

## **Form ADV Part 2A: Firm Brochure**

### **AP COMMERCIAL LLC**

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This Brochure provides information about the qualifications and business practices of AP Commercial LLC (“AP Commercial”).

This Brochure relates to advisory services provided by AP Commercial to its clients that are Members of the Loan Program (as further described herein) established by BancAlliance Inc. (“BancAlliance”) and managed by AP Commercial. In the future, AP Commercial may expand its offerings of advisory services. As appropriate, such advisory services will be described in an amendment to this Brochure and/or one or more separate Brochures.

If you have any questions about the contents of this Brochure, please contact us at (301) 232-5400. 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.

AP Commercial is registered as an investment adviser with the SEC. Registration with the SEC or with any state securities authority does not imply a certain level of skill or training.

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

## **ITEM 2: MATERIAL CHANGES**

AP Commercial was formed in 2011 and filed its initial Form ADV, including its initial Brochure, with the SEC on May 23, 2011. Accordingly, this is the first annual update to AP Commercial's Brochure.

AP Commercial began its advisory activities in June 2011. These activities have consisted to date of providing advisory services to AP Commercial's clients that are Members of the Loan Program (as further described herein) established by BancAlliance Inc. These are the services that the initial Brochure described AP Commercial as expecting to provide.

Over the last several months, AP Commercial has enhanced its management team and professional staff. Brian Graham has been appointed President of AP Commercial. In addition, Joseph Kenary, Allison Dunlap, Matthew Levine and Ryan Linski have been added to the professional personnel serving AP Commercial's clients. These appointments are reflected in the Part 2B Brochure Supplements forming part of AP Commercial's 2012 Form ADV annual update.

Updates to this Brochure include disclosure in Items 10 and 11 of information concerning investments by two controlling persons of AP Commercial, John Delaney and Jason Fish, in a client of the firm, Congressional Bank. In addition, Item 14.B has been updated to reflect the prospect of AP Commercial entering into consulting agreements or other arrangements with third parties to assist AP Commercial in the expansion of its business and the referral of new prospective new Members for the Loan Program.

In the future, this Item 2 will discuss specific material changes that are made to this Brochure and provide clients with a summary of such changes. AP Commercial will provide clients with a summary of any material changes to this and subsequent Brochures within 90 days of the close of AP Commercial's fiscal year-end. AP Commercial may provide additional interim disclosure about material changes, if and as warranted.

**ITEM 3: TABLE OF CONTENTS**

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## ITEM 4: ADVISORY BUSINESS

As noted on the cover page, this Brochure describes the advisory business of AP Commercial as it relates to AP Commercial's provision of services to clients that are Members of the Loan Program established by BancAlliance and managed by AP Commercial.

### A. General Description of Advisory Firm

AP Commercial is a Delaware limited liability company that was organized in 2011. AP Commercial's principal owner is Alliance Partners LLC. Alliance Partners LLC has engaged in its business since June 2011.

### B. Advisory Services

#### *Introduction*

AP Commercial's current advisory clients include FDIC-insured depository institutions (or bank holding companies of such institutions) that have become parties ("Members") to the membership agreement (the "Membership Agreement") of BancAlliance, a Maryland non-stock corporation. Members include community and regional banks in the United States or their bank holding companies.

AP Commercial provides advisory services to the Members on a non-discretionary basis. This means that each Member decides whether or not to purchase for its portfolio any asset referred to it for consideration by AP Commercial. AP Commercial, as these clients' investment adviser, has no authority to cause a client to acquire or dispose of any asset.

BancAlliance makes available to Members a program (the "Loan Program") under which Members have the opportunity to acquire participation interests ("Loan Participations") in loans ("Loans") that AP Commercial believes meet the loan eligibility criteria (the "Loan Eligibility Criteria") adopted from time to time by the Board of Directors of BancAlliance (the "Board").

AP Commercial has primary responsibility for administering the Loan Program. As further described below, AP Commercial provides certain advisory services to the Members and certain administrative services to BancAlliance and the Members, in each case pursuant to an advisory and services agreement (the "Advisory and Services Agreement") among BancAlliance, AP Commercial and the Members.

The Loan Program is the initial program offered to Members under the Membership Agreement. BancAlliance may from time to time expand its activities to offer additional programs for Members, such as providing Members with opportunities to acquire interests in financial assets other than Loans. It is expected that AP Commercial also would provide advisory services to Members in connection with such additional programs and that the Membership Agreement and the Advisory and Services Agreement would be amended accordingly to encompass such services.

In the future, AP Commercial may enter into separate advisory relationships with one or more non-Member institutional clients. As appropriate, the services AP Commercial offers to any

such other clients will be described in an amendment to this Brochure and/or one or more separate Brochures.

### ***Purpose and Structure of the Loan Program***

#### Purpose

BancAlliance has established the Loan Program to provide Members with opportunities to purchase participation interests in Loans to which Members, due to their size or other factors, typically would not have access, or that Members otherwise would not consider practical to acquire as lenders of record. It is intended that Loans will generally be senior secured loans and that Loans acquired on the secondary market will be acquired at par or near-par value. The Loan Program is designed to enable Members to supplement and diversify their historical lending activities; accordingly, Members are generally expected to hold their acquired Loan Participations until maturity or repayment of the underlying Loans.

#### Role of AP Commercial

Under the Advisory and Services Agreement, AP Commercial identifies, reviews and, in appropriate cases refers to the Members, opportunities to acquire Loan Participations with respect to Loans that AP Commercial believes initially satisfy the Loan Eligibility Criteria. If a Member acquires a Loan Participation, AP Commercial will provide ongoing services to the Member regarding the underlying Loan. The services provided by AP Commercial to Members in connection with the Loan Program are described in greater detail below in this Item 4.B.

#### Loan Eligibility Criteria and Sourcing

Any Loan opportunity referred to Members is expected to meet the then-applicable Loan Eligibility Criteria established by the Board. A Loan opportunity will be referred to Members only after being approved by the credit committee of AP Commercial.

BancAlliance intends to acquire Loans in either the primary or the secondary market. It is anticipated that at a future date, BancAlliance also will originate Loans. BancAlliance generally expects to have lender-of-record status with respect to any Loan that it acquires or originates.

#### Member Indications of Interest

Upon becoming a Member, each Member is required to provide to BancAlliance a non-binding estimate of the total dollar amount of Loan Participations that such Member desires to acquire through BancAlliance over the course of its participation in the Loan Program (a “Member Indication of Interest”). With the consent of BancAlliance and AP Commercial, a Member subsequently may increase the unused portion of its Member Indication of Interest.

#### Member Acquisition of Loan Participations

A Member interested in acquiring a Loan Participation in a particular Loan will be required to make a binding commitment to acquire such Loan Participation based on procedures established

by BancAlliance from time to time. These commitment procedures will entail each interested Member providing AP Commercial with a range of possible allocation sizes that the Member is willing to accept.

If Members commit sufficient aggregate funds to acquire Loan Participations in any particular Loan, AP Commercial (acting on behalf of BancAlliance) will arrange for the collection of the applicable purchase prices from the Members, coordinate the Loan purchase documentation and arrange for BancAlliance to acquire the Loan. Contemporaneously with its acquisition of the Loan, BancAlliance will sell to the Members participating in such Loan their applicable Loan Participations pursuant to the terms of a master loan participation agreement (the “Master Loan Participation Agreement”) that each Member will have signed upon becoming a Member. BancAlliance also will sell contemporaneously to an affiliate of AP Commercial (the “Affiliate Holder”) a Loan Participation representing at least a 2% pro rata participation interest in the total amount of the Loan acquired by BancAlliance on behalf of the Members and the Affiliate Holder. This Loan Participation will be sold to the Affiliate Holder on the same pricing terms that apply to Members acquiring Loan Participations in the applicable Loan.

As a result of the Members’ and the Affiliate Holder’s acquisitions of their respective Loan Participations, it is intended that BancAlliance, while generally remaining the lender of record or record holder of all Loans underlying the Loan Participations, will not retain any beneficial interest in those underlying Loans. Beneficial interests in the Loans instead will be held by those Members (and the Affiliate Holder) to which BancAlliance has granted the relevant Loan Participations, and BancAlliance in effect will be a nominee holding only record ownership of each Loan.

