

**Item 1. Cover Page**

**J.H. Whitney Capital Partners, LLC**

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Form ADV Part 2A – Firm Brochure

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**This brochure provides information about the qualifications and business practices of J.H. Whitney Capital Partners, LLC. If you have any questions about the contents of this brochure, please contact us at (203) 716-6100. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (the “SEC”) or by any state securities authority.**

**Additional information about J.H. Whitney Capital Partners, LLC also is available on the SEC’s website at [www.advisorinfo.sec.gov](http://www.advisorinfo.sec.gov). An investment adviser’s registration with the SEC does not imply a certain level of skill or training.**

## **Item 2. Material Changes**

In the future Whitney Capital Partners will use this Item 2 in each annual update of this Brochure to discuss material changes that are made to this Brochure since the initial filing or the preceding annual update.

### **Item 3. Table of Contents**

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

J.H. Whitney Capital Partners, LLC, a Delaware limited liability company, is the sole member and owner of several other limited liability companies which provide investment advisory and management services to certain private investment limited partnerships. J.H. Whitney Capital Partners, LLC, and such other limited liability companies are collectively referred to as “Whitney Capital Partners”, and such private investment limited partnerships are collectively referred to as the “Whitney Funds”. The general partners of the Whitney Funds are limited liability companies that are related persons of Whitney Capital Partners (collectively, the “General Partners”). The Whitney Funds are excluded from the definition of investment company under the Investment Company Act of 1940, as amended (the “Investment Company Act”), and the limited partnership interests in the Whitney Funds were issued in transactions exempt from registration under the Securities Act of 1933, as amended (the “1933 Act”).

Each of the Whitney Funds is a privately offered investment limited partnership focused on making private equity investments. Whitney Capital Partners, in conjunction with the General Partner of each Whitney Fund, identifies investment opportunities for such Whitney Fund and has responsibility for the acquisition, monitoring, management and disposition of such investments for such Whitney Fund. The investment management and advisory services are provided to the Whitney Funds pursuant to the terms of the Whitney Funds’ limited partnership agreements (collectively, the “Partnership Agreements”) as well as separate advisory agreements with the Whitney Funds (collectively, the “Advisory Agreements”).

The Whitney Funds focus on private equity investing and receive capital commitments from their limited partners. Such commitments may be called down over a limited period (generally six years) for the purpose of making new private equity investments (the “Commitment Period”). Typically, two Whitney Funds are actively investing, (i) one excluded from the definition of investment company under Section 3(c)(7) of the Investment Company Act, and (ii) one so excluded under Section 3(c)(1) of such Act. These two Whitney Funds co-invest in each investment pro rata based on their respective total capital commitments. When a substantial portion (generally 75-80%) of the total capital commitments of these Whitney Funds has been invested or committed for investment, Whitney Capital Partners can begin the process of forming and obtaining capital commitments for a new Whitney Fund or Funds.

Whitney Capital Partners has been in business since 2004, although predecessor related entities have been in business since as far back as 1946. The owners of Whitney Capital Partners are James H. Fordyce, Paul R. Vigano, Peter M. Castleman, Robert M. Williams, Jr. and Michael C. Salvator. As of December 31, 2011, Whitney Capital Partners had approximately \$1,414,730,000 of client assets under management, all of which are managed on a discretionary basis.

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

Limited Partners in a Whitney Fund are charged management fees based on their committed capital or assets under management. During such Whitney Fund’s Commitment Period, the management fee is a percentage (generally 2%) of the limited partner’s capital commitment, and

after the Commitment Period, the management fee is reduced to a lower percentage or percentages of the limited partner's invested capital or, in some cases, capital commitment. Management fees are generally payable on a quarterly basis in advance.

The specific payment terms and other conditions of the management fees and/or carried interest allocations referred to in Item 6, below, are set forth in a Whitney Fund's Partnership Agreement and Advisory Agreement. Such terms are generally negotiated and established at the time that the Whitney Fund is established.

It is possible that for legal, regulatory or tax reasons, certain limited partners in a Whitney Fund may participate in a particular investment through an entity other than the Whitney Fund – an alternative investment vehicle or "AIV". Limited partners participating in such investment through an AIV may have different tax treatment with respect to their interests, but they pay the same management fees and carried interest and share the same expenses that they would have if they had invested through the Whitney Fund, and the amounts invested through the AIV are applied to their capital commitments to the Whitney Fund.

