

# Invictus Capital Partners

Form ADV Part 2A – Firm Brochure

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Invictus Capital Partners, L.L.C  
1155 F Street NW, Suite 1075  
Washington, DC 20004

This Brochure provides information about the qualifications and business practices of Invictus Capital Partners, L.L.C. (“Invictus Capital Partners”).

If you have any questions about the content of this Brochure, please contact Michael Warden at (202) 393-6525. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (“SEC”) or by any state securities authority.

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

Invictus Capital Partners may refer to itself as a registered investment adviser. Registration does not imply a certain level of skill or training.

## **Item 2 Material Changes**

Not applicable.

## **IMPORTANT NOTE ABOUT THIS BROCHURE**

***This Brochure is not:***

- ***an offer or agreement to provide advisory services to any person***
- ***an offer to sell interests (or a solicitation of an offer to purchase interests) in any investment product or vehicle advised by Invictus Capital Partners.***
- ***a complete discussion of the features, risks or conflicts associated with any account advised by Invictus Capital Partners***
- ***to be relied on in determining whether to invest in an Invictus Capital Partners Fund or establish an advisory relationship with Invictus Capital Partners***

*As required by the Advisers Act, Invictus Capital Partners provides this Brochure to current and prospective Clients and may also, in its discretion, provide this Brochure to current or prospective investors in an Invictus Capital Partners Fund or another client that is a pooled vehicle (each an “Investor”), together with other relevant Offering Materials, prior to, or in connection with, such persons’ establishment or consideration of a client relationship or an investment in an Invictus Capital Partners Fund. Additionally, this Brochure is available through the SEC’s Investment Adviser Public Disclosure website.*

*Although this publicly available Brochure describes Invictus Capital Partners advisory services and Invictus Capital Partners Funds, persons who receive this Brochure (whether or not from Invictus Capital Partners) should be aware that it is designed solely to provide information about Invictus Capital Partners as necessary to respond to certain disclosure obligations under the Advisers Act. As such, the information in this Brochure may differ from information provided in the materials that govern an account or investor relationship such as an advisory contract, private placement memorandum, limited partnership agreement or operating agreement (“Offering Materials”). More complete information about each Invictus Capital Partners Fund, as well as Invictus Capital Partners advisory services, is included in relevant Offering Materials, certain of which may be provided to current and eligible prospective Clients or Investors only by Invictus Capital Partners or another designated party. To the extent that there is any conflict between discussions herein and similar or related discussions in any Offering Materials, the relevant Offering Materials shall govern and control.*

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#### **Item 4 Advisory Business**

Invictus Capital Partners, a Delaware limited liability company formed in 2008, is registered with the SEC as an investment adviser. It provides non-discretionary advice to investment vehicles sponsored by Carlyle Mortgage Capital, LLC (“CMC”, an affiliate of The Carlyle Group or “Carlyle”). Invictus Capital Partners also provides discretionary or non-discretionary services to other clients (the “Invictus Capital Partners Funds”).

Invictus Capital Partners advice relates only to Non-Agency residential mortgage backed securities (RMBS) and generally involves the purchase, management, surveillance, and reporting of RMBS investments. Non-Agency RMBS securities are bonds backed by non-conforming residential mortgage loans located throughout the United States. It is expected that our advice to future clients, will similarly be limited to Non-Agency RMBS. As discussed in Item 8, below, unlike Agency RMBS, where losses are explicitly or implicitly backed by the full faith and credit of the US Government, Non-Agency RMBS are not backed by the U.S. Government.

While certain types of accounts may be reasonably tailored based on the individual needs of a client, as agreed with Invictus Capital Partners and consistent with the limited nature of our advisory services, none of the CMC or the Invictus Capital Partners Funds would be tailored to the individualized investment needs of any particular Investor. An investment in CMC does not create a client-adviser relationship between an Investor and Invictus Capital Partners.

CMC has, and each future client account will have, its own investment objectives, strategies and restrictions. These are described in the relevant Offering Materials for CMC and for other clients or other Invictus Capital Partners Funds. The Offering Materials contain more detailed information, including a description of the investment objective and strategy or strategies employed and related restrictions that serve as a limitation on Invictus Capital Partners advice or management. Clients and Investors are strongly encouraged to undertake appropriate due diligence, including but not limited to a review of relevant Offering Materials and the additional details about Invictus Capital Partners investment strategies, methods of analysis and related risks in Item 8 of this Brochure in considering whether an Invictus Capital Partners advisory services or an investment in an Invictus Capital Partners Fund is appropriate to their own circumstances based on all relevant factors including, but not limited to, the Client’s or Investor’s own investment objectives, liquidity requirements, tax situation and risk tolerance before making an investment decision.

