

# INTERMARKET CORPORATION

## FORM ADV

### Uniform Application for Investment Adviser Registration Part 2

Intermarket Corporation  
1370 Avenue of the Americas, 33rd Floor  
New York, NY 10019-4602  
United States of America  
212-593-1550  
212-832-4997

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**This brochure provides information about the qualifications and business practices of Intermarket Corporation. If you have any questions about the contents of this brochure, please contact us at 212-593-1550. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority. Additional information about Intermarket Corporation also is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). Registration does not imply a certain level of skill or training.**

**Item 2      Material Changes**

Not applicable.

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

Intermarket Corporation was founded as a New York corporation in 1969 and its principal owners are David B. Forer and Thomas P. Borger. Intermarket Corporation, together with its affiliates, Intermarket L.P.<sup>1</sup> and Intermarket Management L.P.<sup>2</sup> (referred to collectively hereinafter as “Intermarket”) serves as the investment adviser to private investment funds focused primarily on investing in events related to corporate restructuring and in securities of distressed companies. Intermarket provides investment management services to certain pooled investment vehicles (each, a “Fund”) with similar investment objectives, strategies and policies. Intermarket is controlled by Thomas Borger and David Forer who are primarily responsible for the day-to-day management of the Funds.

Intermarket is committed to situational or event-driven investing and, consistent with this style, it has maintained a flexibility of emphasis that permits it to take advantage of and profit from opportunities particular to a specific period.

Investors in the Funds (each, an “Investor”) invest with Intermarket by purchasing interests or shares in a Fund when the Fund is raising capital. Please refer to Item 8 for a more detailed description of our investment strategies.

As of December 31, 2011, Intermarket managed approximately \$618 million in net assets. All of these assets are managed on a discretionary basis. Intermarket does not provide non-discretionary investment advisory services.

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

##### **Management Fee**

Intermarket receives a fixed annual management fee (the “Management Fee”) from each Fund with respect to each Investor that may differ from Fund to Fund but is generally 1.00% of each Investor’s capital account. Management Fees are payable quarterly in advance and are deducted from the account of each Fund. A prorated Management Fee is charged with respect to any capital contributions made other than as of the beginning of a quarter. Intermarket may, in its sole discretion, reduce, waive or calculate differently the Management Fee with respect to any Investor, including, without limitation, Investors that are affiliates or employees of Intermarket.

##### **Incentive Amounts**

Intermarket is entitled to receive a performance based fee or allocation (“Incentive Amount”) from the Funds. Generally, at the end of each fiscal year, 20% of the aggregate net profits, if any, attributable to each Investor are reallocated or paid to Intermarket and/or certain of its affiliates, subject to a high water mark. If an Investor withdraws all or a portion of its investment from a Fund other than at the end of a fiscal year, net profit and net loss will be determined through the withdrawal date as if such date were the end of the fiscal year and an Incentive Amount, if any, with respect to the withdrawn amount will be reallocated to Intermarket and/or certain of its affiliates as set forth above. Intermarket may reduce, waive or calculate differently the Incentive Amount with respect to any Investor, including, without limitation, Investors that are affiliates or employees of Intermarket.

At the end of each fiscal quarter, the domestic Funds may advance to Intermarket and/or certain of its

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<sup>1</sup> Intermarket Corporation is the general partner of Intermarket L.P., a Delaware limited partnership organized in 2004 that serves as managing member to two Delaware private investment funds, Fernwood Associates LLC and Fernwood Foundation Fund LLC.

<sup>2</sup> Intermarket Corporation is the general partner of Intermarket Management L.P., a Delaware limited partnership organized in 2000 that serves as investment manager to Fernwood Restructurings Limited, a private investment fund organized in the British Virgin Islands.

affiliates an amount estimated by Intermarket to be equal to the portion of the Incentive Amount, if any, accrued during such fiscal quarter with respect to each Investor (an “Advance”); provided that the Advance attributable to an Investor shall be net of net losses allocated to such Investor in an earlier fiscal quarter during the same fiscal year. In the event that the aggregate Advances received during a fiscal year exceed the Incentive Amount determined at the end of such fiscal year, Intermarket shall return such excess amount. The Incentive Amount may create an incentive for Intermarket to cause the Fund to make investments that are riskier or more speculative than would be the case in the absence of the Incentive Amount.

### **Other Fees and Expenses**

In addition to Management Fees and Incentive Amount, Funds pay, and ultimately Investors bear, other types of fees and expenses as specified in each Fund’s confidential private placement memorandum. Typically, a Fund is responsible for all costs and expenses in connection with its operation and investments (*e.g.*, expenses which Intermarket determines to be related to the investment of the Fund’s capital, such as brokerage commissions, clearing and settlement charges, bank service fees, interest expenses, custodial fees, expenses relating to consultants, attorneys, brokers or other professionals or advisers who provide research, advice or due diligence services with regard to investments, appraisal fees and expenses, and investment banking expenses), legal expenses, internal and external accounting expenses, auditing and tax preparation expenses, custodial and prime brokerage expenses, fees and expenses of the administrator, fees and out-of-pocket expenses of any service company retained to provide fund accounting, bookkeeping and administrative services and extraordinary and nonrecurring expenses.

While no specific custodian fee is payable by the Funds, each Fund receives transaction charges in relation to such Fund’s investments. The Funds are subject to brokerage and other transaction costs. Brokerage is described in more detail below in response to Item 12.

### **Item 6 Performance-Based Fees and Side-By-Side Management**

Intermarket accepts performance-based fees, as described above in response to Item 5 (Incentive Amount). Intermarket does not manage client accounts that are not charged performance-based fees.

