

# **Feingold O’Keeffe Capital, LLC**

**Part 2A of Form ADV**

**The Firm Brochure**

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**March 28, 2013**

Feingold O’Keeffe Capital, LLC is an investment adviser registered with the United States Securities and Exchange Commission. Registration with the United States Securities and Exchange Commission does not imply a certain level of skill or training.

**This brochure provides information about the qualifications and business practices of Feingold O’Keeffe Capital, LLC (the “Adviser”). If you have any questions about the contents of this brochure, please contact us at 857-403-1266 or [info@focapital.com](mailto:info@focapital.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (“SEC”) or by any state securities authority.**

**Additional information about Feingold O’Keeffe Capital, LLC also is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

## **Item 2. Material Changes**

Feingold O’Keeffe Capital, LLC last updated this ADV Part 2A (Brochure) on March 28, 2013. Our business activities have not materially changed since that time.

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

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**Item 4. Advisory Business**

Feingold O’Keeffe Capital, LLC (the “Adviser,” “FOC” or “we”) is an investment adviser with its principal place of business in Boston, Massachusetts. FOC commenced operations as an investment adviser during December 2001 and has been registered with the SEC as a registered investment adviser since February 2006. FOC is wholly owned by Co-founders Andrea S. Feingold and R. Ian O’Keeffe.

We currently provide discretionary advisory services to hedge funds and separately managed accounts and act as investment manager for collateralized loan obligation vehicles. A hedge fund is a privately offered pooled investment fund intended for sophisticated and institutional investors (we refer to our hedge fund clients each as a “Fund” and collectively as the “Funds”). A collateralized loan obligation (“CLO”) is a closed-end investment vehicle that invests predominantly in a diversified portfolio of corporate loans. A separately managed account (“SMA”) is a separate client account managed on behalf of a single private institutional account.

Throughout this brochure we will use the above references to refer to our different client types in order to provide information specific to each client type wherever possible.

As of December 31, 2012, FOC managed \$1.32 billion on a discretionary basis, and did not manage any client assets on a non-discretionary basis.

FOC, as a discretionary adviser, offers advice to each client account based on the specific investment objectives, guidelines and strategies set forth in the respective offering circulars and advisory agreements for each client. In general we seek to preserve capital while providing superior risk adjusted returns for each client account by investing in various parts of the capital structure of an issuer. Depending on the client account mandate, investments may include, but are not limited to, bank debt, corporate bonds (high yield and investment grade), convertible bonds, preferred stock, common stock, credit default swaps and other derivative contracts.

The Funds that we manage fall into two main investment strategies. We manage a long-short opportunistic credit fund that invests in various parts of the capital structure of levered companies, and a secured value fund that is primarily focused on catalyst driven investing in senior secured loans and secured instruments. Each Fund is offered through a master-feeder structure under separate offering memoranda. Each Fund is managed on a collective basis for the investors within the Fund (and for the Funds within the master-feeder structure), and we do not tailor the investments in the Fund to the individual needs of the investors in the Fund. SMAs are managed on behalf of individual clients and our advisory services for each account will be tailored to the individual needs of those clients. The CLOs are managed pursuant to a Collateral Management Agreement.

FOC does not participate in wrap fee programs.

**Item 5. Fees and Compensation**

Our advisory fees vary based on the type of client account. Below is a summary of the fees we earn across the different types of client accounts that we provide advisory services to.

With respect to the Fund clients, we receive quarterly management fees and annual performance based compensation. Management fees range from 1.0% to 2.0% per annum of the Fund’s net asset value and are deducted at the beginning of each quarter from investor accounts. Performance based fees range from 10% to 20% of annual net gains (including unrealized gains and losses), and are deducted from investor accounts as of the last day of the fiscal year or at any point when an investor redeems from a Fund. We generally do not permit investors in our Funds to redeem or withdraw capital other than at the end of a quarter, so refunds of prepaid fees for partial quarters are not applicable to our investors. We charge investors that contribute or subscribe for capital during a quarter for the pro-rata management fee associated with amount of time the newly subscribed capital is invested during that initial quarter. Performance based fees are subject to a loss carry-forward provision or “high water mark,” which means FOC is only entitled to a fee once an investor (or in the case of Funds that are formed as corporations, a series of shares) has recovered any losses since the last performance based fee was charged. Any such loss carryforward will be proportionately reduced for redemptions. Depending on the legal structure of each Fund, performance based fees might be paid as a fee to FOC, or through a reallocation of capital to FOC as the general partner to certain Funds.

Certain initial or “strategic” investors in our Funds receive special allocations of profit within the Funds pursuant to supplemental agreements or “side letters.” FOC reduces certain management or performance based fees otherwise earned to offset the impact of these special allocations on investor accounts, so that no investor will pay more than the stated management and performance fees per the respective offering circulars and investment management agreements.

Also, FOC does not generally collect management or performance based fees from investors that are affiliated with our firm including owners and employees. Otherwise, advisory fees for our Funds are generally not negotiable.