### Allocations

As discussed in Item 11 under the caption “Allocation,” the Board has adopted a policy on how to allocate Loan opportunities among interested Members. It is possible that in cases of high Member demand for a particular Loan opportunity, individual Members will not receive a Loan Participation as large as that for which they expressed an interest or, in some cases, any Loan Participation at all.

### Member Discretion

AP Commercial has no discretionary authority on behalf of Members with respect to the acquisition or disposition of any Loan Participations. Each Member will independently evaluate and make a case-by-case, independent decision whether to accept any Loan opportunities referred to it by AP Commercial. No Member will be obligated to acquire any Loan Participation.

### ***Advisory and Other Services Provided by AP Commercial in Connection with Loan Program***

Under the Advisory and Services Agreement, AP Commercial acts as the manager of the Loan Program and the Members are AP Commercial’s advisory clients. AP Commercial provides advisory services to the Members (“Member Advisory Services”) to assist the Members in evaluating Loan opportunities. AP Commercial also provides administrative support to

Members (“Member Administrative Services”) with respect to the outstanding Loan Participations held by Members. BancAlliance neither provides advisory services to the Members or other persons, nor receives advisory services from AP Commercial.

#### Member Advisory Services

Member Advisory Services consist of asset referral and related services; credit evaluation and origination services and ongoing advisory services; and education and training services.

*Asset referral and related services* include: (1) developing and recommending to the Members policies and procedures pertaining to specific credit asset classes, credit evaluation, portfolio management, risk rating, workouts and restructurings, and other policies related to Members’ management of their Loan Participations; and (2) referring Loan opportunities to the Members that AP Commercial believes are consistent with the Loan Eligibility Criteria, including (i) delivering documents to Members with respect to Loan opportunities in a manner to facilitate each Member’s independent credit evaluation and decision-making, (ii) providing regular updates to Members on new Loan opportunities and the progression of previously identified Loan opportunities through AP Commercial’s internal evaluative processes and (iii) providing regular analysis and updates to Members concerning overall market conditions and asset opportunities.

*Credit evaluation and origination services and ongoing advisory services* include: (1) providing due diligence, credit evaluation and documentation support to the Members consistent with the Loan Eligibility Criteria, including providing upon a Member’s request material available information relating to a proposed obligor, the recommendation of the AP Commercial credit committee on risk ratings with respect to proposed obligors and recommendations or opinions of AP Commercial with respect to the terms and documentation of a Loan opportunity; (2) facilitating the closing and funding of approved Loans; (3) conducting periodic portfolio reviews of Loan Participations and recommending to relevant Members, where deemed appropriate by the AP Commercial credit committee, adjustments to risk ratings with respect to the applicable obligors; (4) making available to relevant Members reports and analyses with respect to a Loan or the related obligor; and (5) to the extent required by applicable bank regulatory requirements in connection with the Member Advisory Services, providing required technological systems.

*Education and training services* include the provision of general education and training services to Members relating to overall economic and market conditions and the Loan Program-related activities of BancAlliance.

#### Member Administrative Services

Member Administrative Services consist of servicing, monitoring and other services; and reporting and examination services.

*Servicing, monitoring and other services* include: (i) effecting the acquisition of Loans in which Members have elected to acquire Loan Participations; (ii) collecting payments due to BancAlliance with respect to Loans and disbursing such payments to the Members holding the related Loan Participations; (iii) using commercially reasonable efforts to enforce the rights of

BancAlliance under applicable Loan documents; (iv) keeping accurate records and accounts of Loan assets; (v) making available to relevant Members notices, financial statements and reports of obligors that AP Commercial receives under the relevant credit documents; (vi) making commercially reasonable efforts to verify obligors' compliance with covenants, representations and warranties, and restrictions on eligible collateral under the relevant credit documents; (vii) providing relevant Members with notice of when an obligor has not paid any scheduled installment of principal or interest on a Loan, or when AP Commercial receives notice of a default or event of default under the relevant credit documents; (viii) communicating with an obligor or administrative agent under the relevant credit documents to reconcile any payment shortfalls; (ix) exercising voting and other consensual rights under a Loan in accordance with BancAlliance policies and any requirements of the applicable Loan Participations (including in respect of proposed waivers, amendments, workouts and other actions under the applicable credit documents); (x) maintaining or causing to be maintained back-up systems and data storage; (xi) maintaining bank accounts for or on behalf of BancAlliance that are necessary to service payments on the Loans; (xii) maintaining copies of credit documents; and (xiii) performing the obligations of AP Commercial expressly imposed on it under the Master Loan Participation Agreement with respect to particular Loans.

*Reporting and examination services* include: (i) providing BancAlliance and the Members with access to the Loan booking, accounting and monitoring system operated by AP Commercial; (ii) providing BancAlliance and the Members with periodic reporting setting forth balance information with respect to relevant Loans, including delinquency reports, payment information, exception reports and other information; (iii) furnishing any Member upon request with a copy of any correspondence or notice sent or received by AP Commercial on behalf of BancAlliance with respect to the collection or termination of a Loan; (iv) furnishing any Member upon request with copies of all statements and other correspondence or notices sent to any relevant obligor; and (v) cooperating with BancAlliance's and each Member's internal and external auditors and regulatory authorities having jurisdiction over such Member, and exchanging information as reasonably requested by individuals responsible for such Member's operations, systems and technology, legal affairs and compliance programs.

### **C. Availability of Customized Services**

As described in Item 4.B, a key feature of the Loan Program is that Members make their own decisions whether or not to acquire a Loan Participation in respect of any particular Loan opportunity referred by AP Commercial, with the result that each Member controls both its exposure to specific Loans and the size of the Loan Participation portfolio it develops through participation in the Loan Program.

Following approval by the AP Commercial credit committee, AP Commercial will refer each Loan opportunity that it believes meets the Loan Eligibility Criteria to all Members that are then active participants in the Loan Program. AP Commercial provides Members generally with information and credit analysis concerning each Loan opportunity, as well as due diligence and documentation support. Also, as noted in Item 4.B, AP Commercial may provide to specific Members, upon request, material available information relating to a proposed obligor, the AP Commercial credit committee's recommendation and analysis on risk ratings with respect to a



prospective obligor, and recommendations or opinions of AP Commercial with respect to the terms and documentation of a Loan opportunity.

**D. Wrap Fee Programs**

Not applicable.

**E. Client Assets**

AP Commercial manages approximately \$109.6 million of assets, calculated as of March 30, 2012. These assets consist entirely of the value of Loan assets underwritten or managed by AP Commercial for its clients on a non-discretionary basis.

**ITEM 5: FEES AND COMPENSATION**

**A. Fees and Compensation**

Members are obligated to pay AP Commercial certain fees in connection with their participation in the Loan Program pursuant to the Advisory and Services Agreement.

Member Fees

It is generally expected that each Member will pay fees (“Member Fees”) to AP Commercial. Initially, Member Fees will relate only to the Loan Program and as such are referred to as “Loan Participation Fees.”

Loan Participation Fees

It is generally expected that each Member will pay to AP Commercial a Loan Participation Fee that is a percentage (the applicable percentage, the “Loan Fee Rate”) of the average daily outstanding principal amount of each Loan Participation held by such Member.

The Loan Fee Rate applicable to a particular Loan Participation is based on the projected yield over a target LIBOR rate (such excess, the “Spread Rate”) of that Loan Participation, as determined by AP Commercial at the time the underlying Loan is originated or acquired by BancAlliance. The per annum Loan Fee Rates applicable to various ranges of Spread Rates, as well as the methodology used in determining a Spread Rate, are set forth in the Membership Agreement.

It is generally expected that the Loan Fee Rate, once determined, will not be adjusted. In certain circumstances, however, AP Commercial may request that BancAlliance prospectively change the Loan Fee Rate. Any changes to the Loan Fee Rate will only affect Loan Participations that are acquired after the date of the change. If AP Commercial has requested that the Loan Fee Rate be changed and AP Commercial and BancAlliance fail to agree on a new Loan Fee Rate, then AP Commercial will be permitted to cease identifying, syndicating, originating and/or acquiring potential new Loan opportunities and/or to resign as the manager of the Loan Program (in which case, as further described in Item 8, a “back-up” servicer identified in advance by the Board and AP Commercial may commence providing Loan-related services to the Members).