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

Intermarket’s only clients are the Funds, which are pooled investment vehicles organized within or outside the United States that are not required to be registered with the SEC under the Investment Company Act of 1940 in reliance on an exception from the definition of an investment company under that Act, and the offering of interests in the Funds is exempt from registration under the Securities Act of 1933.

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

#### **Investment Program: Investment Strategies and Method of Analysis**

Intermarket’s primary investment objective is to maximize long term capital growth of the Funds through investment in securities and other financial instruments that are undervalued. Intermarket aims to achieve this objective through investment in securities of distressed companies. Intermarket may also from time-to-time opportunistically invest a Fund’s assets in other event-driven investments. The instruments purchased and sold by Intermarket on behalf of the Funds to achieve this objective may range across a wide variety of credit, equity and structured products, with a bias for investing in senior secured debt securities. Many of these investments will be in businesses that are reorganizing under the United States Bankruptcy Code or are otherwise financially or operationally distressed.

Intermarket performs a financial analysis of the company proposed for investment, with special emphasis placed upon cash flow and asset valuation. Those situations where a discrepancy exists between a given security’s current market price and Intermarket’s determined “reconstituted” value that occur as a result

of a restructuring or the term of the relevant security, if Intermarket believes that the issuer will not default on the terms of the security, are deemed to represent an investment opportunity for a Fund.

Intermarket generally invests substantially all of a Fund's assets (except to the extent assets are retained in cash or similar liquid investments) in securities of distressed companies, with a bias toward senior secured debt positions. However, the Funds managed by Intermarket may invest in a wide range of corporate situations. As the economic climate changes in the future, however, Intermarket may change the emphasis of a Fund's investment policy to take advantage of different situations that may arise.

Fund investments are typically in the publicly-traded equity and both public and private debt securities of both U.S. and non-U.S. companies, but the Funds are not restricted in the types of securities they may purchase. The Funds are authorized to invest in and trade all types of securities and financial instruments, including, but not limited to, loans, loan participations, creditor claims, litigation claims, preferred equity, common equity, derivatives and structured products ("Securities"). Securities may or may not be collateralized, and may bear fixed, contingent or variable rates of interest or carry equity features such as conversion or exchange rights, warrants for the acquisition of shares or stock of the same or a different issuer, or rights to participate in revenues or profits. A Fund's assets may, in the sole discretion of Intermarket, be invested in Securities for which a regular public trading market does not exist.

Intermarket's investment program entails substantial risks and there can be no assurance that Intermarket's investment objective with respect to a Fund will be achieved.

### **Material Risks of Investment Strategy**

General Economic and Market Conditions. The success of a Fund's activities will be affected by general economic and market conditions, such as interest rates, availability of credit, inflation rates, economic uncertainty, changes in laws (including laws relating to taxation of the Fund's investments), and national and international political circumstances (including wars, terrorist acts or security operations). These factors may affect the level and volatility of securities prices and the liquidity of the Fund's investments. Volatility or illiquidity could impair the Fund's profitability or result in losses. A Fund may maintain substantial trading positions that can be adversely affected by the level of volatility in the financial markets; the larger the positions, the greater the potential for loss.

Transaction Risks. Liquidations (both compulsory and voluntary) and other forms of corporate reorganization involve the risk that the reorganization will be unsuccessful, will be delayed or will result in a distribution of cash or a new security, the value of which will be less than the purchase price to a Fund of the security in respect of which such distribution was made.

Concentration of Investments. Although the Funds follow a general policy of seeking to spread capital at risk among a number of investments deemed attractive, a Fund may at certain times hold a few, relatively large (in relation to its capital) securities positions, with the result that a loss in any such position could have a material adverse impact on the Fund's capital.

Non-U.S. Investments. The Funds may invest in financial instruments of non-U.S. corporations and governments. Investing in the financial instruments of companies (and, from time to time, governments) outside of the United States involves certain considerations not usually associated with investing in financial instruments of U.S. companies or the U.S. government, including political and economic considerations, such as greater risks of expropriation, nationalization, confiscatory taxation, limitations on the removal of assets and general social, political and economic instability; the relatively small size of the securities markets in such countries and the low volume of trading, resulting in potential lack of liquidity and in price volatility; the evolving and unsophisticated laws and regulations applicable to the securities and financial services industries of certain countries; fluctuations in the rate of exchange between currencies and costs associated with currency conversion; and certain government policies that may restrict a Fund's investment opportunities. In addition, accounting and financial reporting standards that prevail outside of the U.S. may not be as high as U.S. standards and, consequently, less information is

typically available concerning companies located outside of the U.S. than for those located in the U.S. As a result, a Fund may be unable to structure its transactions to achieve the intended results or to mitigate all risks associated with such markets. It may also be difficult to enforce a Fund's rights in such markets. For example, financial instruments traded on non-U.S. exchanges and the non-U.S. persons that trade these instruments are not subject to the jurisdiction of the SEC or U.S. Commodity Futures Trading Commission or the securities and commodities laws and regulations of the U.S. Accordingly, the protections accorded to the Fund under such laws and regulations are unavailable for transactions on foreign exchanges and with foreign counterparties.

Highly Volatile Markets. The prices of derivative instruments can be highly volatile. Price movements of forwards, futures and other derivative contracts in which a Fund's assets may be invested are influenced by, among other things, interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, and national and international political and economic events and policies. In addition, governments from time to time intervene, directly and by regulation, in certain markets, particularly those in currencies, financial instrument futures and options. Such intervention often is intended directly to influence prices and may, together with other factors, cause all of such markets to move rapidly in the same direction because of, among other things, interest rate fluctuations. A Fund also is subject to the risk of the failure of any of the exchanges on which its positions trade or of their clearinghouses.