With respect to the CLOs that we manage, we generally receive collateral management fees ranging from 30 to 50 basis points per annum of the underlying collateral value of the respective CLO. Collateral management fees are calculated and paid in on a quarterly basis in arrears by the Trustee of each CLO. In addition, FOC is entitled to receive an additional incentive collateral management fee generally equal to 20% of the interest and principal proceeds otherwise payable to the subordinated note (“equity”) investors of the CLO in the event those equity investors have already received an internal rate of return (“IRR”) ranging from 12% to 15%, depending on the CLO. Payment of incentive collateral management fee commences on the quarterly payment period that the subordinated note holders have reached the respective CLOs IRR (ranging from 12% to 15%), and will continue to be paid on all remaining quarterly payment dates once the IRR requirement has been initially satisfied.

With respect to our SMA clients, fee arrangements will be negotiated prior to the engagement of FOC as an investment manager. SMA fees are negotiated with each SMA client based on the scope of advisory services, the amount of capital invested, and the expected duration of such investments.

In addition to paying investment management fees and performance-based fees or allocations, client accounts are also subject to other investment expenses such as custodial charges, brokerage fees, commissions and related costs; interest expenses; taxes, duties and other governmental charges; transfer and registration fees or similar expenses; costs associated with foreign exchange transactions; other portfolio expenses associated with products or services that may be necessary or incidental to the Fund’s investment strategy. Client assets are invested in pooled investment vehicles, as such, investors will bear their pro rata share of the underlying Fund’s operating and other expenses including, in addition to those listed above: sales expenses, legal expenses; internal and external accounting, audit and tax preparation expenses; and organizational expenses. Client assets are invested in a master-feeder structure. Feeder funds bear a pro rata share of the expenses associated with the related master fund. In addition, clients will incur brokerage and other transaction costs. Please refer to Item 12 of this Firm Brochure for a discussion of the Adviser’s brokerage practices.

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

FOC provides investment management services to multiple client portfolios. As the Adviser, we are entitled to be paid performance-based compensation that varies based on each of our client relationships. A conflict of interest exists because FOC and its investment personnel may have a greater incentive to favor client accounts that pay us, as the Adviser (and indirectly the employees of the Adviser), performance-based compensation, higher overall fees, or fees crystallized at an earlier date than other client accounts.

We have adopted and implemented policies and procedures intended to address conflicts of interest relating to the management of multiple client accounts, including accounts with differing fee arrangements, and the allocation of investment opportunities. We review investment decisions for the purpose of ensuring that all accounts are treated equitably. We have trade allocation policies and procedures that are reasonably designed to achieve fair and equitable allocation of investment opportunities among Clients in accordance with such Clients’ investment programs, objectives, and investment restrictions and require that, to the extent orders are aggregated for more than one client, each client account receives the same pricing.

**Item 7. Types of Clients**

Our clients consist of the Funds, which are private investment funds; and the Collateralized Loan Obligations (CLOs) which are securitized capital structures operating as closed-end vehicles.

Our Funds, which are offered to accredited investors and qualified purchasers, generally require a minimum initial investment of \$1,000,000 per investor, which may be waived by the Adviser. Actual subscription minimums and other subscription terms are specified in each respective Offering Circular. Each investor in a Fund will be required to complete and execute a subscription agreement which contains certain representations and covenants to be made by the investor. This brochure is not an offer to invest our Funds. Any offer to invest in our Fund will only be made through the respective Offering Circulars of each Fund. Our Funds are not registered under the Securities Act of 1933 or the Investment Company Act of 1940.

Our existing CLO clients are closed-end vehicles underwritten and sold by a broker-dealer, and are not currently raising new capital. Investors in CLOs that we manage are qualified institutional investors. Each CLO is governed by an Indenture that describes the rights of the various investors.

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

FOC specializes in the investment and management of strategies that are predominantly focused on the universe of companies with leveraged balance sheets. FOC invests on behalf of its Clients primarily in bonds, bank debt and other fixed income securities that are generally “higher yielding” debt securities issued in the United States. At times we also invest in the securities of issuers located in other regions. Depending on the investment mandate of the Client, we may also invest in common or preferred stock, warrants to purchase common or preferred stock, and other equity interests. Positions range from the top of a corporate capital structure to the bottom and may include distressed securities.

FOC’s investment philosophy is anchored on the belief that competitive risk adjusted returns can be achieved by actively managing portfolios utilizing its investment process. We concentrate on the valuation of companies and securities, determined by the analysis of income statements and balance sheets to provide a margin of safety. We seek to capture value by focusing on the most inefficient segments of the market and on the securities of underfollowed credits and companies. We target investment opportunities which we believe offer superior total return potential with less than commensurate risk.

