are material to our Clients' evaluation of our advisory business or the integrity of our management.

**ITEM 10**  
**OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

**A. Broker-Dealer Registration**

Neither we nor our management personnel (i) are registered as broker-dealers; or (ii) have any application pending to register with the SEC as a broker-dealer or registered representative of a broker-dealer.

**B. Futures Commission Merchant, Commodity Pool Operator, or Commodity Trading Advisor Registration**

Neither we nor our management personnel (i) are registered as a futures commission merchant, commodity pool operator, commodity trading advisor or an associated person of the foregoing; or (ii) have any application pending to register with respect to any of the foregoing.

**C. Material Relationships and Conflicts of Interests with Industry Participants**

Our relationships and arrangements with our various Clients and other industry participants are material to our advisory business and may raise actual or potential conflicts of interest. Please see Item 6, “*Performance-Based Fees and Allocations and Side-By-Side Management – Conflicts of Interest*,” above. Prospective investors should carefully consider the risks involved in an investment with us, including, but not limited to, those discussed below. Prospective investors should consult their own legal, tax and financial advisers as to all of these risks and as to an investment with us generally.

**Multiple Client Accounts.** We provide Investment Advisory Services, directly or through our affiliates, to multiple Client Accounts, including but not limited to JANA Partners, L.P., JANA Partners Qualified, L.P., JANA Offshore Partners, Ltd., JANA Piranha Fund, L.P., JANA Piranha Offshore Fund, Ltd., JANA Nirvana Fund, L.P., and JANA Nirvana Offshore Fund, Ltd., as well as several Managed Accounts. In addition, we expect to act as the investment manager to other investment vehicles and accounts in the future. There is no limit on the number of vehicles or accounts that we may manage or advise. Further, we and our personnel may have investments in certain of our Client Accounts. As a result of the foregoing, we may have conflicts of interest in (i) allocating the time and resources of our personnel between and among Client Accounts, (ii) allocating investment opportunities between and among Clients Accounts, and (iii) effecting transactions between Client Accounts, including Clients in which we or our personnel may have different financial interests.

Please see Item 6, “*Performance-Based Fees and Side-By-Side Management*,” above.

**Broker-Dealers and Other Service Providers.** While we select our prime brokers, counterparties and service providers in accordance with our fiduciary obligations to our Clients, from time to time, such parties may also invest in Funds or Managed Accounts managed by us.

**Placement Agents.** Placement agents that we may engage to solicit investors for a Client Account are subject to a conflict of interest because they will be compensated in connection with

their solicitation activities. For a more detailed discussion of our engagement of placement agents, please see Item 14, “*Client Referrals and Other Compensation*,” below.

**Other Investment Activities.** We are not restricted from forming new investment funds, from entering into other investment advisory relationships or from engaging in other business activities, even though such activities may be in competition with us and/or may involve substantial time and resources. These activities could be viewed as creating a conflict of interest in that our time and effort and the time and effort of our officers and employees may not be devoted exclusively to our business, but may be allocated between our business, the management of money for others and other business activities. Our officers and employees may also passively invest in other private funds managed by third party advisers and in some cases may obtain economic interests in such third party advisers. We may also sublet or provide office space and support services to such third party advisers subject to appropriate compliance safeguards.

**How We Address Potential Conflicts of Interest.** To address potential conflicts of interests in our material relationships, we have adopted certain policies and procedures, including a Code of Ethics. For a more detailed discussion of our Code of Ethics, please see Item 11, “*Code of Ethics, Participation or Interest in Client Transactions and Personal Trading*,” below.

Each officer’s or employee’s obligation to conduct our business in an honest and ethical manner includes the ethical handling of actual, apparent, and potential conflicts of interest between personal and business relationships. This includes full disclosure of any actual, apparent or potential conflicts of interest.

As a fiduciary, we have an affirmative duty of care, loyalty, honesty, and good faith to act in the best interest of our Clients. Compliance with this duty can be achieved by avoiding conflicts of interest or, when impracticable to do so, by fully disclosing all material facts concerning any conflict that does arise with respect to any Client and following appropriate procedures designed to minimize any such conflict. Our officers and employees must try to avoid situations that have even the appearance of conflict or impropriety.

Our officers and employees are prohibited from trading, either personally or on behalf of others, while in possession of material, nonpublic information where it would be unlawful to do so. Our officers and employees are required to comply with the provisions of our Insider Trading Policy.