In connection with investments made by the Whitney Funds, Whitney Capital Partners or related entities may receive transaction fees, management and monitoring fees, directors' and other fees from the portfolio companies in which the Whitney Funds invest. See "Conflicts of Interest" under Item 11, below. Some or all of such fees may be applied to reduce management fees otherwise payable by the Whitney Funds to Whitney Capital Partners. In the case of certain Whitney Funds, Whitney Capital Partners may waive some of the management fees otherwise payable to it and have such amounts applied as contributions with respect to Whitney Capital Partners' capital commitment as a limited partner of such Whitney Fund.

To the extent provided in the Partnership Agreements and the Advisory Agreements, Whitney Capital Partners is responsible for the payment of certain operating expenses of the Whitney Funds, including administrative and overhead expenses and, to the extent not reimbursed by portfolio companies, expenses related to the acquisition, monitoring and managing of the Whitney Funds' investments. Other expenses are generally borne by the Whitney Funds, including organizational costs, out-of-pocket costs of administration, including legal, accounting, auditing and consulting expenses, litigation costs, indemnity obligations, insurance, brokerage, custody, interest and financing expenses, and similar costs and expenses.

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

In addition to the management fees described in Item 5, a portion of each Whitney Fund's net investment profit (generally 20%) is subject to allocation to such Whitney Fund's General Partner (or a related person) as a "carried interest". These performance fees comply with Section 205 of, and Rule 205-3 under, the Investment Advisers Act of 1940, as amended (the "Advisers Act"). The existence of the carried interest may create an incentive for the General Partner and Whitney Capital Partners to make riskier or more speculative investments on behalf of such Whitney Fund than would be the case in the absence of this arrangement. See "Conflicts of Interest" under Item 11, below.

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

Whitney Capital Partners provides investment advisory services to the Whitney Funds, which are private limited partnerships that invest primarily in private equity transactions. Investors in the Whitney Funds include high net worth individuals and various types of institutional investors such as private and public employee pension and benefit plans, charitable foundations, endowment funds, sovereign wealth funds, corporations, trusts and private partnership fund of funds. All investors in the Whitney Funds are required to be “accredited investors” (as defined in Regulation D promulgated under the 1933 Act), “qualified clients” (as defined in rules under the Advisers Act) and, with respect to the Whitney Funds excluded from the definition of investment company under Section 3(c)(7) of the Investment Company Act, “qualified purchasers” (as defined in such Act), and otherwise be permitted to invest in the Whitney Fund under any other applicable securities laws.

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

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

The Whitney Funds invest principally in small and middle market buyouts and recapitalizations of growth-oriented companies in the United States or with significant operations in the United States. In seeking private equity investments, Whitney Capital Partners looks for companies that are not achieving their full potential in which Whitney Capital Partners believes it can act as a change agent to achieve increased growth and profitability and build equity value. Whitney Capital Partners identifies investment opportunities primarily through a combination of its own proactive research, its network of contacts, including former portfolio company CEOs and directors and other contacts, and by monitoring broken auctions.

Whitney Capital Partners performs extensive research and due diligence with respect to each prospective investment. Business due diligence by Whitney Capital Partners personnel and outside consultants, if needed, includes a detailed review of the target company’s business operations, an assessment of its management, an analysis of the target’s industry and its competitors and a review and analysis of the target’s customers and suppliers. Typically working with outside professionals, Whitney Capital Partners performs a detailed accounting, tax, legal, environmental, IT systems and insurance and benefits review of the target. It develops a specific and detailed post-investment action plan aimed at improving the target’s performance. As a general rule, at least one Whitney Capital Partners investment professional becomes a member of an acquired company’s Board of Directors.

## **Risks.**

Investing in a Whitney Fund involves a substantial amount of risk. A Whitney Fund may lose all or a substantial portion of its investments. An investor in a Whitney Fund must be prepared to bear the risk of the loss of its entire investment.

Material risks relating to investments in Whitney Funds include the following:

**Nature of Investments.** A substantial portion of the Whitney Funds' investments are and will be in equity or equity-related investments which by their nature involve business, financial, market, and/or legal risks. While such investments offer the opportunity for significant capital gains, they also involve a high degree of risk and uncertainty that can result in substantial losses. There can be no assurance that the investment professionals of Whitney Capital Partners will correctly evaluate the nature and magnitude of the various factors that could affect the value of such investments. Some investments may involve underperforming companies or companies identified as being in need of additional capital. The financial condition of such companies may be weak or their balance sheets highly leveraged, and any investment in them may involve a high degree of risk.