FOC generally sources investment ideas internally, most often drawing from its bottom up, proprietary research. Our investment team conducts qualitative and quantitative research, which includes the review of an issuer’s financial statements, capital structure, industry comparables, industry trends, evaluations of management, and discussion with suppliers, competitors, and distributors. In some instances, the investment team’s review of a particular investment opportunity may be limited and may not include the processes described above.

We manage closed-end securitized vehicles for our CLO investors which are investment strategies that invest in a diversified portfolio of predominantly non-investment grade corporate loans and other corporate debt securities. The CLO vehicles have many tests that require us to maintain the quality and diversity of the loan portfolios. These tests, which include overcollateralization tests, weighted average ratings factor tests, interest coverage tests, and weighted average life tests, among others, are mandated by the CLOs’ indentures and are verified by an independent trustee and certified public accountant.

***Investing in securities involves risk of loss that clients (and investors in clients) should be prepared to bear. The following list of risk factors describes the material risks impacting our client accounts. Prospective investors should read the applicable offering documents and consult with their own legal, tax and financial advisers before deciding to invest.***

***Unless otherwise noted, the risk factors and method of analysis listed below reference all advisory clients. Certain risk factors listed below may not be applicable to all client accounts.***

- ***Senior Loans:*** Our clients may invest a significant portion of their assets in non-investment grade corporate loans including first lien senior loans, second lien senior loans, senior secured loans and senior unsecured loans (collectively “senior loans”). Non-investment grade senior loans are loans that are rated lower than BBB by one of the major rating agencies. Non-investment grade senior loans are sometimes referred to as “high yield” or “leveraged” loans.

Investing in senior loans presents the risk of non-payment of scheduled interest or principal. Senior loans may or may not be secured by the assets of the borrower. In the event a senior loan is secured, there can be no assurance that the liquidation of any collateral securing such loan would satisfy the borrower’s obligation in the event of non-payment of scheduled interest or principal payments, or that such collateral could be readily liquidated.

Investing in senior loans, whether acquired through assignment or participation, may involve certain other risks. Under the agreements governing most senior loans, should our client, as a holder of an interest in a senior loan, wish to call a default or exercise remedies against a borrower, it could not do so without the agreement of at least a majority of the other lenders. Further, actions could be taken by a majority of the other lenders, or in some cases, a single agent bank, without the consent of the client. The client would, nevertheless, be liable to indemnify the agent bank for the client’s ratable share of expenses or other liabilities incurred in such connection and, generally, with respect to the administration and any renegotiation or enforcement of the senior loans. Moreover, an assignee or participant in a senior loan may not be entitled to certain gross-up payments in respect of withholding taxes and other indemnities that otherwise might be available to the original holder of the senior loan.

Our clients may invest in senior loans acquired through assignment or participations. While FOC favors acquiring loans through assignment (rather than participations) for its clients, it may not always be able to do so. In purchasing participations, our clients will usually have a contractual relationship only with the selling institution, and not the borrower. Our clients generally will have no right directly to enforce compliance by the

borrower with the terms of the loan agreement, nor any rights of set-off against the borrower, nor will it have the right to object to certain changes to the loan agreement agreed to by the selling institution. Our clients may not directly benefit from the collateral supporting the related senior loan and may be subject to any rights of set-off the borrower has against the selling institution.

In addition, in the event of the insolvency of the selling institution, under the laws of the United States and the states thereof, our clients may be treated as a general creditor of such selling institution, and may not have any exclusive or senior claim with respect to the selling institution’s interest in, or the collateral with respect to, the senior loan. Consequently, our clients may be subject to the credit risk of the selling institution as well as of the borrower. Certain of the senior loans or loan participations may be governed by the law of a jurisdiction other than a United States jurisdiction which may present additional risks as regards the characterization under such laws of such participation in the event of the insolvency of the selling institution or the borrower.

- ***High Yield Securities:*** Our clients may invest in non-investment grade or non-rated fixed income securities. Non-investment grade fixed income securities are rated below BBB (triple B) by one of the major rating agencies. Non-rated securities do not have an assigned rating. Non-investment grade and non-rated fixed income corporate securities are sometimes referred to as "high yield" or "junk" bonds.

A high yield security is generally unsecured, may be subordinated to other obligations of its issuer and generally has greater credit, insolvency and liquidity risk than is typically associated with investment grade obligations. Depending upon market conditions, there may be a very limited market for high yield securities. High yield securities are often issued in connection with leveraged acquisitions or recapitalizations in which the issuers incur a substantially higher amount of indebtedness than the level at which they had previously operated. The lower rating of high yield securities reflects a greater possibility that adverse changes in the financial condition of the obligor or general economic conditions (including, for example, a substantial period of rising interest rates or declining earnings or disruptions in the financial markets) or both may impair the ability of the obligor to make payments of principal and interest.

The secondary markets on which lower-rated securities are traded may be less liquid than the market for higher grade securities. Less liquidity in the secondary trading markets could adversely affect and cause large fluctuations in the value of the client's portfolio. Adverse publicity and investor perceptions, whether or not based on fundamental analysis, may decrease the values and liquidity of lower-rated securities, especially in a thinly traded market. Our clients will not necessarily dispose of a security when its rating is reduced below its rating at the time of purchase.