Taxes and Derivatives. In addition, the regulatory and tax environment for derivative instruments in which the Fund may participate is evolving, and changes in the regulation or taxation of such investments may materially adversely affect the value of such investments and the ability of the Fund to pursue its investment strategies. Similarly, the regulatory environment for leveraged investors and for hedge funds generally is evolving, and changes in the direct or indirect regulation of leveraged investors or hedge funds may materially adversely affect the ability of the Fund to pursue certain investment objectives or strategies that may have allowed it to obtain higher returns.

Illiquid Investments. A Fund may invest in securities, interests in real estate, bank debt and other claims, and other assets, which are subject to legal or other restrictions on transfer or for which no liquid market exists. The market prices, if any, for such investments tend to be volatile and, as with real estate assets, may not be readily ascertainable, and the Fund may not be able to sell them when it desires to do so or to realize what it perceives to be their fair value in the event of a sale. The sale of restricted and illiquid securities often requires more time and results in higher brokerage charges or dealer discounts and other selling expenses than does the sale of securities eligible for trading on national securities exchanges or in the over-the-counter markets. A Fund may not be able to readily dispose of such illiquid investments and, in some cases, may be contractually prohibited from disposing of such investments for a specified period of time. Restricted securities may sell at a price lower than similar securities that are not subject to restrictions on resale. An investment in the Fund is suitable only for certain sophisticated investors who do not require immediate liquidity for their investments.

Event-Driven Investing. A Fund may invest in positions whose profitability depends on the results of a significant corporate event, such as a merger, tender offer, exchange offer or liquidation. Corporate events are affected by numerous factors, including, but not limited to, market movements, regulatory intervention, changes in interest rates and economic outlook. Such factors could have an adverse affect on targeted, risk arbitrage investments. The risk of non-consummation in such transactions is high and unexpected outcomes could result in substantial losses.

Risks Relating to Direct Lending. A Fund may engage in direct lending activities. Such activities expose the Fund to losses of foreclosure of the loan and default of the borrower. As part of such lending activities, the Fund may make loans to companies in distressed situations, which involve a substantial degree of risk. A Fund may lose all or part of the amount advanced to such borrowers or may be required to accept collateral with a value less than the amount of the loan advanced by the Fund. Furthermore, the

Fund competes with a broad spectrum of lenders, many of which may have substantially greater financial resources and are more well known than the Fund. Increased competition for, or a diminishment in the available supply of, qualifying loans could result in lower yields on such loans.

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

Currency Exchange Exposure. A Fund may invest a portion of its assets in the securities of non-U.S. issuers and other instruments denominated in non-U.S. currencies, the prices of which are determined with reference to currencies other than the U.S. dollar. A Fund, however, values its securities and other assets in U.S. dollars. A Fund may or may not seek to hedge its non-U.S. currency exposure by entering into currency hedging transactions, such as treasury locks, forward contracts, futures contracts and cross-currency swaps. There can be no guarantee that instruments suitable for hedging currency or market shifts will be available at the time when the Fund wishes to use them, or that hedging techniques employed by the Fund will be effective. Furthermore, certain currency market risks may not be fully hedged or hedged at all.

To the extent unhedged, the value of a Fund’s positions in non-U.S. investments will fluctuate with U.S. dollar exchange rates as well as the price changes of the investments in the various local markets and currencies. In such cases, an increase in the value of the U.S. dollar compared to the other currencies in which the Fund invests will reduce the effect of any increases and magnify the effect of any decreases in the prices of the Fund’s securities in their local markets and may result in a loss to the Fund. Conversely, a decrease in the value of the U.S. dollar will have the opposite effect on the Fund’s non-U.S. dollar investments.

Furthermore, a Fund may incur costs in connection with conversions between various currencies. Non-U.S. currency exchange dealers realize a profit based on the difference between the prices at which they are buying and selling various currencies. Thus, a dealer normally will offer to sell currency to the Fund at one rate, while offering a lesser rate of exchange should the Fund desire immediately to resell that currency to the dealer. A Fund intends to conduct its currency exchange transactions either on a spot (*i.e.*, cash) basis at the spot rate prevailing in the currency exchange market, or through entering into forward, futures or commodity options contracts to purchase or sell non-U.S. currencies. Most of the Fund’s currency exchange transactions are expected to occur at the time securities are purchased and to be executed through the local broker or custodian acting for the Fund.

Leverage and Borrowing Risks. A Fund has the power to borrow funds if deemed appropriate by Intermarket, including to enhance the Fund’s returns and meet withdrawals that would otherwise result in the premature liquidation of investments. A Fund may borrow funds from brokers, banks and other lenders to finance its trading operations. The use of such leverage can, in certain circumstances, magnify the losses to which the Fund’s investment portfolio may be subject. Such leverage, may be achieved through, among other methods, purchases of securities on margin and the use of options, futures, forward contracts, repurchase and reverse repurchase agreements and swaps.

The use of leverage creates several risks for the Fund. If the value of the Fund's securities falls below the margin level required by a broker, additional margin deposits would be required. If the Fund is unable to satisfy any margin call by a broker, then the broker could liquidate the Fund's position in some or all the financial instruments that are in the Fund's account at the broker and cause the Fund to incur significant losses. The failure to satisfy a margin call, or the occurrence of other material defaults under margin or other financing agreements, may trigger cross-defaults under the Fund's agreements with other brokers, lenders, clearing firms or other counterparties, multiplying the adverse impact to the Fund. In addition, because the use of leverage allows the Fund to control positions worth more than its investment in those positions, the amount that the Fund may lose in the event of adverse price movements is high in relation to the amount of its investment.

The purchase of options, futures, forward contracts, repurchase agreements and reverse repurchase agreements generally involves little or no margin deposit and, therefore, provides substantial leverage. Accordingly, relatively small adverse price movements in these financial instruments may result in immediate and substantial losses to the Fund.