The general partner and principal owner of Invictus Capital Partners is Mr. Michael Warden. Mr. Warden is the Chief Executive Officer (CEO) and Managing Member.

**Michael Warden** is the managing principal and CEO of Invictus Capital Partners. He has over 25 years experience in the capital markets and specifically the mortgage sector. Most recently he was Senior Managing Director and head of Fixed Income at Friedman,

Billings, Ramsey (“FBR”). At FBR, Mr. Warden was responsible for the establishment and build out of the fixed income business where he developed an origination, banking, sales and trading platform. The business underwrote in excess of \$30 billion in MBS securities and purchased over \$8 billion in residential whole loans. Previously, Mr. Warden was Managing Director and head of Asset-Backed Securities (“ABS”) at Wachovia Securities and Managing Director and head of ABS and Commercial Mortgage-Backed Securities (“CMBS”) at Banc of America Securities (“BOA”) where he was responsible for the origination and securitization of all mortgage products. At BOA, he aided in establishment of both the ABS and CMBS businesses and in his tenure, achieved top five underwriter rankings in both businesses.

As of December 31, 2011, Invictus Capital Partners had assets under management of approximately \$733,600,000, all managed on a non-discretionary basis.

## **Item 5 Fees and Compensation**

Invictus Capital Partners receives management fees and/or carried interest or similar profit allocations from its Clients. Clients may also indirectly incur or generate other fees payable to Invictus Capital Partners and its affiliates, depending on the nature of their portfolio activities.

Clients may also bear certain out-of-pocket expenses incurred by Invictus Capital Partners in connection with the services provided. The following sections discuss the most common fees and expenses, which are described in more detail in relevant Offering Materials.

### Common Types of Fees

#### Management Fees

Clients generally pay a quarterly flat rate management fee, in advance, at a negotiated rate. General rates for Invictus Capital Partners Funds will be set forth in the Offering Materials. Fees paid by particular Clients may vary based on the type and nature of services provided. Additionally, Invictus Capital Partners may waive or reduce management fees for certain Investors in its discretion. Fees may be paid either through deduction from account assets or directly by a client upon presentment of a fee bill. When fees are paid in advance, and the client or Investor relationship is terminated prior to the end of the period to which such fees relate, Invictus Capital Partners will, within a reasonable time following such termination, refund a prorated portion of the management fee.

#### Performance-Based Arrangements

Invictus Capital Partners compensation generally includes a performance based component. Invictus Capital Partners expects that performance based arrangements will vary as to the rate, manner of calculation and conditions precedent to receipt (e.g., hurdles or high-water marks). Performance based arrangements for each particular account will be described in the relevant Offering Materials for that account and may be subject to modification (e.g., *higher hurdle rates*), waiver or reduction. As discussed in more detail in Item 6, below, performance based compensation arrangements are appropriate only for sophisticated clients and Investors as they may create certain risks and conflicts of interest.

Performance allocations for funds are generally accomplished through transfer to a capital account of Invictus Capital Partners (or an affiliate). Performance fees payable by non-fund clients may be deducted from the account or paid by the client upon presentment of a fee bill. As described in the relevant Offering Materials, when termination occurs on other than the end date for a performance measurement period, performance fees will be calculated and assessed through the date of termination.

#### Other Fees and Expenses

In addition to the fees described above, Clients bear other costs associated with investments or accounts including but not limited to: (1) custodial charges, brokerage fees, commissions and related costs; (2) interest expenses; (3) taxes, duties and other governmental charges; (4) transfer and registration fees or similar expenses; (5) costs associated with foreign exchange transactions; (6) other portfolio expenses; and (7) costs, expenses and fees (including investment advisory and other fees charged by the investment advisers of funds in which the client's account invests) associated with products or services that may be necessary or incidental to such investments or accounts.