- ***Special Situations and Distressed Securities:*** Our clients may invest in companies involved in (or the target of) acquisition attempts or tender offers or companies involved in work-outs, liquidations, spin-offs, reorganizations, bankruptcies and similar transactions. In any investment opportunity involving any such type of business enterprise, there exists the risk that the transaction in which such business enterprise is involved either will be unsuccessful, will take considerable time or will result in a



distribution of cash or a new security the value of which will be less than a client’s purchase price of the security or other financial instrument in respect of which such distribution is received. Similarly, if an anticipated transaction does not in fact occur, our clients may be required to sell their investment at a loss. Because there is substantial uncertainty concerning the outcome of transactions involving financially troubled companies in which our clients may invest, there is a potential risk of loss by each client of its entire investment in such companies.

- ***Commercial and Residential Mortgage-Backed Securities and Asset-Backed Securities:*** Our clients may invest in commercial and residential mortgage-backed securities which involves the general risks typically associated with investing in traditional fixed-income securities (including interest rate and credit risk) and certain additional risks and special considerations (including the risk of principal prepayment and the risk of investing in real estate). Mortgage-backed securities generally provide for the payment of interest and principal on the mortgage-backed securities on a frequent basis and there also exists the possibility, particularly with respect to residential mortgage-backed securities, that principal may be prepaid at any time due to, among other reasons, prepayments on the underlying mortgage loans or other assets. As a result of prepayments, a client may be required to reinvest assets at an inopportune time, which may expose that client to a lower rate of return. The rate of prepayments on underlying mortgages affects the price and volatility of a mortgage-backed security, and may have the effect of shortening or extending the effective maturity beyond what was anticipated. Further, different types of mortgage-backed securities are subject to varying degrees of prepayment risk. Finally, the risks of investing in such instruments reflect the risks of investing in real estate securing the underlying loans, including the effect of local and other economic conditions, the ability of tenants to make payments, and the ability to attract and retain tenants.

Asset-backed securities are subject to interest rate risk and, to a lesser degree, prepayment risk. Asset-backed securities are subject to additional risks in that, unlike mortgage-backed securities, asset-backed securities generally do not have the benefit of a security interest in the related collateral. Each type of asset-backed security also entails unique risks depending on the type of assets involved and the legal structure used. For example, credit card receivables are generally unsecured and the debtors are entitled to the protection of a number of state and federal consumer credit laws, many of which give debtors the right to set off certain amounts owed on the credit cards, thereby reducing the balance due. Asset-backed securities typically experience credit risk. For example, there is an increasing supply of subordinated securities rated lower than AA (down to B or first loss) and senior securities that may be rated lower than AAA, as well. There is also the possibility that recoveries on repossessed collateral may not, in some cases, be available to support payments on these securities because of the inability to perfect a security interest in such collateral.

- ***Non-U.S. Securities:*** Although our clients focus primarily on U.S. leveraged loan and high yield fixed income securities, they may also invest in non-U.S. securities. Investing in securities of non-U.S. governments and companies, which are generally denominated in non-U.S. currencies, and utilization of currency forward contracts and options on

currencies involve certain considerations comprising both risks and opportunities not typically associated with investing in securities of United States issuers. These considerations include changes in exchange rates and exchange control regulations, political and social instability, expropriation, imposition of non-U.S. taxes, less liquid markets and less available information than are generally the case in the United States, higher transaction costs, less government supervision of exchanges, brokers and issuers, difficulty in enforcing contractual obligations, lack of uniform accounting and auditing standards and greater price volatility.

- **Currency Risks:** Investments that are not denominated in U.S. dollars are subject to the risk that the value of a particular currency will change in relation to one or more other currencies. Among the factors that may affect currency values are trade balances, the level of short-term interest rates, differences in relative values of similar assets in different currencies, long-term opportunities for investment, capital appreciation and political developments. The Investment Manager may try to hedge these risks, but there can be no assurance that it will implement a hedging strategy, or if it implements one, that it will be effective.
- **Small Cap Stocks:** At any given time, our Fund clients may have significant investments in smaller-to-medium sized companies of a less seasoned nature. These securities are traded in the over-the-counter market or recognized stock exchanges. These “secondary” securities often involve significantly greater risks than the securities of larger, better-known companies.
- **Short Sales:** Short selling, or the sale of securities not owned by our Fund clients involves certain additional risks. Such transactions expose our clients to the risk of loss in an amount greater than the initial investment, and such losses can increase rapidly and without effective limit. There is the risk that the securities borrowed by our clients in connection with a short sale would need to be returned to the securities lender on short notice. If such request for return of securities occurs at a time when other short sellers of the subject security are receiving similar requests, a “short squeeze” can occur, wherein our client might be compelled, at the most disadvantageous time, to replace borrowed securities previously sold short with purchases on the open market, possibly at prices significantly in excess of the proceeds received earlier.
- **Lack of Liquidity of Client Assets:** Our clients’ assets may, at any given time, include securities and other financial instruments or obligations which are very thinly traded or for which no market exists or which are restricted as to their transferability under applicable securities laws. The sale of any such investments may be possible only at substantial discounts. Further, such investments may be extremely difficult to value with any degree of certainty.
- **Portfolio Valuation:** Because of overall size, concentration in particular markets, and maturities of positions held by our clients, the value at which its investments can be liquidated may differ, sometimes significantly, from the interim valuations arrived at using the methodology described in the respective client’s governing documents. In addition, the timing of liquidations may also affect the values obtained on liquidation. Securities to be held by our clients may routinely trade with bid-ask spreads that may be