Most of the Whitney Funds' investments are and will be in private securities. In connection with the disposition of an investment in private securities, the Whitney Funds may be required to make representations about the business and financial affairs of the company typical of those made in connection with the sale of a business. The Whitney Funds also may be required to indemnify the purchasers of such investment to the extent that any such representations turn out to be inaccurate. These indemnity arrangements may result in contingent liabilities that ultimately may require funding obligations that must be satisfied by the partners to the extent of their commitments.

**Use of Leverage.** The Whitney Funds may invest in leveraged acquisition transactions or in companies that have a significant amount of indebtedness. In addition, portfolio companies may incur indebtedness in connection with various corporate transactions, such as acquisitions, self-tender offers, recapitalizations and others, that may be undertaken contemporaneously with or subsequent to the Fund's investment in such company. A highly leveraged company is generally more sensitive to downturns in its business and to changes in prevailing economic conditions than is a company with a lower level of debt. The ability of portfolio companies to refinance debt securities may depend on their ability to sell new securities in the public high-yield debt market or otherwise. While leverage may enhance total returns to investors, if investment results fail to cover borrowing costs returns to the investors will be lower than if there had been no borrowings.

In addition, such levels of indebtedness could have significant consequences on the Whitney Funds' investments in such companies, including (i) a substantial portion of a company's cash flow from operations may be used to pay principal of and interest on its indebtedness and may not be available for other purposes, (ii) a company's ability to obtain financing in the future for working capital needs, capital expenditures, acquisitions, investments, general corporate purposes or other purposes may be materially limited or impaired, and (iii) a company's level of

indebtedness may reduce its flexibility to respond to changing business and economic conditions. Also, increased interest rates generally increase portfolio company interest expenses.

Finally, the Whitney Funds may enter into credit facilities to be utilized, among other things, in anticipation of receiving contributions following capital calls. To obtain such a credit facility generally requires that a Whitney Fund pledge the unfunded commitments of its partners as security. In the event of a default under such a facility, the lender could foreclose on such unfunded commitments.

**Unspecified Investments; Lack of Sufficient Investment Opportunities.** An investor in a Whitney Fund must rely upon the ability of Whitney Capital Partners and the Whitney Fund's General Partner to identify, structure and implement investments consistent with the Whitney Fund's investment objectives and policies. It is possible that the Fund may never be fully invested if enough sufficiently attractive investments are not identified. The business of identifying and structuring private equity transactions is highly competitive and involves a high degree of uncertainty. During a Whitney Fund's Commitment Period, limited partners generally pay management fees based on the entire amount of their Commitments regardless of the amount actually invested.

**Illiquidity; Restrictions on Transfer and Withdrawal.** Interests in the Whitney Funds are illiquid. Such interests are not registered under the 1933 Act or the securities laws of any state or the laws of any non-U.S. jurisdiction, and may not be transferred unless registered under applicable U.S. federal and state securities laws or unless an exemption from such law is available. No market exists for interests in the Whitney Funds and none is expected to develop. Further, approval by the General Partner is generally required for any transfer of a partnership interest in, or withdrawal by a limited partner from, a Whitney Fund, which approval may (with limited exceptions) be withheld at the sole discretion of the General Partner. Consequently, holders of interests in the Whitney Funds may not be able to readily liquidate their investment, and such interests should be considered long-term, illiquid investments.

**Time Required to Maturity of Investments; Illiquidity of Investments; No Current Return.** There may be a significant period of time (up to six years or more) before a Whitney Fund completes its investments in portfolio companies. Such investments may typically take from three to seven years from the date of initial investment to reach a state of maturity when realization of the investment can be achieved. Transaction structures typically will not provide liquidity for the Whitney Fund's investments prior to that time.

All or a substantial portion of a Whitney Fund's investments may consist of securities that are subject to restrictions on sale by the Whitney Fund because they were acquired from the issuer in "private placement" transactions or because the Whitney Fund is deemed to be an affiliate of the issuer. Generally, the Whitney Fund will not be able to sell these securities publicly without the expense and time required to register the securities under the 1933 Act, or will be able to sell the securities only under Rule 144 or other rules under the 1933 Act, which permit only limited sales under specified conditions. When restricted securities are sold to the public, the Whitney Fund may be deemed an "underwriter," or possibly a controlling person, with respect thereto for purposes of the 1933 Act and may be subject to liability as such under the 1933 Act.