**Systemic Risk.** Credit risk may also arise through a default by one of several large institutions that are dependent on one another to meet their liquidity or operational needs, so that a default by one institution causes a series of defaults by the other institutions. This is sometimes referred to as a "systemic risk" and may adversely affect financial intermediaries, such as clearing agencies, clearing houses, banks, securities firms and exchanges, with which the Fund will interact on a daily basis.

**Volatility Risk.** A Fund's investment program may involve the purchase and sale of derivatives, which are frequently valued based on implied volatilities of such derivatives compared to the historical volatility of their underlying securities. Fluctuations or prolonged changes in the volatility of the underlying securities, therefore, can adversely affect the value of derivative positions held by the Fund.

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

**Hedging Transactions.** A Fund may utilize a variety of financial instruments, such as short sales, options, swaps, caps and floors, and futures and forward contracts and similar derivatives, both for investment purposes and for risk management purposes. While the Fund may enter into hedging transactions to seek to reduce risk, such transactions may not be fully effective in mitigating the risks in all market environments or against all types of risk (including unidentified or unanticipated risks), thereby causing the Fund to incur losses. In addition, such hedging transactions may result in an inferior overall performance for the Fund than if it had not engaged in any such hedging transactions. Moreover, it should be noted that (1) Intermarket may determine not to hedge against, or may not anticipate, certain risks and (2) the portfolio will always be exposed to certain risks that cannot be hedged, such as credit risk.

**Limited Diversification.** In the normal course of making investments on behalf of a Fund, Intermarket will attempt to diversify its investments. However, the Fund's portfolio could become significantly concentrated, and such concentration of risk may increase the losses suffered by the Fund. In addition, it is possible that Intermarket may select investments that are concentrated in a limited number or types of financial instruments. This limited diversity could expose the Fund to losses disproportionate to market



movements in general if there are disproportionately greater adverse price movements in those financial instruments.

**Liquidity Risks.** Liquidity may be essential to a Fund's business. Under certain market conditions, such as during volatile markets or when trading in a security or market is otherwise impaired, the liquidity of the Fund's positions may be reduced. During such times, the Fund may be unable to dispose of certain assets, which would adversely affect the Fund's ability to rebalance its portfolio or to meet withdrawal requests. In addition, such circumstances may force the Fund to dispose of assets at reduced prices, thereby adversely affecting the Fund's performance. If there are other market participants seeking to dispose of similar assets at the same time, the Fund may be unable to sell such assets or prevent losses relating to such assets. Furthermore, if the Fund incurs substantial trading losses, the need for liquidity could rise sharply while its access to liquidity could be impaired. In addition, in conjunction with a market downturn, the Fund's counterparties could incur losses of their own, thereby weakening their financial condition and increasing the Fund's credit risk to them.

**Counterparty Risks.** A Fund may enter into many transactions, including derivatives and over-the-counter transactions, with or through third parties in which the failure of the third party to perform its obligations under a contract with the Fund could have a material adverse effect on the Fund. A Fund's assets may be held in accounts maintained for the Fund by one or more custodians and/or brokers. Such brokers or custodians, as brokerage firms or commercial banks, are generally subject to various laws and regulations in various jurisdictions that are designed to protect their customers in the event of their insolvency. However, the practical effect of these laws and their application to the Fund's assets are subject to substantial limitations and uncertainties and certain protections may be contractually waived. Because of the large number of entities and jurisdictions involved and the range of possible factual scenarios involving the insolvency of a broker or custodian or any of their sub-custodians, agents or affiliates, it is impossible to generalize about the effect of their insolvency on the Fund and its assets. Investors should assume that the insolvency of any of the Fund's brokers, custodians or other service providers could result in the loss of all or a substantial portion of the Fund's assets held by or through such entity. In addition to the risk of loss, an insolvency of a broker, custodian or sub-custodian could cause severe disruption to the trading of the Fund. Among other things, it may require that the Fund declare a suspension of net asset value calculations and/or suspend or limit withdrawals from the Fund.

**Co-Investments with Third Parties.** A Fund may co-invest with third parties through joint ventures or other entities. Such investments may involve risks in connection with such third party involvement, including the possibility that a third party co-venturer may have financial difficulties, resulting in a negative impact on such investment, may have economic or business interests or goals that are inconsistent with those of the Fund, or may be in a position to take (or block) action in a manner contrary to the Fund's investment objectives. In those circumstances where such third parties involve a management group, such third parties may receive compensation arrangements relating to such investments, including incentive compensation arrangements. Such compensation arrangements will reduce the returns to participants in the investments.

**Position Limits.** "Position limits" imposed by various regulators may limit a Fund's ability to effect desired trades. Position limits are the maximum amounts of gross, net long or net short positions that any one person or entity may own or control in a particular financial instrument. All positions owned or controlled by the same person or entity, even if in different accounts, may be aggregated for purposes of determining whether the applicable position limits have been exceeded. Thus, even if a Fund does not intend to exceed applicable position limits, it is possible that different accounts managed by Intermarket or its affiliates may be aggregated. If at any time positions managed by Intermarket were to exceed applicable position limits, Intermarket would be required to liquidate positions, which might include positions of the Fund, to the extent necessary to come within those limits. Further, to avoid exceeding the position limits, the Fund might have to forego or modify certain of its contemplated trades.

Limitations Due to Regulatory Restrictions. A Fund may seek to acquire a significant stake in certain securities. In the event such stake exceeds certain percentage or value limits, the Fund may be required to file a notification with a governmental agency or comply with other regulatory requirements. Certain notice filings are subject to review that require a delay in the acquisition of the security. Compliance with such filing and other requirements may result in additional costs to the Fund, and may delay the Fund's ability to respond in a timely manner to changes in the markets with respect to such securities.