significant. At times, third-party pricing information may not be available for certain positions held by our clients. In addition, our clients may hold loans or privately placed securities for which no public market exists.

- **General Market Risks:** The profitability of a significant portion of our clients’ investment programs depend to a great extent upon correctly assessing the future course of the price movements of securities and other investments. There can be no assurance that we will be able to predict accurately these price movements. Although we may attempt to mitigate market risk through the use of long and short positions or other methods where guidelines permit, there may be a significant degree of market risk.
- **Volatility:** Due to the fact that the Fund’s portfolio is not required to be diversified and likely will be primarily focused on Senior Loans and Senior Secured Bonds, and more significantly, because the Fund does not anticipate engaging in extensive short sales and only utilizes limited hedging activities, it is likely that the performance of the Fund will be volatile.
- **Non-Diversification:** It is anticipated that our client’s portfolios will be invested primarily in securities of non-investment grade U.S. companies. Accordingly, our clients’ portfolios may not be diversified among geographic areas or types of securities. Furthermore, our Fund clients’ portfolios may not be diversified among a wide range of issuers or industries. Accordingly, the investment portfolio of our clients may be subject to more rapid change in value than would be the case if our clients were required to maintain a wide diversification among industries, areas, types of securities and issuers.
- **Leverage:** Our clients may use leverage to attempt to maximize total return. While the use of margin borrowing can substantially improve the return on invested capital, such use may also increase the adverse impact to which our clients’ portfolios may be subject. Borrowings will usually be from securities brokers and dealers and will typically be secured by our client’s securities and other assets. Under certain circumstances, such a broker-dealer may demand an increase in the collateral that secures the client’s obligations, and if the client were unable to provide additional collateral, the broker-dealer could liquidate assets held in the account to satisfy the client’s obligations to the broker-dealer. Liquidation in that manner could have extremely adverse consequences. In addition, the amount of a client’s borrowings and the interest rates on those borrowings, which will fluctuate, will have a significant effect on the client’s profitability.
- **Options:** Our Fund clients may, from time to time, purchase put and call options, as well as write such options which are highly specialized activities and entail greater than ordinary investment risks. Because option premiums paid or received by an investor are small in relation to the market value of the investments underlying the options, buying and selling put and call options can result in large amounts of leverage. As a result, the leverage offered by trading in options could cause the value of a shareholder’s investment to be subject to more frequent and wider fluctuations than would be the case if our client did not invest in options.
- **High Growth Industry Related Risks:** Our clients may invest in the securities of high growth companies. These securities may be very volatile. In addition, these companies may face undeveloped or limited markets, have limited products, have no proven profit-

making history, may operate at a loss or with substantial variations in operating results from period to period, have limited access to capital and/or be in the developmental stages of their businesses, have limited ability to protect their rights to certain patents, copyrights, trademarks and other trade secrets, or be otherwise adversely affected by the extremely competitive markets in which many of their competitors operate.