#### Soft Dollars

Invictus Capital Partners may receive, on an unsolicited basis, research reports from broker-dealers with which it maintains certain relationships. Such reports do not have a stated cost nor is the receipt of such reports conditioned on a requirement to execute any particular amount of transactions through the broker-dealer providing the reports.

Please see Item 12 of this Brochure for further details on Invictus Capital Partners brokerage practices.

#### **Fees and Expenses Generally Applicable to Client Accounts**

Each Client bears the costs of its trading and investment activities. Such expenses may include, but are not limited to, fees and expenses related to making and holding investments (e.g., execution charges such as spreads or commissions, exchange fees, clearing fees, regulatory fees, margin fees, option premiums, delivery fees or charges, escrow fees and expenses and custody fees and expenses), research costs, taxes, insurance costs, interest expenses, due diligence costs (including travel expenses) and finders' fees.

## **Fees and Expenses Applicable to Funds**

The CMC Fund and any other Invictus Capital Partners Fund may bear ordinary organizational, offering, administrative, and operating expenses, including, but not limited to, ordinary and recurring legal, accounting, escrow, auditing, recordkeeping, administration, fund accounting, directors' fees, and certain clerical expenses including those incurred in preparing, printing and mailing reports and tax information to investors and regulatory authorities, expenses for specialized administrative services, filing fees and taxes. Additional fees (e.g., wire transfer charges) may be imposed by service providers.

## **Fees and Expenses for Non-Discretionary Accounts**

When Invictus Capital Partners provides advisory services on a non-discretionary basis, it typically does not have authority to select broker-dealers, custodians or other service providers. Clients bear all costs associated with trading and maintaining their investment accounts, as described above, including without limitation: commissions and commission equivalents; custody fees; margin costs; and taxes.

## **Item 6 Performance-Based Fees**

Invictus Capital Partners expects that all clients and any possible future Invictus Capital Partners Funds will pay both Management Fees and Performance Based Fees or Allocations. However, the fee rates, the manner in which such fees are calculated and conditions precedent to receipt may vary from account to account and Invictus Capital Partners or its related persons may have other pecuniary interests in one or more Client accounts, including Invictus Capital Partners Funds.

As a result of these arrangements, Invictus Capital Partners faces various potential conflicts of interest, including an incentive to favor certain accounts based on pecuniary or compensatory interests; an incentive to take excessive risks in order to earn a performance fee or allocation; and where Invictus Capital Partners is involved in the valuation of investment holdings, an incentive to inflate valuations or to accelerate or defer realizations. Invictus Capital Partners maintains policies and procedures, including its Code of Ethics, reasonably designed to mitigate these conflicts. Among other things, these policies prohibit the recommendation of any particular investment based on anticipated compensation or profits to Invictus Capital Partners or its professionals.

## **Item 7 Types of Clients**

Currently Invictus Capital Partners provides investment advice to CMC, a business segment of The Carlyle Group, a diversified global alternative asset management firm. Invictus Capital Partners also provides advice to Invictus Capital Partners Funds and accepts as clients, in its discretion, institutional accredited investors, trusts, pension funds, investment pools and qualified high net worth individuals.

CMC is, and each additional Invictus Capital Partners Fund, are or will be privately placed pooled investment vehicles excepted from the definition of “investment company” under the Investment Company Act of 1940 by Section 3(c)(1) or Section 3(c)(1) of that Act. Investors generally are limited to persons who are: (i) accredited investors; (ii) qualified clients; and/or (iii) qualified purchasers and such investors may include proprietary investment by Invictus Capital Partners or its affiliates, current or former personnel who are “knowledgeable employees” or otherwise meet the relevant fund’s investment criteria, funds of funds, high net worth individuals and related entities, sovereign entities, pension funds, general corporate or business entities, financial institutions, endowments and foundations. Clients are generally expected to include institutions such as: banks, financial institutions, investment banks and asset management firms.

Invictus Capital Partners generally imposes an initial investment minimum to establish a client relationship or to invest in an Invictus Capital Partners Fund, but may waive or change any such minimums in its discretion. These minimums vary, as set forth in applicable Offering Materials, but generally range from \$5 million to \$10 million. Investors or Clients may also be subject to additional qualifications based on, among other things, legal or regulatory requirements associated with the vehicle or investment strategy. Account opening and maintenance requirements are described in more detail in the relevant Offering Materials.