Execution of Orders. A Fund's trading strategy depends on its ability to establish and maintain an overall market position in a combination of financial instruments selected by Intermarket. A Fund's trading orders may not be executed in a timely and efficient manner due to various circumstances, including, without limitation, systems failures or human error attributable to the Fund, its brokers, agents or other service providers. In such event, the Fund might only be able to acquire some, but not all, of the components of such position, or if the overall position were to need adjustment, the Fund might not be able to make such adjustment. As a result, the Fund would not be able to achieve the market position selected by Intermarket, and might incur a loss in liquidating its position. In addition, Intermarket utilizes electronic execution systems, and such systems may be subject to failure, causing the interruption of trading orders made by the Fund.

Valuation of the Fund's Assets and Liabilities. Because a Fund may hold significant positions in securities and instruments not traded on exchanges, in certain circumstances there may be judgment and discretion employed by Intermarket in valuing the Fund's investment portfolios. The valuation given to the securities and other instruments in their investment portfolios might not be obtained if the Fund were required to liquidate those positions. To the extent that the value assigned by Intermarket to any of the Fund's assets differs from the actual value, the net asset value of the Fund may be understated or overstated, as the case may be. In light of the foregoing, there is a risk that an Investor who withdraws all or part of its capital account will be paid an amount less than it would otherwise be paid if the actual value of such assets is higher than the value designated by Intermarket. This underpayment would increase the value of the non-withdrawing Investor's Interest. Similarly, there is a risk that an Investor might, in effect, be overpaid if the actual value of the Fund's assets is lower than the value designated by Intermarket. This overpayment would reduce the value of the non-withdrawing Investor's Interest. In addition, there is risk that an investment in the Fund by a new investor (or an additional investment by an existing Investor) could dilute the value of the Fund's investments for the other Investors if the designated value of such investments is higher than the value designated by Intermarket. Further, there is risk that a new investor (or an existing Investor that makes an additional investment) could pay more than it might otherwise if the actual value of the Fund's investments is lower than the value designated by Intermarket. In general, Intermarket does not intend to adjust the Fund's net asset value retroactively.

Reliance on Valuation Information From Employees and Third Parties. In order to value the assets and liabilities of a Fund, Intermarket may rely on information provided by employees or outside parties, and such persons may provide inaccurate, incomplete, not current or otherwise unreliable information. In the case of employees who receive compensation based on the performance of certain investments, such employees may be motivated to provide incorrect valuation information in order to receive increased compensation. Intermarket may be unable to detect every error contained in the valuation information. To the extent the information received by the Fund is inaccurate or unreliable, the valuation of the Fund's assets and liabilities may be inaccurate.

Competition; Availability of Investments. Certain markets in which a Fund may invest are extremely competitive for attractive investment opportunities and, as a result, there may be reduced expected investment returns. There can be no assurance that the Fund will be able to identify or successfully pursue attractive investment opportunities in such environments. Among other factors, competition for suitable investments from other pooled investment vehicles and other investors may reduce the availability of investment opportunities. There has been significant growth in the number of firms organized to make such investments, which may result in increased competition to the Fund in obtaining

suitable investments.

**The material risks of Intermarket's investment strategy set out in this Item 8 do not represent all of the material and other risks associated with a Fund. Each Fund's confidential private placement memorandum sets out additional risks associated with the Fund.**

### **Material Risks of Investments in Securities**

Risks of Investments in Securities Generally. All investments in securities risk the loss of capital. No guarantee or representation is made that the Fund's program will be successful. A Fund's investment program will involve, without limitation, risks associated with limited diversification, leverage, interest rates, currencies, volatility, tracking risks in hedged positions, security borrowing risks in short sales, credit deterioration or default risks, systems risks and other risks inherent in the Fund's activities. Certain investment techniques of the Fund can, in certain circumstances, magnify the impact of adverse market moves to which the Fund may be subject. In addition, the Fund's investment in securities may be materially affected by conditions in the financial markets and overall economic conditions occurring globally and in particular countries or markets where the Fund may invest its assets.

A Fund's methods of minimizing such risks may not accurately predict future risk exposures. Risk management techniques are based in part on the observation of historical market behavior, which may not predict market divergences that are larger than historical indicators. Also, information used to manage risks may not be accurate, complete or current, and such information may be misinterpreted.

Debt Securities. The Funds expect to invest in debt securities and instruments. Certain of the debt instruments in which the Funds invest may be unrated, and whether or not rated, the debt instrument may have speculative characteristics. The issuers of such instruments may face significant ongoing uncertainties and exposure to adverse conditions that may undermine the issuer's ability to make timely payment of interest and principal. In addition, an economic recession could severely disrupt the market for these securities and may have an adverse impact on the value of such instruments. It is also likely that any such economic downturn could adversely affect the ability of the issuers of such securities to repay principal and pay interest thereon and increase the incidence of default for such securities.