- ***Trading in Futures Contracts:*** Our Fund clients may, in the future, invest in futures contracts and options thereon both for hedging purposes and to increase the total return on the client's portfolio. Trading in futures contracts and options is a highly specialized activity which, while it may increase the total return on the client's portfolio, may entail greater than ordinary investment risks. The client will not purchase, hold, sell or otherwise deal in commodities, commodity contracts, commodity futures, financial futures or options until, to the extent required, have registered with the Commodity Futures Trading Commission. For the foreseeable future, we do not have plans to invest in futures or register with the Commodity Futures Trading Commission.
- ***Counterparty Risk:*** To the extent the Fund invests in swaps, derivative or synthetic instruments, or other over-the-counter transactions, including forward contracts, or in certain circumstances, non-U.S. securities, the Fund may take a credit risk with regard to parties with whom it trades and may also bear the risk of settlement default. These risks may differ materially from those entailed in exchange-traded transactions which generally are backed by clearing organization guarantees, daily marking-to-market and settlement, and segregation and minimum capital requirements applicable to intermediaries. Transactions entered directly between two counterparties generally do not benefit from such protections and expose the parties to the risk of counterparty default.
- ***CLO Collateral:*** A CLO invests in a diversified pool of corporate credit instruments that provide collateral for the investors of the CLO. The collateral is predominantly non-investment grade senior loans as well as other corporate credit instruments such as high yield bonds. We act as the collateral manager for CLOs on behalf of the various investors of the respective CLOs. Our CLO clients rely on us as Collateral Manager to maintain adequate collateral values during the life of the respective CLOs such that the asset values will be sufficient to repay, in full, the debt obligations of the CLO as those obligations become due. There is a risk that the value of the collateral may decline and not be sufficient to fully repay all of the obligations upon maturity. There is also a risk that significant fluctuations in the value of the collateral may require certain actions be taken by us, as Collateral Manager, such as the sale of collateral or limitations on our ability to purchase new collateral. Our CLO clients have the ability to monitor such risks from the trustee reports that calculate, on a monthly basis, the value of the collateral in relation to the CLO liabilities. Additional risks associated with CLO Collateral are referenced in the respective CLO Indentures.
- ***CLO Structure:*** A CLO is similar to a closed-end investment fund in that it is an investment vehicle that has a specific investment strategy, a designated investment manager and all investment/trading activity is governed by an indenture and reported upon by an independent trustee. The CLO structure, however, utilizes financial leverage to purchase assets (corporate loans and other credit instruments) and, by doing so,

allocates risk of loss among various classes of investors. The individual investor classes (or tranches of debt) each have a unique claim on the assets of the CLO in terms of their priority of payment for both interest and principal proceeds of the collateral. The senior debt tranches have a priority claim on the cash flows generated by the assets of the CLO over the junior debt tranches. To the extent that losses are suffered on the collateral, or the cash flow generated by the assets is not sufficient to pay interest and principal on the debt tranches, the holder(s) of the most subordinated notes bear the initial risk of loss before any such losses are incurred by more senior debt tranches. Additional risks associated with CLO Structure are referenced in the respective CLO Indentures.

**Item 9. Disciplinary Information**

There are no legal or disciplinary events to report that would be material to a client’s or a prospective client’s evaluation of our advisory business or the integrity of management.

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

Feingold O’Keeffe Capital, LLC is the investment advisor to all of our clients. In addition it also serves as the general partner to the private investment partnerships we act as the investment advisor to. Andrea S. Feingold, a managing member of FOC, also serves as a non-compensated director along-side two independent directors on each of our non-partnership Funds that we manage, as well as the CLO entities that we manage. Even though in addition to Ms. Feingold there are two independent directors associated with these entities, we retain the right to hire and retain those directors. This gives our firm heightened control over each Fund we manage. We manage any potential conflict of interest this may cause by using the services of many independent firms to provide direct services to those Funds, such as auditors, lawyers and fund administrators, and we strictly adhere to the terms of the respective Offering Circulars for each Fund.

Neither our firm, nor any of our members, officers, employees or affiliates, currently has any other industry affiliations or outside business activities that would be material to a prospective client or investor’s evaluation of our firm. However, our firm and our members, officers, employees or affiliates may conduct investment activities for their own accounts and may in the future also serve as general partner of other funds and serve as investment adviser or investment manager to other client accounts. Such other entities or accounts (collectively the “Other Clients”) may have investment objectives or may implement investment strategies similar to those of our current clients. We (or our principals) may give advice or take action with respect to any current client and any Other Client that differs from the advice given with respect to any client. To the extent a particular investment is suitable for more than one client, such investments will be allocated between the clients pro rata based on assets under management or in some other manner which FOC determines is fair and equitable under the circumstances to all clients. Simultaneous identical portfolio transactions for more than one client may tend to decrease the prices received, and increase the prices required to be paid, by a client for its portfolio sales and purchases. Where less than the maximum desired amount of a particular security to be purchased is available at a favorable price, the amount purchased will be allocated among the participating clients in an equitable manner as determined by FOC. It may not always be possible or consistent with the investment objectives of the various clients for the same investment positions to be taken or liquidated at the same time or at the same price.

Purchase and sale transactions (including swaps) may be effected between clients subject to the following guidelines: (i) such transactions shall be effected for cash consideration at the current market price of the particular securities, and (ii) no extraordinary brokerage commissions or fees (i.e., except for customary transfer fees or commissions) or other remuneration shall be paid in connection with any such transaction.

As a result of the foregoing, FOC (and its principals) may have conflicts of interest in allocating their time and activity among the current clients and any Other Clients, in allocating investments among the current clients and any Other Clients and in effecting transactions between the clients, including ones in which we (and our principals) may have a greater financial interest.

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

FOC recognizes that we are a fiduciary and therefore must first serve the interests of our clients. Furthermore, we recognize that we must adhere to the highest standard of care and diligence in conducting our business activities as is required by law, and that we must be particularly sensitive to situations in which the interests of our advisory clients may be directly or indirectly in conflict with our own interests as the advisor. Compliance obligations are a priority at FOC and, as such, we have adopted written policies and procedures (“Compliance Manual”) in accordance with those standards.