In addition, practical limitations may inhibit a Whitney Fund's ability to liquidate certain of its investments in portfolio companies, since the issuers are privately held and the Whitney Fund may own a relatively large percentage of the issuer's equity securities. Sales also may be limited by market conditions, which may be unfavorable for sales of securities of particular issuers or issuers in particular industries. The above limitations on liquidity of the Whitney Fund's investments could prevent a successful sale thereof, result in the delay of any sale, or reduce the amount of proceeds that might otherwise be realized.

The expenses of operating a Whitney Fund (including the management fees payable to Whitney Capital Partners) may exceed its income, thereby requiring that the difference be paid from the Whitney Fund's capital. It is uncertain as to when profits, if any, will be realized. Losses on unsuccessful investments may be realized before gains on successful investments are realized. The return of capital and the realization of gains, if any, will generally occur only upon the partial or complete disposition of an investment. While an investment may be sold at any time, it is not generally expected that this will occur for a number of years after the initial investment. Prior to such time, there often will be no current return on the investments.

**Concentration of Investments.** A Whitney Fund will participate in a limited number of investments and may seek to make several investments in one industry or one industry segment. As a result, a Whitney Fund's investment portfolio could become highly concentrated and its aggregate return may be affected substantially by the performance of a few holdings.

**Follow-On Investments.** A Whitney Fund may be called upon to provide follow-on funding for its portfolio companies or have the opportunity to increase its investment in such portfolio companies. There can be no assurance that the Whitney Fund will wish to make follow-on investments or that it will have sufficient funds to do so, and any decision not to make follow-on investments or its inability to make them may have a substantial negative impact on a portfolio company in need of such an investment or may diminish the Whitney Fund's ability to influence the portfolio company's future development.

**Third-Party Involvement.** Whitney Funds may co-invest with third parties through joint ventures or other entities, including with other private equity funds. The co-investment commitment to a portfolio company may be substantial. Such investments may involve risks not present in investments where third parties are not involved, including the possibility that a co-investor of the Whitney Fund may experience financial, legal or regulatory difficulties, may at any time have economic or business interests or goals which are inconsistent with those of the Fund, may take a different view from that of Whitney Capital Partners and the Whitney Fund's General Partner's as to the appropriate strategy for an investment, or may be in a position to take action contrary to the Whitney Fund's investment objectives. In addition, the Whitney Fund may, in certain circumstances, be liable for the actions of its third-party co-investors.

**Regulatory Clearances And Approvals Affect Certain Investments.** Some of the companies in which a Whitney Fund invests may be subject to government regulation in the U.S. and elsewhere. The products or services of such companies are dependent upon obtaining regulatory clearances and approvals in various jurisdictions. The process of obtaining these approvals can be lengthy, expensive and uncertain, and there is no assurance that these approvals will be obtained. Failure to obtain these approvals could have a significant adverse effect on a portfolio

company's performance or the ability of the Whitney Fund to dispose of its investments in the portfolio company at an attractive time or price.

**Management.** Decisions with respect to the management of each Whitney Fund are made by the General Partner of such Whitney Fund with the advice of Whitney Capital Partners. The success of a Whitney Fund depends on the ability of its General Partner and Whitney Capital Partners to identify and consummate investments, to improve the operating performance of portfolio companies and to dispose of investments of such Whitney Fund at a profit. The loss of the services of one or more members of the professional staff of Whitney Capital Partners or of the members of the General Partner of a Whitney Fund could have an adverse impact on such Whitney Fund's ability to realize its investment objective. In addition, it is expected that all of the officers and employees responsible for managing a particular Whitney Fund will continue to have responsibilities with respect to other Whitney Funds. Thus such persons will have demands made on their time for the investment, monitoring, exit strategy and other functions of other Whitney Funds. Although Whitney Capital Partners monitors the performance of each Whitney Fund investment, it is and will be the responsibility of each portfolio company's management team to operate the portfolio company on a day-to-day basis. While the Whitney Funds look to invest in companies with strong management, there can be no assurance that the existing management of such companies will operate a company successfully.