As a fiduciary, we have an obligation to execute and allocate Client trade orders in a timely and efficient manner, *i.e.*, to: (i) seek best execution for all trades; (ii) trade securities in a manner that is fair and equitable to all Clients; and (iii) exercise diligence and care throughout the trading process. For an in-depth discussion of the factors that we consider in selecting or recommending broker-dealers for Client transactions, please see Item 12, “*Brokerage Practices - Selection of Broker-Dealers and Reasonableness of Compensation*,” below.

**D. Material Conflicts of Interest Relating to Other Investment Advisers**

Except as disclosed in Item 10, “*Other Financial Industry Activities and Affiliations*,” we do not recommend or select other investment advisers for our Clients.



## ITEM 11

### CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING

Our goal is not just to comply with the laws and regulations that apply to our business; we also strive to abide by the highest standards of business conduct. In recognition of this, we have adopted a written Code of Ethics (the “*Code of Ethics*”), pursuant to Rule 204A-1 under the Advisers Act, designed to reinforce and enhance the Firm's ethical way of doing business and, in particular, to ensure compliance with the Advisers Act.

The Code of Ethics sets forth the standards of business conduct that reflect our fiduciary obligations to our Clients. The Code of Ethics requires that our officers and employees act with honesty and integrity, adhere to the highest ethical standards and comply with applicable laws and regulations. The Code of Ethics is based on the principle that we and our officers and employees owe a fiduciary duty to Clients to ensure that officers and employees conduct their personal securities transactions in a manner that does not interfere with Client transactions or otherwise take unfair advantage of our relationship with our Clients.

Officers and employees are required to report any violations of the Code of Ethics or of applicable Federal securities laws to the Chief Compliance Officer, and they are encouraged to consult the Chief Compliance Officer with respect to any transaction that may violate the Code of Ethics. A copy of our Code of Ethics is available to Clients and prospective Clients by (i) writing to JANA Partners LLC, 767 Fifth Avenue, 8th Floor, New York, New York 10153, Attention: Chief Compliance Officer, or (ii) contacting our Chief Compliance Officer, Lorelei Martin, at (212) 455-0900 or [lorelei.martin@janapartners.com](mailto:lorelei.martin@janapartners.com), or our General Counsel, Jennifer Fanjiang, at (212) 455-0900 or [jennifer.fanjiang@janapartners.com](mailto:jennifer.fanjiang@janapartners.com).

Conflicts of interest may occur when we, our affiliates, officers or employees (or their immediate family members), invest in the same securities, trade in the same securities at or about the same time, or have a material financial interest in the same securities that we recommend to our Clients. For example, we or our officers or employees may invest in the Funds, and, therefore, such persons may hold an indirect interest in the same securities as other investors in the Funds. In addition, certain of our officers or employees may own securities in their personal accounts that we also have recommended to our Clients. Our Code of Ethics has been designed to limit conflicts of interest in cases where we or any of our officers or employees, buy, sell or otherwise have an interest in, securities we have recommended to our Clients.

We or our affiliates may give advice and recommend securities to certain Client Accounts that may differ from advice given to, or securities recommended or bought for, other Client Accounts, even though their investment programs may be the same or similar.

As discussed in Item 6, “*Performance-Based Fees and Side-By-Side Management – Conflicts of Interest*,” above, we may cross securities and/or cash between Client Accounts when such transaction is advantageous for each participant (for example, as part of a rebalancing of Client portfolios). We also may engage in principal transactions, where we or an affiliate purchases a security from or sells a security to a Client. In such cases, we must obtain the Client's separate consent to each principal transaction (*i.e.*, on a transaction-by-transaction basis).

We have adopted an Insider Trading Policy which states that no person to whom the Policy applies may trade, either personally or on behalf of others (including our Clients), while in possession of material nonpublic information where it would be unlawful to do so, nor may any of our personnel communicate material nonpublic information to others in violation of the law.

Our personal trading policies are part of our Code of Ethics. For a description of our Code of Ethics, please see the foregoing discussion in this Item 11. The fiduciary principles that govern our personal investment activities reflect, at a minimum, the following: (1) the duty at all times to place the interests of the Clients first; (2) the requirement that all personal securities transactions be conducted consistent with the Code of Ethics and in such a manner as to avoid any actual or potential conflict of interest or any abuse of an individual's position of trust and responsibility; (3) the fundamental standard that investment personnel should not take inappropriate advantage of their positions; and (4) the requirement that investment personnel comply with applicable Federal securities laws. Generally, the Code of Ethics requires that, prior to effecting any personal securities transactions, our officers or employees and other applicable persons must receive written approval.