In addition, and as part of the Compliance Manual, our firm has adopted and implemented a written Code of Ethics that is designed to prevent improper personal trading, identify conflicts of interest and provide a means to resolve any actual or potential conflicts. Our Code of Ethics limits personal trading and requires employees to obtain pre-clearance for any personal trading activity involving securities other than mutual funds and exchange traded funds (ETFs). Under certain limited circumstances, employees may hold personal investments in the same securities that our clients hold. However, our Chief Compliance Officer will not approve any requests for personal trading that give even the appearance of being adverse to the interests of our clients. Upon request, we will provide any current or prospective client or investor a copy of our Code of Ethics.

FOC’s policies and procedures are designed to prevent our firm from trading on material non-public information, which includes maintaining a restricted list in the event that we or any of our principals, officers or employees obtain any material non-public information. Our firm’s use of a restricted list and our caution in connection with potential exposure to material non-public information may limit clients’ investment opportunities.

Our clients may invest in other clients we provide advisory services to. Furthermore, our employees may invest personally in our Funds. These investments could pose a conflict of interest with other clients because officers and employees may be motivated to allocate time, attention and/or investment opportunities to our Fund clients at the expense of other clients. We have adopted written policies and procedures governing the allocation of investment opportunities designed to ensure that all client accounts are treated fairly and equitably.

**Item 12. Brokerage Practices**

Our firm has discretion to select the counterparties used to trade our clients’ accounts. Many of our clients’ investments involve securities with limited liquidity, so there are often few trading counterparties available to execute our intended trades.

We seek to obtain best execution on behalf of our clients based on a variety of factors, which may include:

- Net transaction prices,
- A counterparty’s ability to execute the intended trade in a timely manner,
- A counterparty’s ability to execute large or difficult orders,
- The perceived quality of a counterparty’s back office operations, and
- A counterparty’s ability to preserve the confidentiality of our trading activities.

In certain instances, we may execute over-the-counter securities transactions through an agency broker, which may cause clients to incur commissions and mark-ups or mark-downs.

Monthly trade analysis is distributed and reviewed by the Portfolio Managers, Head Trader, CFO and Chief Compliance Officer. This analysis includes counterparty commissions, number and value of all transactions, and types of assets traded.

We do not consider client or investor referral when selecting trading counterparties.

**Soft Dollar Benefits:**

In selecting brokers or dealers to execute transactions for client account, we need not solicit competitive bids and do not have an obligation to seek the lowest available commission, mark-up or other cost (collectively, “Commissions”). It is not our practice to negotiate “execution only” commission rates, thus clients may be deemed to be paying for research, brokerage or other services provided by the broker which are included in the commission rate. Section 28(e) of the Securities Exchange Act of 1934, as amended, is a “safe harbor” that permits us to use commissions or “soft dollars” to obtain research and brokerage services that provide lawful and appropriate assistance in the investment decision-making process. We will limit the use of Commissions to obtain research and brokerage services to services which constitute research and brokerage within the meaning of Section 28(e). However, because Section 28(e) relates only to the use of commissions on equity transactions, the use of commissions, mark-ups or other compensation on transactions in instruments other than equity securities would be outside the parameters of Section 28(e). In some instances, we may receive a product or service that may be used only partially for functions within Section 28(e) (e.g. an order management system, trade analytical software or proxy services). In such instances, we will make a good faith effort to determine the relative proportion of the product or service used to assist us in carrying out our investment decision-making responsibilities and the relative proportion used for administrative or other purposes outside Section 28(e). The proportion of the product or service attributable to assisting us in carrying out our investment decision-making responsibilities will be paid through brokerage Commissions generated by client transactions and the proportion attributable to administrative or other purposes outside Section 28(e) will be paid for by us from our own



resources. Research and brokerage services obtained by the use of Commissions arising from a client’s portfolio transactions may be used by us in our other investment activities and thus, a client may not necessarily, in any particular instance, be the direct or indirect beneficiary of the research or brokerage services provided.

On a limited basis, our firm benefits from the availability of Bloomberg subscriptions and data at a reduced cost when a certain level of trading is executed using Bloomberg Tradebook, an online execution tool. Where we receive discounts on the costs paid for our Bloomberg service or pursuant to any other soft dollar arrangements, we receive a benefit because we do not have to produce or pay for the research, products or services, and our clients indirectly bear those costs as part of their transaction costs. Our firm has an incentive to trade with counterparties that provide credits toward Bloomberg subscriptions and data, even when other counterparties are offering superior execution. Subscriptions and data obtained from Bloomberg may be used to benefit any or all of our clients, even through only some clients’ trading activity may have contributed to the receipt of such products and services.

#### Aggregating Transactions

When we deem appropriate, we may, but are not required to, aggregate our client orders to achieve more efficient execution or to provide for equitable treatment among accounts. Clients participating in aggregated trades will be allocated securities based on the average price achieved for such trades. We typically allocate partially filled orders pro rata based on the size of each participating client’s order. However, we may deviate from our general allocation policy to avoid de minimus position sizes or in other circumstances where our CFO or CCO determines that a deviation is fair to all affected clients.