**Adverse Market Conditions.** The lack of available credit and/or the increased cost of credit may materially adversely affect the ability of the Whitney Funds to obtain sufficient funds to consummate transactions. The limited availability of credit may result in the Whitney Funds having to obtain financing at an increased rate and/or having to invest a higher than desired percentage of equity in a portfolio company, both of which may reduce the net investment return earned by the Fund. Similarly, increases in interest rates and limitations on the availability of credit may materially adversely affect the operating performance of the portfolio companies in which the Whitney Funds invest, particularly if such companies rely heavily on borrowings. In addition, disruptions in debt and equity markets may make it more difficult for the Whitney Funds to exit and realize value from their investments because potential buyers of portfolio companies may not be able to finance acquisitions and the equity markets have become less favorable for initial public offerings. Market disruption may also contribute to extreme price and volume fluctuations in the stock market. This volatility has affected the market prices of securities issued by many companies for reasons unrelated to their operating performance and may adversely affect the price of securities of portfolio companies in which the Whitney Funds invest.

**Non-U.S. Business.** A Whitney Fund may invest in portfolio companies that do significant business outside the U.S. Non-U.S. businesses involve certain risks not typically associated with businesses in the U.S., including (i) currency exchange matters, including fluctuations in the exchange rates between the U.S. dollar and foreign currencies, (ii) differences between U.S. and non-U.S. securities markets, including the higher price volatility and relative illiquidity of many non-U.S. securities markets, (iii) differences in accounting, auditing and financial reporting standards, practices and disclosure requirements, less government supervision and regulation, and different legal systems and laws, (iv) certain economic and political risks, including the potential imposition of exchange controls and restrictions on repatriation of capital and income, the risks of political, economic or social instability and the possibility of expropriation or

confiscatory taxation and (v) the possible imposition of non-U.S. taxes and additional U.S. taxes with respect to such business.

**Economic and Market Risk.** Companies in which the Whitney Funds invest may be sensitive to movements in the overall economy or in those companies' industrial or economic sectors. A recession or adverse development in the securities or financial markets might have an adverse impact on some or all of the Whitney Funds' investments. In addition, factors specific to a portfolio company may have an adverse effect on a Whitney Fund's investment in such company.

**Director Liability.** A Whitney Fund often receives the right to appoint representatives to serve on the board of directors of portfolio companies. The designation of directors could expose the assets of the Whitney Fund to claims by a portfolio company, its security holders and its creditors.

**Recourse To The Partnership's Assets.** A Whitney Fund's assets, including any investments and any funds held by the Whitney Fund, are available to satisfy all liabilities and other obligations of the Whitney Fund. If the Whitney Fund becomes subject to a liability, parties seeking to have the liability satisfied may have recourse to the Whitney Fund's assets generally and not be limited to the particular investment giving rise to the liability.

**Indemnification.** Whitney Capital Partners, the Whitney Fund's General Partner and certain related persons are entitled to indemnification from the Whitney Fund, except under certain limited circumstances. Any such indemnification payments will reduce amounts that would otherwise be payable to the Whitney Fund's limited partners.

**Defaults by Limited Partners.** If a limited partner in a Whitney Fund fails to contribute any portion of its commitment upon a call by the Whitney Fund's General Partner, such limited partner may be subject to a number of remedies available to the General Partner under the Whitney Fund's Partnership Agreement. If a limited partner defaults on a capital call, the non-defaulting limited partners may be required to increase their contributions to the Fund (not exceeding their remaining commitments) in order to make up for any shortfall amount resulting from the default of a limited partner.

**Taxation Matters.** The tax treatment of an investment in a Whitney Fund can be complex. Prospective investors should consult their own tax advisors with respect to their own tax situation and the effects of an investment in such Whitney Fund.

## **Item 9. Disciplinary Information**

Item 9 is not applicable.

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

The investment advisors to certain private investment limited partnerships that were in existence prior to the formation of Whitney Capital Partners in 2004 (private equity funds and one fund with a focus on mezzanine and other debt investments) are limited liability companies owned by

Whitney Holdings LLC. Such investment funds are referred to as the “Whitney Holdings Funds”. Whitney Holdings LLC is not registered with the SEC as an investment adviser but is an exempt reporting adviser. Whitney Holdings LLC and the General Partners of the Whitney Holdings Funds have more than 25% common ownership with Whitney Capital Partners. Whitney Holdings LLC has the same principal place of business as Whitney Capital Partners, and the employees of Whitney Holdings LLC are subject to the Whitney Capital Partners’ Code of Ethics and its other compliance policies and procedures.