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

The general investment strategy and methods of analysis that we employ in managing accounts, as well as the primary associated risks, are described below. The discussion below is a summary and is not intended to be a complete description of our methods, strategies or risks; a more complete discussion is available in relevant Offering Materials.

Clients and Investors should note that it is not possible to identify all of the risks associated with investing and that the particular risks applicable to a client account will depend on the nature of the account, its investment strategy and the characteristics of securities held. Accounts generally invest exclusively in Non-Agency RMBS (and may hold cash), in accordance with the general investment strategies described below, subject to account-specific investment objectives, guidelines and restrictions (*i.e.*, the account’s mandate) and we seek to manage each account so that risks are appropriate to the mandate. However, it is often not possible or desirable to fully mitigate risks. Any investment includes the risk of loss and there can be no guarantee that a particular level of return will be achieved.

Because we limit our advice to particular types of investments, a Client’s mandate may be limited (*e.g.*, based on security type or capitalization levels) and accounts are not diversified and are not intended as a complete investment program. Except for CMC and the Invictus Capital Partners Funds, Invictus Capital Partners expects that the assets do not represent all of the Client’s assets and that Investors in funds do not rely on the fund for all of their investments.



Clients or Investors, as applicable, are responsible for appropriately diversifying assets to guard against the risk of loss. Invictus Capital Partners does not offer any products or services that guarantee rates of return on investments for any period to any Client or Investor. All Clients and Investors assume the risk that investment returns may be negative or below the rates of return of other investment advisers or products and should be prepared to bear the risk of loss.

#### Methods of Analysis and Investment Strategies

Invictus Capital Partners uses a range of methods to identify, analyze and assess potential and existing investment opportunities. This may include arrangements with affiliated or unaffiliated advisors for purposes of obtaining analyses that would assist the company in its investment decision-making recommendation process. More specific descriptions are provided below regarding the investment strategies and investment processes. As a general matter, analytical methods used by the company can include gain/loss forecast models, cash-flow models, other financial modeling and simulation, risk sensitivity analyses, charting, and fundamental, technical and cyclical analysis.

Invictus Capital Partners generally focuses on identifying domestic RMBS opportunities using a top-down relative value approach to allocate capital to various asset classes within the Non-Agency RMBS market. Additionally, Invictus Capital Partners may employ hedging techniques and incur explicit or implicit leverage in managing accounts. Our analysis involves a variety of factors, such as cash yield, risk-adjusted returns, macro-economic environment, market concentration limits, credit concentration limits, liquidity, costs and availability of financing and hedging activities.

Invictus Capital Partners seeks investments that we believe will generate both current income and capital appreciation. However, as noted below, not every investment will perform as anticipated and investments may lose value, fail to produce current income and/or produce insufficient gains or income to offset expenses or other losses.

#### RMBS Investment Risks

RMBS investments involve a high degree of risk, and are suitable only for those who have the financial sophistication and expertise to evaluate the merits and risks of an investment. There can be no assurance that Invictus Capital Partners will be able to generate returns or that the returns will be commensurate with the risks of investing in Non-Agency RMBS.

#### Uncertainty in the Financial Markets

The upheavals in the financial markets and the housing industry that began in 2008 illustrated the possibility of extraordinary and unprecedented uncertainty and instability in such markets. There can be no assurances that conditions in the financial market and housing markets will not adversely affect one or more of a Client's portfolio investments, its access to capital or leverage or its overall performance.

### Market Conditions and Financial Market Fluctuations

A lack of liquidity in the capital markets may make it significantly more difficult for investment advisers like Invictus Capital Partners to obtain favorable financing for investments, and the financing that is available may be on much less favorable terms than had been prevailing in the past. General fluctuations in the market prices of securities may affect the value of the investments held. Instability in the capital and housing markets may also increase the risks inherent in Non-Agency RMBS investments.

### Highly Competitive Market for Investment Opportunities

The activity of identifying, completing and realizing attractive investments is highly competitive, and involves a high degree of uncertainty. Some competitors may have a lower cost of funds and access to financing sources that are not available to Invictus Capital Partners. There can be no assurance that a Client will be able to locate, consummate and exit investments that satisfy its rate of return objectives or realize upon their values or that it will be able to invest fully its committed capital.