In addition, AP Commercial may waive or modify the applicable Loan Participation Fees payable to it under the Advisory and Services Agreement. It is generally expected that the Loan Participation Fees will be the same for all Members, such that any waivers or modifications will be agreed to in extremely limited circumstances involving compelling reasons, such as to address Member's compliance with regulatory requirements.

**B. Payment of Fees**

Loan Participation Fees typically are payable by members on a current basis. In general, AP Commercial is authorized to collect Loan Participation Fees and other cost and expense obligations due from each Member by withholding the required amount(s) from principal, interest or other payments due to such Member under the relevant Loan Participations.

**C. Additional Fees and Expenses**

Subject to certain limitations, the Members are obligated to pay for all expenses incurred by BancAlliance or AP Commercial in connection with the Loan Program, including: (a) taxes, governmental fees and charges applicable to BancAlliance and costs of insurance maintained by BancAlliance; (b) expenses with respect to any advisor, auditor, accountant or legal counsel of BancAlliance; and (c) expenses relating to any litigation or other dispute directly or indirectly relating to BancAlliance. In general, the maximum amount of costs and expenses set forth in clauses (a) and (b) above for which any Member may be liable during any given calendar year is \$10,000.

See Item 12 for further discussion with respect to fees associated with brokerage practices.

**D. Prepayment of Fees**

Please see the responses to Items 5.A and 5.B above.

**E. Additional Compensation**

Not applicable.

**ITEM 6: PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

AP Commercial does not charge clients performance-based fees in connection with the Loan Program; rather, as described in Item 5 above, AP Commercial charges each client a fee based on the average daily outstanding principal amount of each Loan asset held by the client.

**ITEM 7: TYPES OF CLIENTS**

AP Commercial's current clients consist of Members that have signed joinders to the Membership Agreement and the Advisory and Services Agreement.

Members are FDIC-insured depository institutions (or bank holding companies of such institutions), including community and regional banks in the United States. AP Commercial

expects that all Members will be regulated by U.S. federal and state banking regulatory authorities with jurisdiction over the Members' activities.

Each prospective Member must satisfy the membership criteria established by BancAlliance. AP Commercial, on behalf of BancAlliance, has authority to determine Members' initial and ongoing satisfaction of these criteria. Each prospective Member also must provide to BancAlliance a non-binding Member Indication of Interest, in an amount satisfactory to BancAlliance. In addition, the Loan Program documentation will establish initial minimum required dollar amounts applicable to any Loan Participation that a Member wishes to purchase.

In the future, AP Commercial may provide advisory services to one or more non-Member institutional clients, including one or more managed account clients. The terms of any such relationships will be set forth in the applicable advisory contracts between AP Commercial and such clients.

## **ITEM 8: METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

### **A. Methods of Analysis and Investment Strategies Used in Formulating Investment Advice or Managing Assets**

#### Asset Classes

Loan opportunities referred by AP Commercial to Members are expected to consist generally of senior lending opportunities involving large and middle-market borrowers. AP Commercial expects that Loans will generally be senior secured loans and that Loans acquired on the secondary market will be acquired at par or near-par value. Members are generally expected to hold their acquired Loan Participations until the maturity or repayment of the underlying Loans.

Loan opportunities may relate to a variety of loan-related asset classes, including, without limitation, the following:

- (i) *Asset-based loans*, which are a type of loan extended based on the liquidation value of underlying collateral and the quality of the borrower's business model, typically featuring a first-lien security interest and collateral-control mechanisms;
- (ii) *Senior secured term loans/leveraged loans*, consisting of low-leverage, senior priority, cash flow-based loans that are secured by the assets of the borrower; and
- (iii) *Equipment finance loans and leases*, generally involving mid- to large-ticket equipment finance with national and/or captive originators with borrower EBITDA of \$25 million to \$1 billion.

It is possible that the Loan Eligibility Criteria will change over time, in response to macroeconomic or market conditions, developments in particular borrower sectors, the nature and number of Members, perceived opportunities and relative risk-adjusted expected returns, demonstrated patterns of Member interest in exposure to certain asset categories, potential risk concentration on the part of Members, and other factors.

## Methods of Analysis and Loan Approval Process

### *Sourcing of Potential Loan Opportunities*

To identify potential Loan opportunities, AP Commercial relies primarily on internal professionals. AP Commercial screens potential Loan opportunities based on the then-applicable Loan Eligibility Criteria. AP Commercial personnel also may consider various factors relating to a prospective Loan, including, among others, financial measures, company management, borrower capital structure, loan structure, loan size, loan collateral, pricing, yield and sector weightings, industry characteristics and geographic considerations.

Loan sourcing may occur through a variety of channels, including direct origination, joint origination (i.e., “clubbing”) arrangements, secondary market dealers and/or syndication agents.

### *Initial Asset Profile*

AP Commercial’s credit professionals typically create an “initial asset profile,” or IAP, for each potential Loan opportunity. The IAP, to be prepared prior to AP Commercial’s performance of more extensive credit analysis and due diligence, is intended to be a brief, high-level review of each potential Loan opportunity that AP Commercial has concluded warrants further consideration. IAPs are available for all Members to review via an electronic portal maintained by AP Commercial for the benefit of Members (the “Member Portal”).

### *Credit Analysis and Due Diligence*

In developing its credit analysis, AP Commercial reviews information provided by the borrower and/or any financial institution(s) arranging the loan in question. AP Commercial may perform fundamental credit research and may consider quantitative and/or qualitative factors concerning the prospective borrower or other obligor. Examples of factors considered may include corporate capital structure, operating and revenue trends, cash flow consistency, collateral analysis, financial covenants, debt maturities and liquidity, as well as management quality, competitive position within the industry, the presence of equity sponsors, business fundamentals and legal structure.

To the extent AP Commercial believes a prospective Loan opportunity merits further consideration, AP Commercial conducts a due diligence process with respect to that opportunity. The due diligence process may evaluate, among other things, the prospective obligor’s market position within its operating sector, dependence on access to the capital markets to fund ongoing operations, management quality, the liquidation value of underlying assets in the case of collateralized credits and/or the obligor’s competitive environment. Depending on circumstances, AP Commercial may conduct due diligence through any one or more of the following activities: management meetings; review of the borrower’s financial information; collateral appraisals; review of publicly available information, including industry or company specific reports published by external financial analysts, SEC filings and company reports, media sources, and subscription services; review of materials from and discussions with research analysts and other sources; review of documents in “data rooms;” background checks on

management; and/or bank meetings and review of information provided by the loan arranger or agent.

#### *Credit Memorandum and Credit Committee Approval*

Upon completion of the analytical and due diligence process described above, the AP Commercial professionals responsible for a particular potential Loan opportunity will prepare a credit memorandum and present it to the AP Commercial credit committee. The credit memorandum will be available for client review via the Member Portal. The AP Commercial credit committee may confer with the internal loan and credit professionals who prepared the credit memorandum, and may request further analysis and/or due diligence before deciding whether or not the prospective Loan opportunity should be referred to Members. A Loan opportunity will not be referred to Members unless and until the AP Commercial credit committee has approved the referral.

#### Independent Client Credit and Funding Decisions

Each Member must conduct its own independent analysis and make its own independent credit decision concerning whether or not to purchase any particular Loan asset. No client will be obligated to approve any Loan opportunity referred to it by AP Commercial or to acquire portfolio exposure to any particular Loan.