The Firm maintains a “*Restricted List*” of companies about which a determination has been made that it is prudent to restrict trading activity. As a general rule, trades will not be allowed for our Clients, or for the personal accounts of our officers or employees, in the securities of a company appearing on the Restricted List, except with prior approval.

In addition, our officers or employees and other applicable persons must provide our Chief Compliance Officer with (i) their personal securities holdings at the commencement of employment and annually thereafter, (ii) monthly or quarterly personal brokerage statements, and (iii) quarterly reports of any personal securities transactions.

## ITEM 12 BROKERAGE PRACTICES

Pursuant to the relevant Offering Documents, we are generally authorized to select the broker or dealer to effect transactions on behalf of our Clients; however, our selection of the broker or dealer may be tailored to a particular Client's investment guidelines or restrictions, where appropriate. Accordingly, portfolio transactions will be allocated to brokers based on best execution and in consideration of such broker's provision or payment of the costs of research and other services.

### A. **Selection of Broker-Dealers and Reasonableness of Compensation**

Consistent with our fiduciary duty to Clients, we have an obligation to seek the best price and execution of Client securities transactions when we are in a position to direct brokerage transactions. While not defined by statute or regulation, "*best execution*" generally means the execution of Client trades at the best net price considering all relevant circumstances.

We will place trades for execution only with approved brokers or dealers. The factors we consider in selecting and approving brokers-dealers that may be used to execute trades include, but are not limited to:

- Quality of execution - accurate and timely execution, clearance and error/dispute resolution
- Reputation, financial strength, and stability
- Block trading and block positioning capabilities
- Willingness to execute difficult transactions
- Willingness and ability to commit capital
- Access to underwritten offerings and secondary markets
- Ongoing reliability
- Overall costs of a trade (*i.e.*, net price paid or received) including commissions, mark-ups, mark-downs or spreads in the context of our knowledge of negotiated commission rates currently available and other current transaction costs
- Nature of the security and the available market makers
- Desired timing of the transaction and size of trade
- Confidentiality of trading activity
- Market intelligence regarding trading activity
- The receipt of brokerage or research services

Before we begin trading with a broker-dealer for the first time, our traders, Chief Financial Officer, Chief Administrative Officer and Chief Compliance Officer will review, as applicable, the broker-dealer's operational, financial, and regulatory status. They also will perform periodic reviews of broker-dealers, which will vary in frequency and scope based on the perceived counterparty exposure.

As part of their usual and customary job responsibilities, our traders will consider the execution quality of each trade. Any unexpected deviations in price, commission rate, market impact, execution speed, or other aspects of execution quality will promptly be reported to our head trader.

We maintain a Best Execution Committee which meets regularly to consider various trading matters.

## **1. Research and Other Soft Dollar Arrangements**

We may use “*soft*” or commission dollars when we make a good faith determination that the commissions are reasonable in relation to the value of brokerage and research services provided, viewed in terms of either a particular transaction or our overall responsibilities to all Client Accounts. We will use “soft” dollars in accordance with Section 28(e) of the Securities Exchange Act of 1934, as amended (“*Section 28(e)*”). Section 28(e) provides a “*safe harbor*” to investment managers that use commission dollars of their advised accounts to obtain investment research and brokerage services that provide lawful and appropriate assistance to the investment manager in performing investment decision-making responsibilities. Conduct outside of the safe harbor afforded by Section 28(e) is subject to the traditional standards of fiduciary duty under state and Federal law.

Research products or services provided to us may include research reports on particular industries and companies, economic surveys and analyses, recommendations as to specific securities, and other products and services providing lawful and appropriate assistance to us in the performance of our investment decision-making responsibilities. This research may include both proprietary research or research created or developed by a third party.

We are not obligated to seek the lowest transaction charge, except to the extent that it contributes to the overall goal of obtaining the best execution for Clients. A higher transaction charge on exchange and over-the-counter trades may be determined reasonable in light of the value of the brokerage execution and research products and services provided to us for the benefit of our Clients.

We may from time to time enter into formal or informal arrangements with certain brokers (“*Soft Dollar Brokers*”) whereby the provision of research or brokerage execution services is explicitly dependent on the level of commissions and underwriting concessions generated by the Client Accounts. In selecting Soft Dollar Brokers to initiate soft dollar transactions, we will consider the capabilities of the Soft Dollar Broker to provide best execution.