### Illiquid and Long-Term Investments

Non-Agency RMBS is often illiquid, and there can be no assurance that Invictus Capital Partners will be able to realize on such investments in a timely manner. Therefore, investment through Invictus Capital Partners may involve a long-term commitment with no certainty of return. Although investments may occasionally generate some current income, the return of capital and the realization of gains, if any, from an investment generally will occur only upon the partial or complete disposition or refinancing of such investment.

### Legal, Tax and Regulatory Risks

Legal, tax and regulatory changes could occur that may adversely affect the value of investments or the ability to fulfill a mandate. There is a material risk that regulatory agencies may adopt burdensome laws (including tax laws) or regulations, or changes in law or regulation, or in the interpretation or enforcement thereof, which are specifically targeted at the real estate industry, or other changes that could adversely affect Invictus Capital Partners and its Clients.

### Litigation

In the ordinary course of business, Invictus Capital Partners or an account may become a party to litigation, disputes and other potential claims. There are no known current or pending litigation, disputes and other potential claims.

### Below Investment-Grade Assets Involve Particular Risks

Client accounts may include Non-Agency RMBS originally rated non-investment grade. Non-investment grade securities are subject to liquidity, market value, credit, interest rate, reinvestment and certain other risks and generally will be subject to greater risks than investment grade securities, including greater risk of failure of timely payment of principal and interest.

#### Interest Rate Fluctuations

General interest rate fluctuations may have a substantial negative impact on investments and investment opportunities and accordingly may have a material adverse effect on investment objectives and the rate of return on invested capital. Valuations of Non-Agency RMBS are based on numerous factors, including specific loan characteristics. Such securities are also susceptible to fluctuations in interest rates.

#### Real Estate Risks Generally

Many of the risks of holding Non-Agency RMBS, which represent interests in mortgage loans, relate to the risks of investing directly in the real estate securing those mortgage loans. The value of Non-Agency RMBS may fall in periods of economic slowdown or recession, which may be accompanied by declining real estate values. Any material decline in real estate values reduces the ability of borrowers to use real estate equity to support their borrowings and increases the loan-to-value ratios of mortgage loans previously made, thereby weakening collateral coverage and increasing the possibility of a loss in the event of default. In addition, delinquencies, foreclosures and losses generally increase during economic slowdowns and recessions.

#### Non-conforming loans

Non-Agency RMBS may include non-conforming mortgage loans. Credit risks associated with non-conforming mortgage loans may be greater than those associated with conventional mortgage loans that conform to Fannie Mae and Freddie Mac guidelines. The principal difference between non-conforming mortgage loans and conforming mortgage loans include the applicable loan-to-value ratios, the credit and income histories of the mortgagors, the documentation required for approval of the mortgagors, the types of properties securing the mortgage loans, loan sizes and the mortgagors' occupancy status with respect to the mortgaged property. As a result of these and other factors, the interest rates charged on non-conforming mortgage loans are often higher than those charged for conforming mortgage loans. The combination of different underwriting criteria and higher rates of interest may lead to higher delinquency rates and/or credit losses for non-conforming as compared to conforming mortgage loans and any failure by us to adequately address these issues could harm our business to the extent that we invest in such mortgage loans.

#### Valuations of Investments

Invictus Capital Partners values securities at their market price if market quotations are readily available. Where there is no readily available market quotation, securities are

valued based on observable market inputs, including analyses of similar securities and recent comparable transactions. To the extent there are no observable market inputs, the Company will value securities based on significant management input. Invictus Capital Partners may alter its valuation based on market events, unreliability of pricing sources, or macro-economic events.

#### Other Risks of Investing in Non-Agency RMBS

The residential mortgage loans underlying a Non-Agency RMBS may not appreciate in value and, in fact, may decline in value. Additionally, Non-Agency RMBS issuances (as opposed to agency-RMBS) may default on interest and/or principal payments. Accordingly, a client may not realize gains or income from an investment or gains and income realized may be insufficient to offset any expenses or other losses experienced in the client's account.