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

### **Code of Ethics**

Whitney Capital Partners has adopted a Code of Ethics as part of its overall internal compliance program. The Code of Ethics includes policies and procedures (a) setting standards of conduct reflecting the fiduciary obligations of Whitney Capital Partners and its personnel, (b) requiring its personnel to comply with applicable securities laws, including those aimed at protecting against the misuse of material nonpublic information, and (c) relating to personnel securities trading by its personnel. The personal trading policy requires that each person covered by the policy submit to the Chief Compliance Officer of Whitney Capital Partners (1) an annual report listing securities beneficially owned by such person and certain members of such person’s family sharing the same household, and (2) reports for each calendar quarter specifying any securities transactions effected by such persons during such quarter. In addition, transactions in certain securities, including those of companies on Whitney Capital Partners’ restricted list, are subject to pre-approval by the Chief Compliance Officer. The Code of Ethics is designed to prevent, among other things, any improper conduct whenever any potential conflict of interest may exist with respect to any Whitney Fund. A copy of the Code of Ethics is available to investors and potential investors in any Whitney Fund upon written request to Kevin J. Curley, Chief Compliance Officer, J.H. Whitney Capital Partners, LLC, 130 Main Street, New Canaan, CT 06840.

### **Conflicts of Interest**

In the ordinary course of its activities, the interests of a Whitney Fund may conflict with the interests of another Whitney Fund or Whitney Capital Partners or their respective affiliates and related persons. Also, the interests of a Whitney Fund and a Whitney Holdings Fund may conflict in situations where both funds have investments in the same company, including, for example, where a Whitney Holdings Fund holds debt securities of a company in which a Whitney Fund is an equity holder. Certain of these conflicts of interest are described below along with certain procedures utilized to resolve conflicts of interest.

**Resolution of Conflicts.** Each of Whitney Capital Partners and Whitney Holdings LLC, acting in its sole discretion, will use its best judgment in dealing with any conflicts of interests. In resolving any conflict between a Whitney Fund and a Whitney Holdings Fund, Whitney Capital Partners will act on behalf of the Whitney Fund, and Whitney Holdings LLC will represent the Whitney Holdings Fund. If a conflict arises between two Whitney Funds, Whitney Capital Partners will resolve such conflict.

The following factors may alleviate, but not eliminate, certain conflicts of interest involving the Whitney Funds:

- No investment will be made by a Whitney Fund unless Whitney Capital Partners and the Whitney Fund's General Partner believe that such investment is an appropriate investment solely from the perspective of such Whitney Fund.
- The Whitney Funds have advisory boards comprised of representatives of limited partners that are unaffiliated with Whitney Capital Partners or the General Partner of such Whitney Fund ("Advisory Boards"). Conflicts of interest can be referred to the Advisory Boards for consultation and/or resolution in accordance with the provisions of the Partnership Agreements.
- If deemed appropriate by Whitney Capital Partners in its sole discretion, unaffiliated third parties may be consulted with to help resolve conflicts.

**Management Fees; Carried Interest; Other Fees.** Management fees payable by a Whitney Fund to Whitney Capital Partners and the carried interest that the General Partner (or a related person) of such Whitney Fund receives are not necessarily established on the basis of an arm's-length negotiation among the Whitney Fund, Whitney Capital Partners and the General Partner and the limited partners of such Whitney Fund. In addition, the existence of the carried interest may create an incentive for the General Partner and Whitney Capital Partners to make riskier or more speculative investments on behalf of the Whitney Fund than would be the case in the absence of this arrangement. As indicated in Item 5, above, Whitney Capital Partners or related entities may receive transaction fees, management and monitoring fees, directors' and other fees from the portfolio companies in which the Whitney Funds invest. The possibility of receiving such fees could be deemed to create an incentive for the General Partner and Whitney Capital Partners to make investments that may not be in the best interests of the Whitney Fund and its limited partners. The impact of any such potential conflict of interest is alleviated by the fact that some or all of such fees may be applied to reduce management fees otherwise payable by the Whitney Funds to Whitney Capital Partners.

**Diverse Investors.** The limited partner investors in the Whitney Funds may have conflicting tax and other interests with respect to their investments. The conflicting interests of individual limited partners may relate to or arise from, among other things, the nature of the Whitney Fund's investments, the structuring or the acquisition of investments and the timing of disposition of the Whitney Fund's investments. As a consequence, conflicts of interests may arise in connection with decisions made by the General Partner Whitney Capital Partners that may be more beneficial for one investor than for another investor, including with respect to the nature or structuring of investments, especially with respect to investors' individual tax situations. In selecting and structuring investments appropriate for the Whitney Fund, the General Partner and Whitney Capital Partners consider the investment and tax objectives of the Whitney Fund and its partners as a whole, and not the investment, tax or other objectives of any limited partner individually. To the extent that an AIV is utilized in connection with a Whitney Fund investment, the limited partners participating in such investment through such AIV may have different tax treatment for such investment than the limited partners participating through the Whitney Fund.