\* \* \* \* \*

*This Brochure's descriptions of specific advisory services that AP Commercial offers to clients in connection with the Loan Program, and/or of Loan opportunities that AP Commercial expects to refer to clients, should not be understood to limit in any way AP Commercial's future advisory activities. Subject to the terms of its contractual obligations to existing clients, AP Commercial may offer any advisory services it considers appropriate, whether concerning assets similar to or differing from the types that are the subject of the Loan Program, whether pursuant to the Loan Program or otherwise, whether to Members or other clients, and whether or not described in this Brochure.*

*The Loan opportunities that AP Commercial refers to clients may entail substantial risks and a client's decision to acquire portfolio exposure to any particular Loan has the possibility of resulting in a substantial loss of capital by the client. There can be no assurance that any client will achieve its return objectives.*

\* \* \* \* \*

#### **B, C. Certain Risks**

Acquisition of Loan assets in connection with the Loan Program involves a substantial degree of risk. The following risk factors do not purport to be a complete list or explanation of the risks involved with the acquisition of Loan assets or the activities of AP Commercial. For example, they may not address risks associated with certain credit instrument types and certain market risks.

## ***Asset-Related Risks***

*The asset-acquisition opportunities that AP Commercial provides to clients are subject to a variety of general risks.* The Loan opportunities referred by AP Commercial, even to the extent they consist of senior obligations acquired at par or near par value, may have economic risks as a result of business, financial, market or legal uncertainties. There can be no assurance that AP Commercial (in deciding to refer a Loan opportunity) or a client (in deciding to acquire portfolio exposure to a Loan) will correctly evaluate the nature and magnitude of the various factors that could affect the value of and return on a Loan. A variety of factors that are inherently difficult to predict, such as macroeconomic, political or market developments or uncertainties, as well as obligor- or Loan-specific factors (including the size, financial resources and competitive strength of the borrower), may significantly affect the performance of a Loan. In addition, AP Commercial's ability to conduct the Loan Program or otherwise provide asset-acquisition opportunities to clients as currently contemplated may be affected by changes in laws or regulations (including laws or regulations relating to securities, banking activities and/or taxation).

*The performance of one or more particular Loans may not be indicative of how a client's entire portfolio will perform.* The performance of a client's portfolio of Loan assets over a particular period is not necessarily indicative of the results that may be expected in future periods. Nor should the performance of any particular client's portfolio of Loan assets be expected to match the performance of any other client's portfolio, given that the composition of each client's portfolio will be the result of (i) that client's individual decisions about specific Loans in which to participate and (ii) the allocations of Loan interests among clients. Differences in the composition of Members' respective portfolios also will arise due to the fact that any entity that becomes a Member has the opportunity to acquire only Loan Participations that AP Commercial thereafter refers.

*A client may incur losses on its Loan interests.* The performance of a client's portfolio of Loan interests will be affected by, among other things, (i) the amount and timing of payments with respect to interest and principal of the underlying Loans (whether through sale, maturity, prepayment, redemption, default or other liquidation or disposition), (ii) the financial condition of the borrowers and (iii) the characteristics of the Loans, including the existence and timing of exercise of any optional or mandatory redemption or repayment features (including applicable redemption or repayment prices), the prevailing level of interest rates, and any actual defaults and the level and timing of recoveries with respect to the Loans. Any of the above factors may be exacerbated, and the performance of Loan interests adversely affected, by macroeconomic factors, including general economic conditions affecting capital markets and their participants (such as the borrowers on the underlying Loans). These macroeconomic factors may include (i) economic downturns and uncertainties affecting specific markets or economies and capital markets worldwide, (ii) the effects of, and disruptions and uncertainties resulting from military conflicts, incidents of terrorism and similar events, (iii) concerns about financial performance, accounting and other issues relating to various companies and (iv) recent and proposed changes in accounting and financial reporting standards.

*The risk profile of a Loan may increase due to post-funding developments.* It is possible that holders of Loan assets will experience missed and late payments of interest or principal, failures

by borrowers to comply with covenants in their loan agreements and borrower performance below what AP Commercial or the relevant holders expected at the time the underlying Loan was acquired or originated. Any of the events described in the preceding sentence may be an indication that a client's risk of loss with respect to a particular underlying Loan has materially increased. Moreover, the value of a Loan may decline for other reasons that are not possible to predict. None of BancAlliance, AP Commercial or any other person can provide any assurance as to the performance or repayment of any Loan.

*Loans may become non-performing.* Loans may become non-performing for a variety of reasons. Non-performing Loans may require workout negotiations or restructurings that may entail, among other things, a reduction in the interest rate, a write-down of principal and/or deferral of payments, any of which could adversely affect the holder of a related Loan interest. Furthermore, the obligor or relevant guarantor may be in bankruptcy or liquidation, which would entail risks relating to contested matters, adversary proceedings and other developments beyond the control of creditors. Although BancAlliance may exercise voting rights with respect to an individual Loan on behalf of the relevant clients, there can be no certainty that BancAlliance will be able to exercise a sufficient percentage of voting rights to affect the outcome of such vote. Please see Item 17 for further information about AP Commercial's policies regarding voting in respect of Loans.

*Collateralized Loans entail risks in foreclosure.* Even if a Loan is secured by collateral, holders of the related Loan interest may be exposed to losses resulting from default and foreclosure. Therefore, the value of the underlying collateral, the creditworthiness of the borrower and the priority of the lien are each critically important. AP Commercial cannot guarantee that collateral or other creditor's rights will be adequate to protect a client's interests. Nor can AP Commercial assure clients that claims may not be asserted that might interfere with enforcement of creditors' rights. In the event of a foreclosure, the liquidation proceeds upon the sale of collateral may not satisfy the entire outstanding balance of principal and interest on the Loan, resulting in a loss to the holders of related Loan assets. Any costs or delays involved in effectuating a foreclosure of the Loan or a liquidation of the underlying collateral will further reduce the proceeds and thus increase the loss.

*The judicial theory of "lender liability" may expose clients to legal risks.* In recent years, a number of judicial decisions have upheld the right of borrowers to sue lending institutions on the basis of various evolving legal theories, collectively termed "lender liability." Generally, lender liability is founded on the premise that a lender has either violated a duty, whether implied or contractual, of good faith and fair dealing owed to the borrower or has assumed a degree of control over the borrower resulting in the creation of a fiduciary duty owed to the borrower or its other creditors or shareholders. AP Commercial cannot assure holders of Loan interests that lender liability claims will not be made against them or that holders will not be subject to significant liability if a claim of this type is made.

### ***Risks Relating to AP Commercial's Performance***

*Clients have a limited basis for evaluating the Loan Program and AP Commercial's performance as an adviser.* AP Commercial and BancAlliance have been in operation for less than a year. This limits clients' ability to evaluate the Loan Program or AP Commercial's

activities as an adviser, which involves the provision of asset identification, credit analysis and other advisory and administrative services.

*It may prove difficult for AP Commercial to identify and source a sufficient quantity of appropriate Loan opportunities.* AP Commercial expects to encounter competition from other lenders and finance providers as it attempts to acquire or originate Loans. There is no assurance that AP Commercial will be able to provide clients with credit opportunities of a quality, type or quantity that will satisfy their objectives under the Loan Program. It is possible that competition for appropriate credit opportunities may increase, thus reducing the number or adversely affecting the terms of Loan opportunities. There can be no assurance that AP Commercial will be able to identify or make available Loan opportunities satisfying the Loan Eligibility Criteria or that such opportunities will satisfy the rate of return objectives of AP Commercial's clients.

*AP Commercial's due diligence and credit approval processes may fail properly to identify or evaluate all material information relating to a Loan.* Credit analysis and due diligence are inherently complex and subjective. There is no assurance that AP Commercial's procedures for obtaining and evaluating the information necessary to decide whether a prospective Loan opportunity should be referred to clients will identify all material risks and other relevant factors relating to any particular Loan.

*AP Commercial and BancAlliance are exposed to operational risks, including the risk of systems failure and the risk of employee fraud.* The commercial finance industry is highly dependent on communications and information systems and is exposed to many types of operational risk, including the risk of fraud by employees or other parties, record-keeping errors, errors resulting from faulty computer or telecommunication systems, computer failure, and damage to computer and telecommunication systems caused by internal or external events. Any of these events could have a material and adverse effect on AP Commercial's clients.