Investments in Distressed Securities. The Funds expect to invest in "below investment grade" securities and obligations of U.S and non-U.S. issuers in weak financial condition, experiencing poor operating results, having substantial capital needs or negative net worth or facing special competitive or product obsolescence problems, including companies involved in bankruptcy or other reorganization and liquidation proceedings. A Fund may also invest in fee interests and other interests in distressed real estate or real estate-related assets. These securities are likely to be particularly risky investments although they also may offer the potential for correspondingly high returns. Among the risks inherent in investments in troubled entities is the fact that it frequently may be difficult to obtain information as to the true condition of such issuers. Such investments also may be adversely affected by laws relating to, among other things, fraudulent transfers and other voidable transfers or payments, lender liability and the bankruptcy court's power to disallow, reduce, subordinate or disenfranchise particular claims. Such companies' securities may be considered speculative, and the ability of such companies to pay their debts on schedule could be affected by adverse interest rate movements, changes in the general economic climate, economic factors affecting a particular industry or specific developments within such companies. In addition, there is no minimum credit standard that is a prerequisite to the Fund's investment in any instrument, and a significant portion of the obligations and preferred stock in which the Fund may invest may be less than investment grade. Any one or all of the issuers of the securities in which the Fund may invest may be unsuccessful or not show any return for a considerable period of time. The level of analytical sophistication, both financial and legal, necessary for successful investment in companies experiencing significant business and financial difficulties is unusually high. There is no assurance that Intermarket will correctly evaluate the value of the assets collateralizing a Fund's loans or the prospects for a successful reorganization or similar action. In any reorganization or liquidation proceeding relating

to a company in which a Fund invests, the Fund may lose its entire investment, may be required to accept cash or securities with a value less than the Fund's original investment and/or may be required to accept payment over an extended period of time. Under such circumstances, the returns generated from the Fund's investments may not compensate the investors adequately for the risks assumed.

In liquidation (both in and out of bankruptcy) and other forms of corporate reorganization, there exists the risk that the reorganization either will be unsuccessful (due to, for example, failure to obtain requisite approvals), will be delayed (for example, until various liabilities, actual or contingent, have been satisfied) or will result in a distribution of cash or a new security, the value of which will be less than the purchase price to a Fund of the security in respect to which such distribution was made.

Low Rated or Unrated Debt Obligations. At any one time, a portion of the debt component of a Fund's portfolio may consist of instruments that have a low rating or are unrated. Debt obligations of the Fund may have a credit quality rated below investment grade by internationally recognized credit rating organizations. The issuers of such securities may face significant ongoing uncertainties and exposure to adverse conditions that may undermine the issuer's ability to make timely payment of interest and principal payments. Non-investment grade securities are regarded as predominantly speculative with respect to the issuer's capacity to pay interest and repay principal in accordance with the terms of the obligations and involve major risk exposure to adverse conditions. Low rated and unrated debt instruments generally offer a higher current yield than that available from higher-grade issuers, but typically involve greater risk. Companies that issue such securities often are highly leveraged and may not have available to them more traditional methods of financing. In addition, a major economic recession could severely disrupt the market for most of these securities and may have an adverse impact on the value of such securities. In addition, it is likely that any such economic downturn could adversely affect the ability of the issuers of such securities to repay principal and pay interest thereon and increase the incidence of default for such securities.

Asset-Backed Securities ("ABS"), Collateralized Debt Obligations ("CDO") and Mortgage-Backed Securities ("MBS"). The investment characteristics of ABS, CDO, MBS and other structured finance products differ from traditional debt securities. Among the major differences are that interest and principal payments are made more frequently, usually semi-annually, quarterly or monthly, and that principal may be prepaid at any time because the underlying mortgage loans or other assets generally may be prepaid at any time. The collateral supporting ABS is of shorter maturity than mortgage loans and is less likely to experience substantial prepayments. Structured finance products are subject to credit, liquidity, market value, interest rate, operations, structural, legal and certain other risks. Structured finance products are generally privately placed and offer less liquidity than other investment grade or non-investment grade corporate debt. They are also generally issued in structured transactions with risks different from regular corporate debt. In addition, concentrations of structured finance products of a particular type, as well as concentrations of structured finance products issued or guaranteed by affiliated obligors, serviced by the same servicer or backed by underlying collateral located in a specific geographic region, may subject the Fund to additional risk. A portion of a Fund's portfolio may consist of structured finance products that are subordinate in right of payment and rank junior to other securities that are secured by, or represent an ownership interest in, the same pool of assets. In addition, certain transactions have structural features that divert payments of interest and/or principal to more senior classes when the delinquency or loss experience of the pool exceeds certain levels. As a result, such securities have a higher risk of loss as a result of delinquencies or losses on the underlying assets. In certain circumstances, payments of interest may be reduced or eliminated for one or more payment dates.

Other Derivative Instruments. A Fund may enter into swaps and other derivative instruments. It may take advantage of opportunities with respect to certain other derivative instruments that are not presently contemplated for use or that are currently not available, but that may be developed, to the extent such opportunities are both consistent with the investment objective of the Fund and legally permissible. The specific risks inherent in such investments cannot be determined until these instruments are developed.

Certain swaps, options and other derivative instruments may be subject to various types of risks, including market risk, liquidity risk, the risk of nonperformance by the counterparty, including risks relating to the financial soundness and creditworthiness of the counterparty, legal risk and operations risk.

Call Options. There are risks associated with the sale and purchase of call options. The seller (writer) of a call option that is covered (*e.g.*, the writer holds the underlying security) assumes the risk of a decline in the market price of the underlying security below the purchase price of the underlying security less the premium received, and gives up the opportunity for gain on the underlying security above the exercise price of the option. The seller of an uncovered call option assumes the risk of a theoretically unlimited increase in the market price of the underlying security above the exercise price of the option. The securities necessary to satisfy the exercise of an uncovered call option may be unavailable for purchase, except at much higher prices, thereby reducing or eliminating the value of the premium. Purchasing securities to cover the exercise of an uncovered call option can cause the price of the securities to increase, thereby exacerbating the loss. The buyer of a call option assumes the risk of losing the entire premium investment in the call option.