Research services received from Soft Dollar Brokers will be used to supplement and augment our own research capabilities, and will directly assist us in our investment decision-making process. Soft Dollar Brokers also may provide execution-related products and services, including trade execution and electronic access to broker networks, in exchange for commission business.

All products and services that are paid for with Client transaction charges will be of the type described in Section 28(e). All products and services that are paid for with soft dollars are reviewed and approved to ensure that the product or service provides lawful and appropriate assistance in the performance of our investment decision-making activities. In addition, a determination is made as to whether the amount of the commissions paid is reasonable in light of the value of the products or services provided. Such products and services may be used for any or all of our Client Accounts.

Also, consistent with Section 28(e), research products or services obtained with “*soft dollars*” generated by one or more Client Accounts may be used by us to service one or more other Client Accounts. We do not seek (and are not required) to allocate soft dollar benefits to Client Accounts proportionately to the soft dollar credits such Client Accounts generate. Accordingly, the Client Accounts that provide the brokerage transaction charges for which such products and services are provided or that engage in the securities transactions generating such charges do not necessarily receive the direct benefit of specific services. Instead, we may receive a benefit because we do not have to produce or pay for the research, products or services. Therefore, we may have an incentive to select or recommend a broker-dealer based on our interest in receiving the research or other products or services, rather than on our Clients’ interest in receiving most favorable execution. Written restrictions or limitations on the use of soft dollars for particular Clients are treated in the same manner and monitored as all other Client-imposed restrictions and guidelines.

Our Best Execution Committee approves a soft dollar budget on a periodic basis, and one or more of its members negotiates, approves, and implements all soft dollar arrangements. The soft dollar budget is updated to reflect the termination of any existing soft dollar arrangement, as well as the implementation of any new soft dollar arrangement after the approval process for that new arrangement has been completed.

We will require that Soft Dollar Brokers provide us with monthly statements of all activity and balances. We review and reconcile these statements on a monthly basis. At the end of each calendar quarter, our Chief Administrative Officer will review the status of any outstanding balances to Soft Dollar Brokers. If as a result of his review, the Chief Administrative Officer believes that commission credits during the next 90 days will be insufficient to cover expenses, he will consult with our Best Execution Committee to decide whether to undertake to make cash payments for services purchased to the extent necessary to become current.

## **2. Brokerage for Client Referrals**

In selecting or recommending broker-dealers, we do not consider whether we, or any of our affiliates, receive client or investor referrals from a broker-dealer or other third party.

## **3. Directed Brokerage**

A Client may direct us to effect all (or a specified percentage of) securities transactions in the Client’s Account through a specific broker-dealer. With respect to such directed brokerage arrangements, the Client is responsible for negotiating terms for their account directly with the

broker-dealer. We will only direct brokerage pursuant to specific written instructions that have been signed and dated by the Client.

We may place trades on behalf of Client Accounts subject to directed brokerage arrangements separately from those on behalf of other Client Accounts, or we may aggregate such trades with those of other Client Accounts, to the extent practicable. Consequently, we may not obtain best execution on behalf of Clients that direct brokerage; such Clients may pay materially disparate commissions, greater spreads, or other transaction costs, or receive less favorable net prices on transactions than would otherwise be the case.

Before initiating management of a Client Account that is subject to a directed brokerage arrangement, we will review the financial solvency and execution capabilities of the designated broker-dealer. Upon completion of the review, we will either approve the arrangement or ask the Client to reconsider the direction.

In order to meet directed brokerage mandates and trade in an efficient manner, we may ask Clients that direct brokerage to permit the use of “*step out*” trades. A step-out trade occurs when we aggregate Client-directed orders with non-directed orders and request that the executing broker allocate a portion of the transaction to the Client's directed broker. Our traders document any step-out trades on the relevant trade ticket and in our order management system.

#### **B. Aggregating Orders for Various Client Accounts**

Consistent with our duty to seek the best possible execution for Clients, and to the extent practicable, our traders may seek to aggregate (or “*bunch*” or “*block*”) orders that are placed or received concurrently for more than one Client Account. Aggregated orders include: (i) an order placed by a portfolio manager on behalf of more than one Client Account; and (ii) orders placed on behalf of more than one Client Account by multiple portfolio managers. Typically, all trades in the same security are aggregated and sent to the market simultaneously, except where Client-specific issues require trades to be sent to the market at a different time. All Client Accounts participating in a bunched trade will receive the same execution price, with all transaction costs (for example, commissions) being shared on a pro rata basis.