*AP Commercial is reliant upon proper staffing and key personnel.* AP Commercial must employ and retain management and skilled staff to provide the services that are central to the provision of the services contemplated under the Loan Program. The failure to employ and retain sufficient numbers of appropriately skilled management and staff could delay, prevent or negatively affect the provision of AP Commercial's services. AP Commercial is particularly dependent upon the efforts, experience, contacts and skills of its senior management team. The loss of any such individual could have a material adverse effect on AP Commercial or the quality of services provided pursuant to the Loan Program, and such loss could occur at any time due to resignation, death, disability or other reasons.

*BancAlliance, AP Commercial and/or the operation of the Loan Program could be subject to banking-related regulation.* Financial services institutions operate in a highly regulated environment and are subject to extensive legal and regulatory restrictions and limitations, as well as supervision, examination and enforcement by regulatory authorities at various governmental levels. While none of BancAlliance, AP Commercial and their affiliates is expected to be a bank or a bank holding company, it is possible that, as a result of the nature of services provided under the Loan Program, they will be subject to supervision by federal or state bank regulatory authorities with jurisdiction over one or more Members. In addition, in the future BancAlliance may consider seeking designation as a Bank Services Company, which would directly subject it



to the supervisory jurisdiction of one or more federal or state regulatory authorities. Failure to comply with any applicable U.S. federal or state banking laws, rules or regulations, some of which are subject to interpretation and may be subject to change, could result in a variety of material adverse consequences to BancAlliance, AP Commercial and/or the operation of the Loan Program, including civil penalties, fines, suspension or expulsion, and termination of deposit insurance.

U.S. federal and state banking laws and regulations can and do change significantly from time to time, and may be changed in ways that could have a material adverse impact upon the business plans of BancAlliance and AP Commercial or the appropriateness of the Loan Program for certain clients. For example, capital requirements may be increased, or permissible lending may be limited. Insured financial institutions also undergo periodic examinations by one or more regulatory agencies, which may subject them to changes in asset valuations, in amounts of required loan and lease loss allowances and in operating restrictions resulting from the regulators' judgments based on information available to them at the time of their examination. AP Commercial can give no assurance that applicable laws and regulations or responsible bank examiners will be favorably disposed to the Loan Program, and a negative view of the Loan Program on the part of bank regulators could materially adversely affect the ability of BancAlliance and AP Commercial to offer or continue the Loan Program as currently contemplated.

*AP Commercial may make Loan opportunities available to non-Member clients.* The Loan Program documents acknowledge that AP Commercial may provide advisory or other services to non-Member clients, including managed account clients or members of membership-based organizations substantially similar to BancAlliance. Among other possibilities, AP Commercial could offer non-Member clients opportunities to acquire interests in Loans referred to Members.

### **Risks Specific to the Loan Program**

*The terms of the Loan Program, including future fees payable by Members to AP Commercial, may be amended prospectively without consent of the Members.* With the consent of AP Commercial, the Board prospectively may amend the terms of the Loan Program. Such amendments to the terms of the Loan Program would not require the consent of the Members and could include, among other possibilities, changes to the Loan Eligibility Criteria or increases in the fees charged to Members. Any such fee increases would affect only Loan Participations or the utilization of new services that were acquired or commenced after the fee increase had occurred.

*The Advisory and Services Agreement may be terminated in only limited circumstances and, if terminated without cause, BancAlliance will be wound down.* The Members and BancAlliance have limited rights to terminate the Advisory and Services Agreement. If BancAlliance terminates the Advisory and Services Agreement for "cause" (as defined in the Advisory and Services Agreement, including certain instances of gross negligence or willful misconduct by AP Commercial), the "back-up" servicer described below will enter into an agreement with BancAlliance for the provision of services to Members under the Loan Program. If BancAlliance terminates the Advisory and Services Agreement without cause, BancAlliance and the Program will enter into wind-down. In addition, BancAlliance and AP Commercial may

agree jointly to commence the wind-down of the Program, in which case AP Commercial has the right to terminate the Advisory and Services Agreement one year after the wind-down has begun.

*AP Commercial may have potential or actual conflicts of interest.* AP Commercial may have potential or actual conflicts of interests relating to its provision of services to Members and/or future clients. These potential or actual conflicts could relate to, among other possible matters, allocations of Loan opportunities; AP Commercial's provision of advisory services to other clients with objectives similar to those of the Members; and/or AP Commercial's devotion of time to pursuing advisory or other activities outside the Loan Program. While AP Commercial has adopted and intends to adhere to policies and procedures designed to identify and mitigate such potential or actual conflicts, it is possible that AP Commercial's conflict-mitigation efforts will not eliminate all potential negative effects on clients, including Members receiving advisory services in connection with the Loan Program. Please see Items 10 and 11 below.

*AP Commercial has the authority to determine whether a Member continues to satisfy the eligibility criteria for ongoing participation in the Loan Program.* For a Member to begin and continue participating in the Loan Program, AP Commercial must determine, in its sole and absolute discretion, that such Member satisfies the eligibility criteria for participation in the Loan Program, as established and modified from time to time by the Board. If AP Commercial determines that a Member no longer satisfies the applicable eligibility criteria, AP Commercial may designate such Member as an "Inactive Member" and/or terminate such Member's participation in the Loan Program. The consequences of such designation or termination are discussed below.

*A Member that is designated as an "Inactive Member" continues to pay Loan Participation Fees on Loan interests it continues to hold.* AP Commercial, in its sole and absolute discretion, may deem any Member an "Inactive Member" if AP Commercial has determined that certain circumstances described in the Membership Agreement apply. These circumstances include, among others, the Member materially breaching any provision of the Membership Agreement, the Member failing to satisfy the then-applicable Member eligibility criteria, or the Member having notified BancAlliance that it does not wish to acquire additional Loan Participations. Inactive Members will retain Loan-related voting rights available to Members generally and will continue to receive Member Administrative Services, but will not receive further Member Advisory Services and will remain obligated to pay Loan Participation Fees on the Loan Participations they continue to hold.

*In certain circumstances, a Member can be designated a "Terminated Member."* AP Commercial will designate a Member a "Terminated Member" upon the occurrence of all of the following: (i) such Member has notified BancAlliance and AP Commercial that it no longer wishes to participate in the Loan Program, or such Member has become an Inactive Member; (ii) such Member does not then hold any Loan Participations; and (iii) such Member has fully satisfied all of its obligations then due under the Loan Program, including the payment of all fees then owed by such Member and its fulfillment of all binding commitments to acquire Loan Participations. A Terminated Member will continue to be responsible for its obligations as a Member that arose before or relate to a period before such Member's termination date, and any obligations under the Loan Program documents that explicitly survive a Member's termination (including certain confidentiality obligations).

*AP Commercial has influence over BancAlliance's Board of Directors.* The Board consists of two directors nominated by AP Commercial, two directors elected by the Members that were Members at the outset of the Loan Program (the "founding Members") and seven directors elected by the Members generally (including the founding Members). At all times the two AP Commercial nominees will serve as the Board's co-chairs, and AP Commercial must consent to the nomination of any director candidate proposed by Members. As a result of this ongoing influence of the founding Members and AP Commercial, the composition of and decisions made by the Board might not reflect the preferences of all individual Members.

*AP Commercial's liability to Members is contractually limited and Members have indemnification obligations to AP Commercial.* The Advisory and Services Agreement provides that unless AP Commercial has breached any terms of a Loan Program document or has committed gross negligence or willful misconduct under a Loan Program document, it will not be liable to any Member for any loss relating to a Member's acquisition of a Loan Participation or to any other acts or omissions by AP Commercial in its provision of services to Members. This limitation on liability means that AP Commercial will have no liability to Members for, among other things, any decline in the value of any Loan Participation, the unenforceability of any loan agreement or other credit document, the unenforceability of any security interest over collateral, or any failure by a borrower to meet its payment or other obligations under a loan agreement. In addition, the Advisory and Services Agreement and the Membership Agreement provide that each Member will indemnify AP Commercial and BancAlliance against claims, losses or other liabilities arising due to the breach by such Member of the terms of a Loan Program document or such Member's gross negligence or willful misconduct under a Loan Program document, except to the extent such liabilities result solely from the gross negligence or willful misconduct of AP Commercial or BancAlliance, as applicable.