Non-Agency RMBS and mortgage loans are also exposed to the credit risks of mortgage lending, which may harm results. Credit losses on residential mortgage loans (and, therefore, Non-Agency RMBS) can occur for many reasons, including: poor origination practices – leading to losses from fraud, faulty appraisals, documentation errors, poor underwriting and legal errors; poor servicing practices; weak economic conditions; declines in the values of homes; special hazards; earthquakes and other natural events; over-leveraging by the borrower; changes in legal protections for lenders; reduction in personal incomes; job loss; and personal events such as divorce or health problems. Despite reasonable efforts to manage credit risk in both recommending mortgage loans and investing in Non-Agency RMBS, there are many aspects of credit risk that cannot be controlled, and there can be no assurance that quality control and loss mitigation practices will be successful in limiting delinquencies, defaults and losses. Additional credit-related risks include the following:

*Default and foreclosure.* In the event of a borrower's default on a mortgage loan, the ultimate extent of the loss, if any, may only be determined after a foreclosure of the mortgage encumbering the property and, if the lender takes title to the property, upon liquidation of the property. Factors such as the title to the property or its physical condition (including environmental considerations) may make a third party unwilling to purchase the property at a foreclosure sale or for a price sufficient to satisfy the obligations with respect to the related mortgage loan. Foreclosure laws may protract the foreclosure process. In addition, the condition of a property may deteriorate during the pendency of foreclosure proceedings.

*Environmental liabilities.* Some properties securing mortgage loans may be contaminated by hazardous substances. As a result, the value of the real property may be diminished. In the event that there is a forced foreclose on a defaulted mortgage loan on that property, that property may be subject to environmental liabilities regardless of whether the lien holder was responsible for the contamination. While we intend to exercise due diligence to discover potential environmental liabilities prior to the recommendation of the acquisition of any property through foreclosure, hazardous substances or waste, contaminants, pollutants or sources thereof, as defined by state and

federal laws and regulations, may be discovered on properties. If such hazardous substances are discovered on a property, there may be a requirement to remove those substances or sources and clean up the property. The lien holder may also be liable to tenants and other users of neighboring properties. In addition, it may be difficult or impossible to sell the property prior to or following any such clean up.

*Risk of an increase in the levels of delinquencies or a decline in market value of mortgage assets.* An increase in the level of delinquencies in a client portfolio or a decline in the market value of the portfolio may limit the lien holders' ability to borrow or result in lenders increasing the level of collateral required upon renewal of maturing facilities, i.e., requiring a pledge of cash or additional mortgage loans to satisfy the required ratio of the amount of the borrowing to the value of the collateral. An account could be required to sell assets under adverse market conditions in order to maintain liquidity. Such sales may be recommended when deemed to be necessary in order to preserve our advisory client's capital base. If these sales are made at prices lower than the amortized cost of the mortgage loans, losses would result.

*Taxation.* Taxable income may differ substantially from net income as determined based on generally accepted accounting principles (GAAP), due to different accounting and tax treatments on the investments. For example, security-specific income calculated under GAAP may be modeled with projected loss assumptions to the bonds. However, tax laws do not allow projected losses in the calculation of taxable income. As a result of these differences, between GAAP accounting and federal income tax treatment, the investments may generate less cash distribution than taxable income in a particular year. There can be no assurances given that cash distributions will be able to cover such tax liabilities as they arise. The excess taxable income is referred to as phantom income.

### Hedging and Leverage

Invictus Capital Partners employs various techniques to hedge exposures in client portfolios. These may include options, interest rate swaps, and other derivatives. The use of certain derivatives and other hedging instruments may involve leverage, which introduces additional risks, as described below. Additionally, Invictus Capital Partners may employ leverage in managing accounts for purposes other than hedging.

*Leverage (Including Margin) Magnifies the Risk of Loss.* The use of leverage or margin can result in losses that are significantly greater than would have been suffered if leverage were not employed. Invictus Capital Partners may cause an account to incur significant leverage, including short-term margin borrowings or implicit leverage associated with hedging instruments. The amount of leverage outstanding at any time may be large in relation to capital. In addition, the costs of leverage (including interest on borrowings and other expenses that may be associated with borrowings) may be substantial and will impact performance. When borrowing for margin purposes (e.g., to acquire particular securities or financial instruments at a price greater than the amount of capital outlay by the account at purchase) additional risks apply. These risks include that a broker-dealer from whom the account has borrowed may increase its maintenance margin requirements (e.g., reduce the percentage of a position that can be purchased with

credit); subjecting the account to margin calls and requiring either additional funds to be deposited or positions liquidated. In the event of a substantial depreciation in the value of the account, large losses may be incurred as a result of liquidation of positions, mandatory or otherwise, in a declining market at relatively low prices.