**Side-Letters.** The General Partner of a Whitney Fund may enter into separate agreements with limited partners that contain terms and provisions that are in addition to those set forth in the Whitney Fund's Partnership Agreement and that will not necessarily be applicable to all limited partners in such Whitney Fund. The provisions of these side-letter agreements may relate to various matters, including without limitation confidentiality obligations, co-investment, rights, special reporting provisions, tax matters and Advisory Board matters.

**Allocation of Investment Opportunities.** Over the years Whitney Capital Partners and its predecessors have sponsored both private equity funds and other types of investment funds, including mezzanine debt funds, and it is possible that it may do so in the future. These funds may vary substantially in size, investment objectives, acceptable risk levels, return targets, permissible asset classes, preferred asset classes and liquidity requirements. It is possible that an investment opportunity may be appropriate for more than one Whitney Fund. Under such circumstances, if the amount of an investment available to the Whitney Funds should be less than the aggregate amount that the funds desire to purchase, an allocation will be made in accordance with Whitney Capital Partners' allocation policy. As a general rule, allocations will be made on a fair and equitable basis so that each fund is treated fairly, taking into account various factors, including the amounts desired by the funds, legal requirements, appropriate minimum investment amounts, applicable investment restrictions and limitations, and available capital. In connection with any investment by a Whitney Fund in which an affiliated Whitney Fund is expected to participate or has made or will make an investment, such Whitney Funds may have conflicting interests, particularly if the Whitney Funds invest in different classes or types of securities of the same company. In particular, structuring the financing of an acquisition or other transaction and establishing the terms and conditions of the equity and subordinated and/or other debt securities involve inherent conflicts. In addition, conflicts may arise during the period that investments are held in a portfolio company by more than one Whitney Fund.

**Allocations among Private Equity Funds.** When two or more Whitney Funds are formed for the purpose of making the same investments (e.g., a 3(c)(7) fund and a 3(c)(1) fund), investments will be allocated among these Whitney Funds based on their relative capital commitments, subject to legal requirements and appropriate minimum investment amounts that may be established. Generally, a new Whitney Fund does not begin investment activities until its predecessor Whitney Fund has invested or committed a significant portion of its aggregate capital commitments (generally 75- 80%). With respect to an additional round of financing for a portfolio company in which the predecessor Whitney Fund is already an investor, the predecessor Whitney Fund will be allocated as much of the new round as it desires (taking into account its available capital and applicable investment limitations) before an allocation is made to the new Whitney Fund. If there is a new investment opportunity in a company that is not in the portfolio of the predecessor Whitney Fund, and the predecessor Whitney Fund's remaining capital commitments exceed amounts reserved for expenses and add-on investments in its existing portfolio companies, the Private Equity Investment will be allocated between the predecessor Whitney Fund and the new Whitney Fund by Whitney Capital Partners taking into account such factors as the relative amount of capital available to each Whitney Fund for the investment, whether a pro rata allocation based on available capital would result in an investment deemed too small for one of the Whitney Funds, and whether the investment by the predecessor Whitney Fund would cause it to exceed any of its investment limitations.

**Co-Investments.** Certain Whitney Fund investments may be deemed appropriate for co-investments by third parties. Subject to any Partnership Agreement restrictions or any side-letter provisions negotiated with specific limited partners, no Whitney Fund limited partner has a right to participate in any co-investment opportunity. Decisions with respect to the offering of co-investment opportunities are made by Whitney Capital Partners in its sole discretion, and may be offered to some, but not all, limited partners, as well as to related parties of Whitney Capital Partners and other unrelated third parties.

**Whitney Personnel.** Whitney Capital Partners personnel have responsibility for managing multiple Whitney Funds. Conflicts of interest may arise in making allocations of time and duties among such personnel. Whitney Capital Partners and related persons generally acquire limited partnership interests in each Whitney Fund and are generally subject to the same terms and conditions of the Partnership Agreements that are applicable to all limited partners, other than the payment of management fees and carried interests (“Internal Limited Partner Interests”). While such investments are intended to align the interests of Whitney Capital Partners and its personnel with those of the unrelated limited partners, they may still give rise to potential conflicts of interest. The Partnership Agreements contain provisions that attempt to deal with such conflicts (e.g., by disregarding the existence of the Internal Limited Partner Interests determining whether certain actions have been approved or consented to by the requisite limited partner interests).