## **ITEM 13**

### **REVIEW OF ACCOUNTS**

#### **A. Periodic Review of Client Accounts**

Our portfolio managers, with the assistance of other investment staff as appropriate, regularly review the current investment strategy and holdings in each Client Account. The portfolio managers may differ from Client Account to Client Account. Issues such as turnover, security weighting, and sector weighting are all reviewed to ensure compliance with the Clients' investment guidelines. Topics such as model changes and priority of purchases or sales are also frequently discussed between members of the investment team and the portfolio managers.

#### **B. Additional Review of Client Accounts**

Trading personnel assist in risk assessment and review of Client Accounts by monitoring risks arising from factors including: (i) security concentration; (ii) regional exposure; (iii) sector exposure; (iv) liquidity; (v) Client or investor-imposed investment restrictions; (vi) beta; (vii) value at risk; (viii) leverage; (ix) counterparty risk; and (x) risks related to operations and systems.

#### **C. Contents and Frequency of Account Reports to Clients**

Investors in our Funds typically receive annually: (i) an audited financial report; and (ii) tax information necessary for completion of their tax returns. We periodically send risk reports and newsletters to Clients and underlying investors in our Funds.

Upon request, certain investors may receive additional information and reporting (written or verbal) which other investors may not receive, and such information may affect an investor's decision to request a withdrawal or redemption from its capital account. Such reports and information may include, among other things, documentation associated with the calculation of net asset value, performance tracking and/or portfolio holdings reconciliation.

**ITEM 14**  
**CLIENT REFERRALS AND OTHER COMPENSATION**

We may directly or indirectly compensate persons who are not supervised persons, including placement agents, for Client referrals. Our Chief Compliance Officer or his designee will determine whether such arrangements: (i) are subject to Rule 206(4)-3 under the Advisers Act (the “*Cash Solicitation Rule*”) and, if so, whether the arrangements comply with that rule; and (ii) comply with other applicable laws, rules and regulations, including laws and regulations requiring the registration of broker-dealers. Such compensation to third parties for referrals may be based, among other things, on a percentage of the assets initially invested with us or remaining invested with us over time. Placement agents that may solicit or refer potential Clients or investors on our behalf are subject to a conflict of interest because they will be compensated in connection with their solicitation activities.



## ITEM 15 CUSTODY

Rule 206(4)-2 under the Advisers Act (the “*Custody Rule*”) (and certain related rules and regulations under the Advisers Act) imposes certain obligations on registered investment advisers that have custody or possession of any funds or securities in which any client has any beneficial interest. An investment adviser is deemed to have custody or possession of client funds or securities if the adviser directly or indirectly holds client funds or securities or has the authority to obtain possession of them (regardless of whether the exercise of that authority or ability would be lawful).

We are required to maintain the funds and securities (except for securities that meet the privately offered securities exemption in the Custody Rule) over which we have custody with a “*qualified custodian*.” Qualified custodians include banks, broker-dealers, futures commission merchants, and certain foreign financial institutions.

Rule 206(4)-2 requires that, upon opening an account with a qualified custodian on a Client’s behalf, we promptly notify the Client in writing of the name and address of the qualified custodian and the manner in which the funds or securities are maintained. We also must verify that the custodian sends quarterly account statements to the client. By rule, account statements must be sent directly to investors in a pooled investment vehicle if the adviser to the pool also acts as its general partner, managing member or in a similar capacity (or, in some cases, if an affiliate of the adviser acts as general partner, managing member or in a similar capacity) and the adviser hence has custody of client funds or securities. These account statements may be sent to the investors’ independent representative. Under certain circumstances, at least once each calendar year, an independent public accountant must verify the funds and securities of a client by surprise examination.

As noted above, Rule 206(4)-2 imposes on advisers with custody of clients’ funds or securities certain requirements concerning reports to such clients (including underlying investors) and surprise examinations relating to such clients’ funds or securities. However, we need not comply with such requirements with respect to pooled investment vehicles (such as the Funds) if the pooled investment vehicle: (i) is audited at least annually by an independent public accountant, and (ii) distributes its audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners, members or other beneficial owners within 120 days (180 days in the case of a fund of fund adviser) of its fiscal year end. We intend to distribute the audited financials of each Fund to underlying investors within the 120-day time period and therefore will be exempt from the Rule 206(4)-2 reporting and examination requirements. Further, we do not have custody of the funds and securities of the Managed Accounts.