*Risks Associated with Hedging.* Invictus Capital Partners may, but is not required to, direct an account to hedge some or all of its assets by taking long and short positions in related instruments. Hedging against a decline in the value of a portfolio position does not eliminate fluctuations in value or prevent losses if the value of such position declines. Rather, hedges seek to limit the effect of a decline in the value of relevant positions on the portfolio as a whole. Consequently, hedging also limits the amount of gain to an account if the value of the hedged position increases. Invictus Capital Partners decides in its sole discretion whether to hedge or not and certain risks may exist that cannot be effectively hedged. If Invictus Capital Partners fails to anticipate a particular risk or accurately perceive the correlation of relevant risks, Invictus Capital Partners may not hedge, or ineffectively hedge, positions that are subject to that risk or risks, subjecting an account to increased risk of loss.

*Risks Associated with Derivatives.* Invictus Capital Partners may use derivative instruments or enter into derivative transactions, including for hedging purposes. Derivatives permit Invictus Capital Partners to increase or decrease the level of risk of a fund or account, or change the character of the risk. Derivatives may entail investment exposures (including leverage and resulting collateral requirements) that are greater than their cost. Small investments in derivatives could have a material impact on the performance of the vehicle. Derivatives are often purchased on margin, subjecting accounts to leverage risk as described above.

*Risks Associated with Swaps.* Invictus Capital Partners may use swaps, including for hedging purposes. The use of interest rate, credit, currency, equity, commodity and total return swaps, “swaptions”, interest rate caps and floors and collars is a highly specialized activity that involves investment techniques and risks different from those associated with ordinary securities transactions. Swap agreements are principal-to-principal transactions in which performance is the responsibility of the individual counterparty and not an organized exchange or clearing house. As such, Invictus Capital Partners is exposed to the risk of counterparty default. Moreover, Invictus Capital Partners forecasts of market values, interest rates and currency exchange rates may be inaccurate and may result in overall performance results that are worse than the results that would have been achieved if the account did not engage in swap transactions.

## **Item 9 Disciplinary Information**

Not applicable.

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

Invictus Capital Partners is independent. Currently, Invictus Capital Partners does not have any affiliated entities that are engaged in financial services or related businesses.

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

### Code of Ethics

Invictus Capital Partners has established and approved a Code of Ethics that sets forth standards of ethical business conduct for employees and is designed to address and avoid potential conflicts of interest. Among other things, the Code of Ethics prescribes standards for dealing with clients ethically, addresses actual and potential conflicts of interests, and supplements existing personal trading and operating procedures. The Code of Ethics provides guidance in specific areas, including but not limited to, confidentiality of Firm information, personal investments, gifts and entertainment and personal political activities. This Code of Conduct is available to clients, investors or prospective clients by writing to Invictus Capital Partners at the address listed on the front of this Brochure.

## **Item 12 Brokerage Practices**

With respect to CMC or other Invictus Partner Funds, Invictus Capital Partners does have discretion to select brokers and dealers to execute securities transactions and may recommend such brokers or dealers to CMC or other Invictus Partner Funds. In doing so, Invictus Capital Partners seeks to recommend or select brokers or dealers consistent with its duty to “seek best execution”. Non-Agency RMBS trades in specialized markets and it is often the case that only one, or relatively few, trading agents or counterparties are available to execute a transaction. In many cases, Invictus Capital Partners recommends or selects brokers or dealers based on bid lists indicating available (or desired) issuances, their characteristics and prices, with dealers being compensated through spreads (i.e., the difference between the price at which the dealer buys, or will buy, a security and the price at which the dealer sells, or will sell, the security), with transactions being time-sensitive and there often being little if any opportunity to survey the market for better terms.

As such, Invictus Capital Partners broker recommendation and selection practices are inherently tied to its investment advisory and security analysis process. In making recommendations or decisions, Invictus Capital Partners takes into account quantitative and qualitative factors affecting the execution quality of portfolio transactions. In particular, the Company reviews factors, such as the experience of the broker or the dealer, its ability to handle the order to the best advantage of the Client, the nature of the investments to be bought or sold, special circumstances affecting the instrument (e.g., redemption features), and the overall price of the order. As a result, although Invictus Capital Partners will seek competitive commissions and spreads, and recommend the most advantageous trading venue, client orders may not necessarily be executed at best possible price/commission/spread. Invictus Capital Partners seeks to recommend or select Broker/Dealers that it believes best meet these parameters.