*Transfer restrictions may impede a Member's ability to exit its exposure to a Loan.* The Master Loan Participation Agreement contains restrictions and procedures that limit the liquidity of Loan Participations. For example, a Member is only allowed to assign all (not a portion) of any particular Loan Participation; a Member is only allowed to assign a Loan Participation to another Member or to a non-Member that is an FDIC-insured depository institution (or a bank holding company of such an institution); and BancAlliance must consent to the assignment.

*AP Commercial's clients may be exposed to nonpublic information about borrowers, which may limit clients' ability to trade in Loan interests or securities or other instruments issued by those borrowers.* The flow of Loan- and borrower-related information that AP Commercial makes available to Members may include material nonpublic information or otherwise confidential information about the companies that are the borrowers under or obligors on the Loans. As a result, clients may be restricted, potentially for significant periods of time, from trading in certain instruments, including Loan interests or securities or other instruments issued by such borrowers.

*If AP Commercial decides to terminate its role as manager of the Loan Program, the services to Members under the Loan Program will be provided by a "back-up" servicer over which individual Members may have no right of approval.* After June 1, 2014, AP Commercial may choose to terminate the Advisory and Services Agreement upon 12 months' written notice to BancAlliance. AP Commercial also may choose to terminate the Advisory and Services Agreement at any time, upon shorter notice, if BancAlliance changes certain policies, if

BancAlliance has not agreed to AP Commercial's request for an increase in the Loan Fee Rate or if BancAlliance has entered wind-down. Upon such termination, BancAlliance will enter into an agreement with a "back-up" servicer previously identified by AP Commercial and the Board for the future provision of services to Members under the Loan Program. The back-up servicer will seek the consent of Members to its provision of advisory services to Members only to the extent as may be required by law. Accordingly, it is possible that the Loan Program, including the advisory and other services rendered to Members and the fees payable by Members thereunder, may become managed on relatively short notice by a party that has been approved by the Board but not by individual Members.

*In the event of BancAlliance's bankruptcy, creditors might challenge the "true sale" nature of Loan Participations granted by BancAlliance.* BancAlliance intends that its grants of Loan Participations to AP Commercial's clients will be respected as "true sales" for purposes of U.S. bankruptcy law. For this and other reasons, BancAlliance expects to have only minimal net assets at all times. If BancAlliance entered bankruptcy and a court found any Loan Participations not to be true sales, such Loan Participations would be the property of BancAlliance rather than of AP Commercial's clients and the Loan Participations potentially could be available to satisfy claims against BancAlliance by BancAlliance's creditors.

*AP Commercial's advisory services are non-discretionary, which means that Members remain fully responsible for their own Loan evaluations, credit analyses and asset acquisition decisions.* AP Commercial performs due diligence and credit analysis with respect to each prospective Loan opportunity, and any prospective Loan opportunity must be approved by the AP Commercial credit committee before it is referred to clients. The Member Advisory Services also includes AP Commercial's provision to Members of certain education and training services. Nonetheless, each Member is ultimately responsible for its own decision whether or not to acquire any particular Loan interest. Accordingly, the quality of a client's own credit and risk evaluation capabilities will be critical, and analytical misjudgments or inadequacies on a client's part may expose it to unanticipated risk or loss on one or more Loan interests. This risk may be exacerbated to the extent a client is acquiring Loan interests in types of credit assets with which it has limited or no previous experience. **Neither AP Commercial nor BancAlliance guarantees or makes any assurances as to the performance of or economic returns to be realized in respect of any Loan or other credit asset, or as to whether the economic returns on any Loan or other credit asset will be sufficient to repay the amounts owed to any client in respect thereof.**

#### ITEM 9: DISCIPLINARY INFORMATION

There are no legal or disciplinary events that are material to a client's or prospective client's evaluation of AP Commercial's advisory business or the integrity of AP Commercial's management.

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

### **A. Broker-Dealer Registration Status**

Not applicable.

### **B. Futures Commission Merchant, Commodity Pool Operator or Commodity Trading Adviser Registration Status**

Not applicable.

### **C. Material Relationships or Arrangements with Related Persons who are Industry Participants**

AP Commercial may be deemed to be under the control of each of Mr. John Delaney and Mr. Jason Fish by virtue of their membership on AP Commercial's management committee. By virtue of their relationships with Mr. Delaney and Mr. Fish, two financial industry participants may be deemed to be under common control with AP Commercial.

Mr. Delaney is the chairman of CapitalSource Bank, which with its affiliates provides financial products to small and middle market businesses nationwide and depository products and services in southern and central California. Mr. Delaney and Mr. Fish have material ownership interests in Congressional Bank, a community bank headquartered in Bethesda, Maryland. Mr. Delaney is co-chairman and Mr. Fish is a director of Congressional Bank.

Mr. Delaney's responsibilities at CapitalSource Bank and Congressional Bank and Mr. Fish's responsibilities with Congressional Bank could require them to devote material professional time that otherwise might be spent pursuing their responsibilities at AP Commercial.

AP Commercial's senior management personnel generally are required only to devote so much of their time to providing services to AP Commercial's clients as is reasonably necessary in good faith.

In addition, Congressional Bank is a Member of the Loan Program and thus a client of AP Commercial. While this fact gives rise to the appearance of potential conflicts of interest with AP Commercial's other clients, the AP Commercial policies by which Loan opportunities are identified, underwritten and allocated to Members of BancAlliance ameliorate the risk of any actual conflicts.

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

Not applicable.

## **ITEM 11: CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

### Code of Ethics

In accordance with Rule 204A-1 under the Investment Advisers Act of 1940 (the “Advisers Act”), AP Commercial has adopted a code of ethics (the “Code of Ethics”). The Code of Ethics establishes standards of business conduct that all AP Commercial Personnel (defined to include any managing member, partner or employee of AP Commercial and any person who provides investment advice or support on behalf of AP Commercial and is under AP Commercial’s direct or indirect supervision or control) must follow.

The Code of Ethics is predicated on the principle that AP Commercial owes a fiduciary duty to its clients. Accordingly, the Code of Ethics provides that at all times, AP Commercial Personnel must: avoid placing the interests of AP Commercial, its affiliates and AP Commercial Personnel ahead of client interests; help AP Commercial to identify and disclose to clients, when appropriate, potential and actual conflicts; adhere to the personal investing standards set forth in the code of ethics; avoid taking advantage of their position to the detriment of clients; maintain the integrity and independence of AP Commercial’s advisory process; and maintain full compliance with applicable laws, including the Advisers Act.

In addition to the elements required by Rule 204A-1, the Code of Ethics includes, among other provisions, restrictions that prohibit AP Commercial Personnel from trading certain instruments for their personal accounts without first obtaining pre-clearance, serving on the boards of directors of any outside companies except with the approval of the Chief Compliance Officer of AP Commercial, or receiving or offering gifts or entertainment worth a substantial monetary value from or to persons doing business with AP Commercial.

The Code of Ethics states that AP Commercial will provide a copy thereof to all AP Commercial Personnel, with a requirement that they provide to AP Commercial a written acknowledgment that they have received the Code of Ethics. Clients or prospective clients may obtain a copy of AP Commercial’s code of ethics upon request by contacting AP Commercial.

### Conflicts of Interest Generally

AP Commercial and its affiliates at times may have potential or actual conflicts of interest with respect to AP Commercial’s clients and their holdings. These conflicts of interest may be between or among clients or between AP Commercial and its clients. AP Commercial anticipates that it will resolve potential or actual conflicts of interest without input from disinterested third parties. AP Commercial has adopted policies and procedures designed to make sure any such conflicts are resolved in an equitable manner.

While AP Commercial currently provides advisory services only to Members in connection with Loan Participations, it is possible that in the future AP Commercial will provide other advisory services, whether discretionary or non-discretionary, to non-Member institutional clients. Such clients may have lending or investment programs that are different from, are similar to or overlap with the activities of Members under the Loan Program. AP Commercial and its affiliates may

have conflicts of interest in allocating their time and resources between the Loan Program and the provision of services to such other clients and/or in allocating lending opportunities among Members and such other clients. AP Commercial may charge clients different management fees and incentive fees and/or allocations due to circumstances such as different contractual rates.