Put Options. There are risks associated with the sale and purchase of put options. The seller (writer) of a put option which is covered (*e.g.*, the writer has a short position in the underlying security) assumes the risk of an increase in the market price of the underlying security above the sales price (in establishing the short position) of the underlying security plus the premium received, and gives up the opportunity for gain on the underlying security if the market price falls below the exercise price of the option. The seller of an uncovered put option assumes the risk of a decline in the market price of the underlying security below the exercise price of the option. The buyer of a put option assumes the risk of losing the entire investment in the put option.

Credit Default Swaps. A Fund may enter into credit default swap agreements for hedging and for investment purposes. A credit default swap agreement may have as reference obligations one or more securities that are not currently held by the Fund. The protection “buyer” in a credit default contract is generally obligated to pay the protection “seller” an upfront or a periodic stream of payments over the term of the contract provided that no credit event, such as a default, on a reference obligation has occurred. If a credit event occurs, the seller generally must pay the buyer the “par value” (full notional value) of the swap in exchange for an equal face amount of deliverable obligations of the reference entity described in the swap, or the seller may be required to deliver the related net cash amount if the swap is cash settled. A Fund may be either the buyer or seller in the transaction. If the Fund is a buyer and no credit event occurs, the Fund may recover nothing if the swap is held through its termination date. As a seller, the Fund generally receives an upfront payment or a fixed rate of income throughout the term of the swap provided that there is no credit event. As the seller, the Fund would effectively add leverage to its portfolio because, in addition to its total net assets, the Fund would be subject to investment exposure on the notional amount of the swap. Credit default swap agreements involve greater risks than if the Fund had invested in the reference obligation directly since, in addition to general market risks, credit default swaps are subject to illiquidity risk, counterparty risk and credit risk.

Non-publicly Traded Securities. A Fund may maintain significant holdings in non-publicly traded debt securities. Because such investments are not registered and no public market for them exists, they are typically less liquid than publicly traded securities of the same obligor. In addition, in the event the Fund purchases creditor claims subsequent to the commencement of a bankruptcy proceeding, such claims may be subject to forfeiture or rescission.

Equity Risks. A Fund may invest in equity and equity derivative securities. The value of these securities generally will vary with the performance of the issuer and movements in the equity markets. As a result, the Fund may suffer losses if it invests in equity securities of issuers whose performance diverges from Intermarket’s expectations or if equity markets generally move in a single direction and the Fund has not hedged against such a general move. In its equity derivatives and private placements activities, the Fund

is exposed to risks that issuers will not fulfill their contractual obligations to the Fund, such as delivering marketable common stock upon conversions of convertible securities and registering restricted securities for public resale.

#### **Item 9      Disciplinary Information**

Neither Intermarket nor its management persons have been subject to legal or disciplinary events that are material to Intermarket's advisory business or that would be material to existing or prospective clients' evaluation of Intermarket's advisory business or the integrity of its management persons.

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

Intermarket Corporation is the general partner of each of Intermarket L.P., a New York limited partnership, and Intermarket Management L.P., a Delaware limited partnership. Intermarket Management L.P. serves as the investment manager of a Fund and Intermarket L.P. serves as the managing member of two Funds.

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

##### **Code of Ethics**

Intermarket's Compliance Manual includes a Code of Ethics ("Code") that applies to each of its partners, members, owners, principals, directors, officers and employees ("Covered Persons"). The Code requires compliance with all applicable laws and regulations, including federal securities laws; acting in the best interests of Intermarket's clients at all times; avoiding actual and potential conflicts of interests; complying with certain restrictions on personal trading and prompt reporting of violations of the Code. The Code requires Covered Persons to safeguard confidential information entrusted to Intermarket by its clients, investors or related parties, information regarding Intermarket's businesses and activities, or information about other Covered Persons. The Code also prohibits insider trading and tipping and addresses anti-money laundering and certain potential conflicts of interest. The Code requires Intermarket to monitor the personal securities trading of Covered Persons for evidence of insider trading or suspicious trades. A copy of the Intermarket Code of Ethics will be provided to a client or prospective client upon request.

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

The Funds are subject to a number of actual and potential conflicts of interest involving Intermarket and its affiliates. Intermarket and its affiliates may provide investment management services to proprietary accounts of Intermarket and its affiliates, managed accounts and other investment partnerships or funds, some of which may have investment objectives similar or identical to those of the Funds. The Funds have similar identical investment objectives, policies and methodologies. Intermarket and its affiliates may also manage other discretionary accounts for the benefit of clients who may have investment objectives and policies similar to those of the Fund. In addition, certain of the officers and employees of Intermarket maintain personal investment accounts for themselves and their families. Conflicts may arise from the management of any of the foregoing accounts and the account of a Fund.

Intermarket is not required to devote all or any specified portion of its time to managing the investments of the Funds, but will devote so much of its time as Intermarket deems necessary or appropriate. Future investment activities by Intermarket on behalf of other clients may give rise to additional conflicts of interest and demands on Intermarket's time and resources.

In order to address these potential conflicts, when it is determined that it would be appropriate for a Fund and one or more other investment accounts managed by Intermarket or its affiliates to participate in an investment opportunity, Intermarket will seek to execute orders for all of the participating investment accounts, including the Fund, on an equitable basis, taking into account such factors as the relative amounts of capital available for new investments, relative exposure to short-term market trends, and the

investment programs and portfolio positions of the Fund and the other accounts for which participation is appropriate. Orders may be combined for all such accounts, and if any order is not filled at the same price, they may be allocated on an average price basis. Similarly, if an order on behalf of more than one account cannot be fully executed under prevailing market conditions, securities may be allocated among the different accounts on a basis which Intermarket considers equitable.

Other present and future activities of Intermarket and its affiliates (including the formation of additional investment funds) may give rise to additional conflicts of interest. While none of Intermarket or its directors, officers, employees or affiliates is obligated to resolve any conflicts in favor of a particular Fund, Intermarket will endeavor to ensure that any conflict of interest is resolved fairly.