## **ITEM 16**

### **INVESTMENT DISCRETION**

In general, our Clients have provided us with discretion to trade their account without obtaining their consent to each particular transaction. We exercise this discretion subject to the investment policies, limitations, and restrictions, if any, imposed by a Client in the relevant Offering Documents. In these agreements, our Clients may place limitations on our investment authority, including, without limitation, designating types of permitted investments, percentage of permitted investments, or prohibiting certain types of investments.

Our Clients must specify our authority, discretionary or non-discretionary (for example, through a power of attorney), and provide us with any investment guidelines and restrictions in writing, typically as part of the relevant Offering Documents. For a complete discussion of our advisory business and the services we provide to our clients, please see Item 4, “*Advisory Business*,” above.

## ITEM 17

### VOTING CLIENT SECURITIES

We have, and in the future will continue to accept, the authority to vote our Clients' securities. In light of this, we have adopted policies and corresponding procedures to comply with Rule 206(4)-6 under the Advisers Act and with our fiduciary obligations (the "*Proxy Voting Policies*"). The Proxy Voting Policies are designed to ensure that in cases where we vote proxies with respect to Client securities or other instruments, such proxies are voted in the best interests of our Clients.

Our proxy voting process is the same for all of our Client Accounts where the Client has given us proxy voting authority. Our general policy is to vote proxy proposals, amendments, consents, resolutions or corporate actions relating to securities, including interests in private investment funds, if any (collectively, "*proxies*"), in a manner that serves the best interests of our Clients, as determined by us in our discretion, taking into account relevant factors, including, but not limited to:

- the impact on the value of the securities;
- the anticipated costs and benefits associated with the proposal;
- the effect on liquidity; and
- customary industry and business practices.

In evaluating proxy issues, we have engaged an outside vendor (*the "Proxy Adviser"*) to identify and flag factual issues of relevance and importance. We also will use information gathered as a result of the in-depth research and ongoing company analyses performed by our investment team in making buy, sell and hold decisions for our Client portfolios. This process includes periodic meetings with senior management of portfolio companies. We may also consider information from other sources, including the management of a company presenting a proposal, shareholder groups, and other independent proxy research services. Unless a particular proposal or the particular circumstances of a company suggests otherwise, proposals regarding routine matters (such as the election or re-election of board members, changes in capitalization, and the approval of auditors) generally shall be voted in accordance with written voting guidelines that have been formulated by the Proxy Adviser. Non-routine matters may be reviewed and voted by us on a case-by-case basis. In addition, certain Clients have retained the right to direct votes with respect to particular securities held by them.

We subscribe to a proxy monitoring and voting agent service offered by the Proxy Adviser. In accordance with this service, the Proxy Adviser provides proxy analysis with research and a vote recommendation for each shareholder meeting of the companies in our Client portfolios. They also transmit votes, record them, and generate a voting activity report for our Clients. We retain responsibility for instructing the Proxy Adviser how to vote, and we will apply our own proxy voting guidelines when we deem it appropriate to do so. Proxies for securities on loan through securities lending programs will generally not be voted, unless we can obtain these securities in advance of the relevant record date.

In cases where a conflict of interest has been determined to exist, we generally will have no discretion to vote any portion of the proxy, but will defer to the recommendations of the Proxy Adviser in connection therewith and will vote strictly according to those recommendations.

Clients may obtain a copy of our current written Proxy Voting Policies and/or a copy of the voting activity report generated by the Proxy Adviser for their Client Account, by (i) writing to JANA Partners LLC, 767 Fifth Avenue, 8th Floor, New York, New York 10153, Attention: Chief Compliance Officer, or (ii) contacting our Chief Compliance Officer, Lorelei Martin, at (212) 455-0900 or [loirelei.martin@janapartners.com](mailto:loirelei.martin@janapartners.com), or our General Counsel, Jennifer Fanjiang, at (212) 455-0900 or [jennifer.fanjiang@janapartners.com](mailto:jennifer.fanjiang@janapartners.com).

**ITEM 18**  
**FINANCIAL INFORMATION**

**A. Balance Sheet**

We are not required to attach a balance sheet because we do not require or solicit the payment of fees six months or more in advance.

**B. Contractual Commitments to Our Clients**

We have no financial condition that is reasonably likely to impair our ability to meet contractual and fiduciary commitments to our clients.

**C. Bankruptcy Petitions**

We have never been the subject of a bankruptcy petition.