AP Commercial's current or future clients may have similar or overlapping lending or investment strategies and parameters, their lending or investment programs are likely to differ due to, among other reasons, various lending or investment restrictions and types of investors. AP Commercial may give advice, provide services or take action with respect to one or more clients that may differ from the advice given, services provided or the timing or nature of action taken with respect to other clients. The lending opportunities or portfolio strategies that AP Commercial may use for one or more clients could conflict with the transactions and strategies made available or employed by AP Commercial in providing advisory services to other clients and could affect the prices and availability of the loans and other financial instruments that those clients acquire or hold.

AP Commercial's current or future clients may have conflicting interests with respect to their holdings, including with respect to performance, liquidity, timing, taxes and other objectives. The conflicting interests of individual clients may relate to, or arise from, among other things, the nature of credit extensions or investments made by clients, the structuring or the acquisition of credit extensions or investments and the timing of disposition of credit extensions or investments. For example, certain clients may from time to time be selling loan positions or other holdings that other clients may continue to hold and/or purchase. AP Commercial may refer to certain clients opportunities to purchase different classes of debt or equity of the same issuer or borrowers. These and other investments may be deemed to create conflicts of interest, particularly because AP Commercial may take certain actions for some clients that may have an adverse effect on other clients (including in connection with restructuring and reorganization situations). Such conflicts also may arise, without limitation, with respect to the nature or structuring of credit extensions or investments that may be more beneficial for one or more clients than for other clients. Performance results may vary, perhaps substantially, among clients.

To address these potential conflicts of interests in its material relationships, AP Commercial has adopted policies and procedures, including the Code of Ethics and allocation and voting policies.

### Cross-Trades

AP Commercial does not have discretion to cause purchases or sales of Loan Participations, including transfers of any previously acquired Loan Participation, on the part of Members. Accordingly, AP Commercial does not expect to engage in "cross-trades" in connection with the Loan Program.

From time to time, AP Commercial may be alerted by a Member that it desires to exit its exposure to a particular Loan. AP Commercial may assist such a Member in identifying one or more other Members or other parties who may be interested in obtaining the relevant Loan Participation. AP Commercial will not provide advice regarding any such transfer, nor will AP Commercial exercise any discretion over any client's decision as to whether or not to acquire a

Loan Participation from another client. AP Commercial will not receive any separate compensation in connection with any transfers of Loan Participations by Members.

### Principal Trades

It is not the general practice of AP Commercial and its affiliates to acquire for their own account Loan Participations that have also been purchased by Members in connection with the Loan Program, except that, as described in Item 4.B, the Affiliate Holder will acquire contemporaneously and retain for its own account no less than a 2% Loan Participation in respect of each Loan that is originated by or acquired on behalf of BancAlliance under the Loan Program. In addition, it is possible that if a Member indicates to AP Commercial that it wishes to sell a Loan Participation previously purchased under the Loan Program, the Affiliate Holder may offer to purchase that Loan Participation from the Member through procedures designed to ensure that the transaction occurs on a fair-value basis. In those and other circumstances in which AP Commercial or its affiliates purchase Loan Participations or other interests from a client for its own account, AP Commercial will comply with the requirements of Section 206(3) of the Advisers Act, if applicable, including that AP Commercial will notify the relevant client in writing of the transaction and obtain the consent of the relevant client.

AP Commercial also may refer to clients Loan opportunities relating to borrowers in which AP Commercial's related persons, including the Affiliate Holder, already hold loan interests or other credit exposures. For example, it is conceivable that AP Commercial might present to Members a Loan opportunity relating to a borrower that had previously been the subject of a Loan opportunity, such that the Affiliate Holder would already hold a Loan Participation relating to that borrower. In the case of such a Loan Participation being held by the Affiliate Holder, a conflict generally should not arise because, among other reasons, AP Commercial and its related persons have no discretion over Members' acquisitions of Loan Participations.

### Allocation

AP Commercial's current policies with respect to allocation of a Loan opportunity are as follows:

- AP Commercial will adhere to the specific allocation policies and procedures adopted by the Board that govern the allocation of Loan opportunities among Members. Under these policies and procedures, any Member may commit to acquire a Loan Participation in any Loan opportunity referred by AP Commercial; each Member that approves a specific Loan opportunity referred to it by AP Commercial must indicate its affirmative interest in purchasing a Loan Participation; for each Loan Participation in which the Member expresses an interest, the Member must indicate its preferred, maximum and minimum dollar amounts of the Loan Participation; for each Loan opportunity referred to the Members, AP Commercial will tally all of the preferred dollar Loan Participation amounts and will attempt, if possible, to deliver to each Member its preferred dollar amount allocation; and in cases of opportunities that are oversubscribed or undersubscribed, AP Commercial will follow specific Board procedures that are directed at ensuring that allocations among Members are made on



an equitable basis.

- As described in Item 4.B above, AP Commercial will allocate to the Affiliate Holder a Loan Participation initially equal to no less than 2% of the total dollar value of each Loan in which Members acquire Loan Participations. The Affiliate Holder will acquire this Loan Participation whether or not an opportunity is oversubscribed or undersubscribed.

In the future, AP Commercial may enter into advisory relationships with one or more non-Member institutional clients that will be afforded opportunities to acquire interests in Loans that AP Commercial refers to Members under the Loan Program. In this event, depending on the terms of AP Commercial's advisory agreements with such clients and such clients' interest in acquiring Loan assets, it is possible that AP Commercial will allocate to non-Member clients a portion of the Loan interests allocable in respect of any Loan being acquired or originated on behalf of Members. AP Commercial expects that to the extent any future non-Member client exercises such a contractual right to acquire an interest in a particular referred Loan, the allocation to such client will be made on identical pricing terms and otherwise substantially similar terms as those applicable to Members acquiring Loan Participations.

#### Personal Trading

AP Commercial may refer to clients Loan assets of borrowers that have issued securities or other instruments in which AP Commercial or its affiliates or their respective employees have already invested. Conflicts of interest may arise if AP Commercial or its affiliates or employees refer a particular transaction because of a financial interest held by any such person in such securities or instruments. As mentioned above in this Item 11 under "Code of Ethics," AP Commercial has implemented policies relating to personal account trading by AP Commercial Personnel that are designed to reduce, monitor and resolve conflicts of interest presented by such trading activities and to ensure such trading activities are carried out in accordance with applicable law and regulatory requirements. For example, AP Commercial Personnel are subject to AP Commercial's personal trading pre-clearance policy, which is designed generally to prevent personal trading in securities in which AP Commercial has deemed itself restricted from transacting.

### **ITEM 12: BROKERAGE PRACTICES**

#### **A. Factors Considered in Selecting or Recommending Broker-Dealers for Client Transactions**

AP Commercial may use brokers or dealers to acquire Loans on behalf of BancAlliance. There are no limitations on which broker-dealer is used or on the commission rates paid. However, Loan acquisitions are allocated to brokers and dealers consistent with AP Commercial's fiduciary duty of best execution. The factors considered may include, but are not limited to: a dealer's quality of execution, reputation, financial strength and stability, ability to effect the transactions, its facilities, reliability, access to primary and secondary markets, overall cost of trade, nature of the loan, desired timing of the transaction and size of the trade, and the receipt of brokerage or research services which are of benefit to clients.

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

The research or brokerage products and services provided to AP Commercial by broker-dealers generally may include, without limitation, information on the economy, industries, asset classes, individual companies, statistical information, accounting and tax law interpretations, political developments, legal developments affecting relevant asset classes, technical market action, credit analysis, risk measurement analysis, performance analysis, and/or post-trade services or communication services related to executing and settling transactions. Such research services may be received in the form of written reports, telephone contacts, personal meetings with analysts, or otherwise. In addition, such research services may be provided in the form of access to various computer-generated data, computer software, and meetings arranged with corporate and industry spokespersons, economists, academics, and government representatives.