## **Item 12 Brokerage Practices**

Intermarket has discretionary authority over the Funds' accounts including the buying and selling of securities and the amount of securities to be bought or sold. Intermarket may employ the services of a broker-dealer to acquire or dispose of interests in portfolio companies. Intermarket is responsible for evaluating and selecting broker-dealers for the Funds, and Intermarket determines the commission rates to be paid through negotiation with the broker-dealers.

Intermarket will be subject to a variety of conflicts of interest in making investments on behalf of the Fund. For example, Intermarket may be subject to conflicts relating to its selection of brokers on behalf of the Fund. Portfolio transactions for the Fund will be allocated to brokers on the basis of best execution and in consideration of a broker's ability to effect the transactions, its facilities, reliability and financial responsibility and the provision or payment by the broker of the costs of research and research-related services. However, brokers may provide other services that are beneficial to Intermarket, but not necessarily beneficial to the Fund, including, without limitation, capital introduction, marketing assistance, consulting with respect to technology, operations, equipment, and other services or items. Such services and items may influence Intermarket's selection of brokers.

Portfolio transactions generally will be allocated to brokers on the basis of best available execution and in consideration of such broker's provision or payment of the costs of brokerage and research services that are of benefit to the Fund, Intermarket and their affiliates. Accordingly, if Intermarket determines in good faith that the amount of commissions charged by a broker is reasonable in relation to the value of the brokerage and research products and services provided by such broker, the Fund may pay commissions to such broker in an amount greater than the amount another firm might charge. Such brokerage and research services furnished by brokers through whom the Fund effects securities transactions may include the cost of investment research, and may be used by Intermarket or its affiliates in advising other clients or funds and not necessarily the Fund.

Subject to the considerations described above, the selection of a broker (including a prime broker) to execute transactions, provide financing and securities on loan, hold cash and short balances and provide other services may be influenced by, among other things, the provision by the broker of the following: capital introduction, marketing assistance, consulting services with respect to technology, operations, equipment, commitment of capital, access to company management and access to deal flow. Investors in the Fund may include fund of funds affiliated with brokers or, possibly, brokerage firms themselves and Intermarket will be subject to a conflict of interest in determining whether to select such brokers to execute transaction on behalf of the Fund.

## **Item 13 Review of Accounts**

As part of Intermarket's risk management process, Intermarket monitors the composition of each Fund's portfolio.

**Item 14 Client Referrals and Other Compensation**

Intermarket does not compensate any person for client referrals.

**Item 15 Custody**

Intermarket may be deemed to have custody of its Funds' cash and securities. Intermarket maintains the Funds' cash and certificated securities with independent qualified custodians. Additional, other or substitute administrators, custodians and other service providers may be designated from time to time by Intermarket. Intermarket arranges for each Fund's financial statements to be prepared in accordance with U.S. generally accepted accounting principles ("GAAP") and audited at least annually by an independent public accountant that is registered with, and subject to regular inspection as of the commencement of the professional engagement period, and as of each calendar year-end, by, the Public Company Accounting Oversight Board in accordance with its rules.

**Item 16 Investment Discretion**

Intermarket has discretionary management authority, subject to any limitations set forth in such agreements, and responsibility for investment of the Fund's assets, in accordance with the investment objectives. Intermarket initiates all orders for the purchase and sale of securities and selects the brokers and traders through whom the Fund will trade. In addition, Intermarket has responsibility for delegating decisions regarding the Fund to others. Except as otherwise delegated to a Fund's administrator or other service providers, Intermarket carries out the day-to-day activities of the Fund and has sole responsibility for all of the Fund's affairs.

**Item 17 Voting Client Securities**

Intermarket votes all proxies in the best interests of Intermarket's clients. In accordance with general fiduciary responsibilities associated with the investment management business, the overriding principle of Intermarket's proxy voting is to maximize the financial interests of its Clients. Because the circumstances surrounding each company differ, there are no other requirements associated with this policy other than maximizing long-term shareholder value. It is the policy of Intermarket in voting proxies to consider and vote each proposal with the objective of maximizing long-term investment returns for our clients.

Intermarket's proxy-voting guidelines address a broad range of issues, including board size and composition, executive compensation, anti-takeover proposals, capital structure proposals and social responsibility issues and are meant to be general voting parameters on issues that arise most frequently. Intermarket may, however, vote in a manner that is contrary to the general guidelines if it believes that it would be in a Funds' best interest to do so.

Intermarket does not take positions outside of the Funds it manages and therefore does not anticipate a situation where there would be a conflict between maximizing long-term investment returns for Funds and Intermarket's interests. If such a situation should arise, the senior management of Intermarket will independently review and evaluate the proxy proposal and the circumstances surrounding the conflict to determine the vote, which will be in the best interest of the Funds. They may also determine whether the conflict of interest will be disclosed to the Funds and whether to obtain their consent prior to voting.

Though not common, situations may arise in which more than one Fund invests in the same company or in which a single Fund may invest in the same company but through multiple accounts. In those situations, two or more Funds, or one Fund with different accounts, may be invested in strategies having different investment objectives, investment styles or portfolio managers. As a result, the Firm may cast different votes on behalf of different Funds or on behalf of the same Fund with different accounts.

Intermarket will maintain all proxy-voting records. Intermarket will make copies of these proxy voting policies and procedures available upon request to the Funds and to the Investors in each Fund. Intermarket's proxy voting procedures will be reviewed and, as necessary, updated periodically to address new or revised proxy voting issues.



**Item 18     Financial Information**

We are not aware of any financial condition that is reasonably likely to impair our ability to meet our contractual commitments to our clients. We have not been the subject of a bankruptcy petition within the preceding ten years.