#### Direct Brokerage Arrangements

SMA clients generally do not direct us to trade through any particular counterparty. An SMA client’s insistence on the use of a particular counterparty in connection with the trading of its account can have a materially adverse effect on the quality of execution that is available to the client. Among other things, a client that directs the use of trading counterparties may pay higher transaction costs, be excluded from aggregated orders, and trade after our other clients have traded.

**Item 13. Review of Accounts**

With respect to our Fund clients, our Portfolio Managers, Head Trader and CFO review client accounts on a daily basis and, in more depth, on a weekly basis. Daily risk reports for each client are reviewed by the Portfolio Managers, Head Trader and CFO to determine, among other things, whether securities positions should be maintained in view of current market conditions and internal risk guidelines.

Portfolio measures reviewed daily include, among others:

- exposure metrics,
- asset breakdown,
- position details such as price, maturity, yield, spread,
- position-level profits and losses,
- industry and issuer concentrations,
- overall portfolio liquidity.

The Portfolio Managers, Head Trader and CFO monitor this data within the context of market conditions and internal diversification requirements.

The investors in each Fund receive month-end and mid-month written estimates of performance. They receive written monthly performance reports that include certain portfolio characteristics as well as written investment letters. Monthly account statements are distributed by the Fund’s administrator via a password protected website. Investors also receive audited financial statements annually.

As discussed in Item 5 above, we have entered into a side letter arrangement with a strategic investor. This arrangement calls for additional reporting information that is not routinely provided to other clients or investors.

Reports provided to SMA clients may vary based on the requirements of each SMA. We will work with our SMA clients at inception to establish an appropriate reporting schedule.

With respect to our CLO clients, the Trustee of the CLOs provides monthly reports to the CLO investors that include information on collateral purchased and sold, interest income received, compliance with various overcollateralization and interest coverage tests and portfolio quality tests. Additionally an independent accounting firm reviews the calculations made by the Trustee on a quarterly basis to verify cash disbursements to the CLO investors. FOC, as collateral manager, receives daily reports from the Trustee with respect to the trading activity, interest income, cash balances and activity for the CLO as well as any principal repayment activity of the underlying collateral.

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

As discussed in Item 5 above, our Funds have strategic investors that receive direct allocations of income from each seeded Fund. These allocations reduce the amount of compensation we receive from those Funds. These arrangements do not reduce the net asset value of our Fund

investors. We do not otherwise compensate any person, who is not a supervised person, for client referrals.

**Item 15. Custody**

We are deemed to have custody of our Fund’s assets because of the authority we have over those assets. We will also be deemed to have custody over other clients’ assets to the extent we can automatically deduct from their accounts to pay our fees.

To satisfy the SEC’s custody rule requirements, our Funds provide each investor in the Fund with audited financial statements within 120 days of the end of each year.

With respect to the CLO entities, and SMAs, we do not have custody over the assets, as we do not have direct access to deduct our fees.

**Item 16. Investment Discretion**

FOC has full investment management discretion over all of our client accounts. With respect to the Funds, our limitations are identified in the Offering Circulars, and we are granted such discretion pursuant to each Fund’s governing documents. With respect to the CLOs, we have been assigned full investment management discretion through a Collateral Management Agreement executed at the time of each respective CLO’s closing.

**Item 17. Voting Client Securities**

In the absence of specific voting guidelines from the client, we will vote client securities (commonly referred to as proxies) in the best interests of each particular client, which may result in different voting results for proxies for the same issuer. We believe that voting client securities in accordance with the following guidelines is in the best interests of our clients.

- Generally, we will vote in favor of routine corporate housekeeping proposals, including election of directors (where no corporate governance issues are implicated), selection of auditors, and increases in or reclassification of common stock.
- Generally, we will vote against proposals that make it more difficult to replace members of the issuer’s board of directors, including proposals to stagger the board, cause management to be overrepresented on the board, introduce cumulative voting, introduce unequal voting rights, and create supermajority voting.

If a conflict of interest arises between our firm and our clients in connection with a proxy vote, we will seek to vote the proxy in a manner that favors the interests of our clients. Our Chief Compliance Officer may consult with outside counsel regarding the appropriate response in proxies that pose material conflicts of interest.

Voting policies on behalf of our SMA clients is determined at inception of each SMA account.

Clients may obtain a copy of the Advisor’s Proxy Voting Policies and Procedures (“Procedures”) and information about how we voted their securities upon request to Dorothy Held, Chief Compliance Officer, by contacting her at 857.403.1266 or at [compliance@focapital.com](mailto:compliance@focapital.com).

**Item 18. Financial Information**

FOC has never filed for bankruptcy and we are not aware of any financial condition that is reasonably likely to impair our ability to meet contractual commitments to clients.