**Gifts and Entertainment.** Third parties with whom Whitney Capital Partners does business may occasionally provide gifts and entertainment to Whitney Capital Partners personnel. Whitney Capital Partners and its related persons may enter into transactions and relationships with such third parties on behalf of Whitney Funds. Such gifts and entertainment may create a conflict of interest in the selection of third party providers to the Whitney Funds. To address this conflict, Whitney Capital Partners has adopted policies and procedures that prohibit the receipt of gifts or entertainment having substantial value. It also has policies to monitor and limit political contributions that its personnel make to public officials and candidates for elected office in accordance with the requirements of Rule 206(4)-5 under the Advisers Act.

## **Item 12. Brokerage Practices**

The Whitney Funds focus on making private equity investments in non-publicly traded securities. As a result, they do not typically trade in public securities. In the limited instance where a Whitney Fund may purchase public securities in connection with a private equity transaction or sell public securities of a portfolio company that has become a public company, Whitney Capital Partners seeks to obtain best execution in executing such transactions. In selecting brokers for such transactions, the lowest commission cost or dealer spread is not the sole concern of Whitney Capital Partners. It also takes a number of qualitative factors into account, including, without limitation, the financial stability and reputation of the broker, the quality and reliability of the brokerage services and any special execution capabilities such as the ability to efficiently deal with sales of significant positions of a particular portfolio company.

Whitney Capital Partners does not utilize soft dollar arrangements and does not direct trading activity in lieu of payments for research or other services.

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

All Whitney Fund investments are carefully reviewed and must be approved by Whitney Capital Partners' investment committee of senior investment professionals. All portfolio companies are closely monitored on a regular basis. Portfolio company valuations are reviewed quarterly by the investment committee.

Whitney Capital Partners provides quarterly and annual reports to the investors in each Whitney Fund, including annual audited financial statements, in accordance with the requirements of the Partnership Agreement of such Whitney Fund.

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

Whitney Capital Partners may, in certain situations, retain a third party to assist in the solicitation of certain potential investors in new Whitney Funds. Payments to any such third party would be in compliance with all applicable SEC rules and any other laws and regulations.

### **Item 15. Custody**

All assets of the Whitney Funds are held by unaffiliated brokers and banks that serve as qualified custodians. However, under SEC rules, Whitney Capital Partners may be deemed to have access to such assets. The Whitney Funds' financial statements are audited annually by an independent public accounting firm that is registered with, and subject to regular inspection by, the Public Company Accounting Oversight Board. The audited financial statements of each Whitney Fund are distributed to the investors in such Whitney Fund within 120 days of its fiscal year end.

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

As indicated above, Whitney Capital Partners has discretionary authority to make all investment decisions with respect to each Whitney Fund, subject to any restrictions contained in such Whitney Fund's Partnership Agreement or in any side letter that the Whitney Fund may enter into with any of its investors.

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

The Whitney Funds invest in private companies which generally do not issue proxies. However, if a portfolio company goes public, it becomes subject to the SEC proxy rules. Whitney Capital Partners has adopted a Proxy Voting Policy. It is Whitney Capital Partners' policy to vote all proxies in respect to client securities for the exclusive benefit of and in the best economic interests of the Whitney Funds. Whitney Capital Partners seeks to do this in the manner that, in its judgment, is most likely to maximize total return to the Whitney Funds as investors in the securities being voted. Generally, Whitney Capital Partners votes proxies on a case-by-case basis and each proxy is given to a member of its Proxy Voting Committee for evaluation and determination. In certain cases, Whitney Capital Partners may determine that the costs associated with certain proxies outweigh any benefits to its clients and may refrain from voting

in these cases. The Policy includes provisions for appropriately resolving any material conflicts of interest that may arise in voting proxies. Investors and prospective investors in any Whitney Fund wishing to receive a copy of the Policy or information as to how the Fund voted securities may do so by making a written request to Kevin J. Curley, Chief Compliance Officer, J.H. Whitney Capital Partners, LLC, 130 Main Street, New Canaan, CT 06840.

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

Item 18 is not applicable.