Invictus Capital Partners periodically reviews the brokers and dealers that are considered for recommendation or use to assess the quality of executions obtained. In so doing, Invictus Capital Partners considers the full range of services available from and the

characteristics of each broker-dealer, including, but not limited to execution capabilities, responsiveness, trading experience, reputation and integrity, overall reliability. This may include research or information provided by a broker or dealer that assists Invictus Capital Partners in managing accounts.

Invictus Capital Partners currently does not aggregate transactions. In the future, Invictus Capital Partners expects that, where permissible and consistent with its duty to seek best execution, it will aggregate orders and allocate them to participating accounts in a manner that is fair and equitable over time. However, Invictus Capital Partners may be limited in its ability to include accounts for which it does not have brokerage discretion in an aggregated order. This may cause such accounts to receive executions that are less favorable than discretionary brokerage accounts.

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

#### Oversight and Monitoring

As a general matter, for those Clients that do not grant full discretionary authority to Invictus Capital Partners, Invictus Capital Partners expects to coordinate with the Client to monitor the portfolio on a monthly basis. Discretionary Clients, are expected to be monitored on an ongoing basis. Accounts are reviewed by a team consisting of Invictus Capital Partners principal executive and other Invictus Capital Partners investment professionals. These professionals monitor operations, overall performance, financial performance, strategic direction and compliance with the trading guidelines of each Client account. Reviews also consider, and may be triggered by events in the capital markets.

#### Reports to Clients

Clients of Invictus Capital Partners typically will receive written quarterly financial reports and annual financial statements (audited in accordance with GAAP). Additionally, investors may receive monthly reports or letters, quarterly financial and capital account statements, and semi-annual reports.

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

Not applicable.

### **Item 15 Custody**

In circumstances where Invictus Capital Partners or one of its related persons serves as a general partner or a managing member of an Invictus Capital Partners Fund, Invictus Capital Partners is deemed to have “custody” over the Invictus Capital Partners Fund’s assets for purposes of Rule 206(4)-2 under the Advisers Act (the “Custody Rule”). To comply with the Custody Rule, each Investor in the Invictus Capital Partners Fund receives audited financial statements, prepared in accordance with GAAP, within 120 days following the Invictus Capital Partners Fund’s fiscal year end. Investors who have



not received audited financial statements timely should contact Invictus Capital Partners immediately.

Invictus Capital Partners would also be deemed to have custody if Invictus Capital Partners has the authority to deduct its fees directly from a client's account. In these cases, the client's custodian(s) would provide the client with quarterly (or more frequent) account statements including, among other things, account holdings, cash positions and transactions. Invictus Capital Partners generally will also receive a copy of these statements. Clients who fail to receive statements timely should inquire of their custodian(s) and notify Invictus Capital Partners. To the extent that Invictus Capital Partners may also provide account statements, clients are urged to compare Invictus Capital Partners statements with those provided by the custodian(s) and notify Invictus Capital Partners promptly of any discrepancies.

#### **Item 16 Investment Discretion**

Invictus Capital Partners will accept discretionary authority, subject to reasonable client-imposed investment objectives, policies and restrictions, as set forth in relevant Offering Materials. Discretionary authority must be granted, in writing, ordinarily through an investment advisory agreement between Invictus Capital Partners and the client

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

Unlike equity securities, Non-Agency RMBS issuers do not typically solicit proxies or require holders to vote on proxy matters. From time to time, however, issuers may seek consents for various actions. Invictus Capital Partners, as a matter of policy and as a fiduciary to our clients, has responsibility for voting proxies for portfolio securities consistent with the best economic interests of the clients. Our firm maintains written policies and procedures as to the handling, research, voting and reporting of proxy voting and makes appropriate disclosures about our firm's proxy policies and practices. Our policy and practice includes the responsibility to monitor corporate actions, receive and vote client proxies and disclose any potential conflicts of interest as well as making information available to clients about the voting of proxies for their portfolio securities and maintaining relevant and required records. Clients may request information regarding how Invictus Capital Partners voted a client's proxies, and clients may request a copy of the firm's proxy policies and procedures.

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#### **Item 18 Financial Information**

Not applicable.