Research obtained from brokers may be used by AP Commercial to service all its clients, including Members that have not participated in the transaction generating the commission. AP Commercial anticipates that brokerage firms generally will not charge AP Commercial a separate fee for research, brokerage and certain other services, and AP Commercial does not intend to negotiate “execution only” commission rates; thus, AP Commercial may be deemed to be paying for research, brokerage or other services provided by a broker that are included in the commission rate. While the continued provision of such services to AP Commercial is not conditioned on AP Commercial directing any particular level of transactions to these brokerage firms, such services are provided without separate charge in consideration of AP Commercial’s use of such brokerage firms to execute transactions for BancAlliance on behalf of all clients that have determined to fund a Loan opportunity. AP Commercial receives a benefit in this instance because AP Commercial does not have to produce or pay for such research products or services, and AP Commercial may have an incentive to select or recommend a broker-dealer based on AP Commercial’s interest in receiving such services rather than the clients’ interest in receiving the most favorable execution.

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

Not applicable.

## **3. Directed Brokerage**

Not applicable.

## **B. Order Aggregation**

AP Commercial will not acquire a Loan on behalf of BancAlliance unless clients committing sufficient funds have determined to participate in the Loan opportunity. Therefore, AP Commercial, in acquiring a Loan on behalf of BancAlliance, is implicitly aggregating the orders of multiple clients. All participating clients will bear, however, through their respective purchases of Loan interests, their pro rata shares of an identical Loan purchase price.

### **ITEM 13: REVIEW OF ACCOUNTS**

AP Commercial affords Members ongoing electronic access, through the Member Portal, to Loan monitoring data and periodic reporting setting forth balance information with respect to outstanding Loans relevant to the particular client. This information may include delinquency reports, payment information, exception reports and other relevant information determined from time to time by AP Commercial.

AP Commercial's credit professionals, under the supervision of the Chief Credit Officer, conducts periodic reviews of outstanding Loans through the date of review. Each periodic review will address with respect to each Loan the continued appropriateness of the risk rating that AP Commercial has assigned to each Loan, the borrower's record of covenant compliance and other topics as may be considered relevant by AP Commercial. A review of Loans other than on a periodic basis may be triggered by unusual activity or special circumstances on a case-by-case basis. AP Commercial makes available to Members on an ongoing basis via the Member Portal information about the performance of outstanding Loans. In addition, AP Commercial expects to provide Members with an annual report on Loan performance.

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

#### **A. Economic Benefits for Providing Services to Clients**

Not applicable.

#### **B. Compensation to Non-Supervised Persons for Client Referrals**

AP Commercial may from time to time enter into agreements with independent third parties to assist in identifying potential clients or to refer such potential clients to AP Commercial. Such agreements generally are expected to require AP Commercial to pay the third party a fee in cash, equity or a combination of both in regard to each identified prospective client that becomes a Member and actively participates in the Loan Program. Payment of such fees would not be conditioned on referring or recommending specific assets or types of assets to Members or obtaining assets through or from specific third parties. Any agreement providing for direct or indirect cash payments by AP Commercial to a person that is a "solicitor" as defined in Rule 206(4)-3 under the Advisers Act will comply with that rule and any other applicable regulatory requirements.

### **ITEM 15: CUSTODY**

AP Commercial may be deemed to have custody of all clients' assets relating to their participation in the Loan Program. Accordingly, AP Commercial is subject to Rule 206(4)-2 under the Advisers Act. Members receive account statements at least quarterly from AP Commercial's qualified custodian. AP Commercial urges such clients to carefully review such statements and compare such statements from the qualified custodian to the statements received from AP Commercial. In addition, AP Commercial has entered into a written agreement with an independent public accountant to conduct an annual surprise verification examination, as required by Rule 206(4)-2.

## ITEM 16: INVESTMENT DISCRETION

Not applicable.

## ITEM 17: VOTING CLIENT SECURITIES

Rule 206(4)-6 under the Advisers Act requires registered investment advisers that exercise voting authority over client securities to implement proxy voting policies. Because the Loan Program relates only to credit assets such as bank loans, it typically will not give rise to proxy voting in connection with securities. AP Commercial anticipates that there will be circumstances under which BancAlliance, as the lender of record, will undertake to vote on behalf of Loan Participation holders under a loan agreement. This is because the credit documents underlying many Loans may limit the voting rights of participation holders (as opposed to the lender of record) to a narrow set of significant matters such as changes in principal, interest rate, maturity and/or collateral.

### Voting Arrangements

With respect to any matters under the loan agreements or related credit documents as to which lenders are afforded the opportunity to vote, consent or elect (a “Vote”), the Loan Program documentation provides as follows: (i) with respect to purely ministerial matters (such as correcting an error or ambiguity in a credit document), BancAlliance, as the lender of record, may Vote or refrain from Voting as it determines in its sole discretion; (ii) when a Vote being solicited is, by the terms of the relevant credit documents (and any relevant agent bank procedures), divisible in respect of the Loan Participations, BancAlliance will cast its Vote(s) as directed by each Member holding relevant Loan Participations; and (iii) when a Vote being solicited is, by the terms of the relevant credit documents (and any relevant agreement bank procedure), not divisible in respect of the Loan Participations but may be made only in respect of all loans held by BancAlliance under the loan agreement, BancAlliance will cast its Vote as directed by a majority vote of Members holding relevant Loan Participations (on a one-vote-per-Member basis); provided, however, if a default or event of default has occurred and is continuing under the loan agreement, then BancAlliance will cast its vote as directed by a 75% supermajority of the relevant Members (on a one-vote-per-Member basis). In the case of any directions given by Members to BancAlliance on how to Vote, BancAlliance will deem the Affiliate Holder to have given those same directions.

Accordingly, with respect to possible material voting matters under loan agreements or related credit documents (such as proposed amendments or waivers), AP Commercial will not exercise discretion over the voting decisions of either (i) BancAlliance, to the extent BancAlliance exercises voting rights as a lender of record or (ii) Members, to the extent Members have direct voting rights or give voting instructions to BancAlliance.

AP Commercial will provide Members with its views concerning proposed amendments, waivers, consents, modifications, restructurings and similar matters in respect of credit agreements related to the Loans underlying Loan Participations held by the Members. In doing so, AP Commercial will act in accordance with its fiduciary duty as an investment adviser. In addition, AP Commercial will administer Members’ elections with respect to, or voting decisions

related to, instructing BancAlliance how to vote as the lender of record concerning proposed amendments, waivers, consents, modifications and restructurings in respect of credit agreements. These elections will be made solely as directed by the terms of the Advisory Services Agreement and the Master Loan Participation Agreement.

### Conflicts of Interest

The voting arrangements described above may give rise to apparent or actual conflicts of interest. For example, in the case of a Vote that is not divisible among Loan participation holders, different Members could have differing preferences regarding how BancAlliance should vote. The procedure described above for giving instructions to BancAlliance may result in BancAlliance voting in a way that is unsatisfactory to those Members that do not agree with the majority (or supermajority). Similarly, in the case of a non-divisible Vote on which BancAlliance seeks voting instructions from any applicable future non-Member client as a Loan participation holder, the voting instructions given by Members holding participations in the same Loan may outweigh a differing instruction given by such non-Member client, thus potentially resulting in dissatisfaction on the part of such non-Member client.

An apparent conflict of interest also might arise on the part of AP Commercial in connection with its provision to Members of its views concerning non-divisible Voting matters. For example, AP Commercial could appear to have an incentive to color the views it gives to Members on a Voting matter in order to retain or enhance its relationship with (and receipt of fees from) future non-Member clients if the non-Member clients express to AP Commercial a desire for a particular Voting outcome.

AP Commercial has developed voting policies and procedures designed to address apparent or actual conflicts of interest that may arise between different clients, or between AP Commercial and its clients. These procedures may include, in appropriate cases, disclosure of the potential conflict to the relevant clients or the implementation by AP Commercial's management committee of other measures to address the potential conflict based on the management committee's judgment of what is in the best interest of the relevant clients.

Clients may obtain a copy of AP Commercial's voting policies and procedures upon request. Clients may obtain information about BancAlliance's Loan-related voting records via the Member Portal (or as otherwise set forth in the advisory agreement with any particular non-Member client).

### **ITEM 18: FINANCIAL INFORMATION**

Not applicable.