

# Tenor Capital Management Company, LP

## Part 2A of Form ADV

### The Brochure

1180 Avenue of the Americas, Suite 1940, New York, NY 10036

Updated: February 2013

This brochure provides information about the qualifications and business practices of Tenor Capital Management Company, LP (“Tenor”). If you have any questions about the contents of this brochure, please contact us at 212-918-5300. 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 Tenor is also available on the SEC’s website at: [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## Material Changes

This Item discusses only material changes made to the Part 2 of Form ADV since Tenor’s most recent update in March 2012. Since that update, the Tenor Special Situation Fund, L.P. was funded with partner and co-investor capital and TOLF1 Ltd was created to manage certain assets on behalf of redeeming shareholders. This Form ADV Part 2 has been updated to reflect these changes.

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## Advisory Business

Tenor and its affiliate, Tenor Opportunity Associates, LLC (“Associates”) were established in July 2004. Tenor has been registered with the SEC since August 2010. Since Tenor and Associates conduct a single advisory business, the firms filed a single registration with the SEC in March 2012.<sup>1</sup> Tenor is controlled by Tenor Management GP, LLC. Robin R. Shah is the Managing Member of Tenor Management GP, LLC. Associates’ is controlled by Tenor Management Associates, LLC. Robin R. Shah is the Managing Member of Tenor Management Associates, LLC.

As of December 31, 2012, Tenor and Associates managed approximately \$1,961 million of regulatory assets under management on a discretionary basis on behalf of 6 clients.

### Advisory Services

Tenor and Associates provide investment management services to private pooled investment vehicles offered to investors on a private placement basis. The investment vehicles are structured as limited partnerships or other types of non-U.S. entities. In connection with providing these

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<sup>1</sup> Tenor serves as the “Filing Adviser” while Associates is considered the “Relying Adviser.”

investment management services, Tenor and Associates have been appointed as investment adviser with discretionary trading authorization.

Tenor is the investment adviser to investment funds organized under the laws of the Cayman Islands, including Tenor Opportunity Fund Ltd., Aria Opportunity Fund, Ltd, Aria Opportunity Offshore Fund, Ltd., and Parsoon Opportunity Fund, Ltd. (the "Offshore Funds"), and Tenor Opportunity Master Fund, Ltd. into which both Tenor LP (defined below) and Tenor Opportunity Fund Ltd. invest all their capital (the "Master Fund" and together with the Offshore Funds, the "Cayman Funds"). Shares in the Offshore Funds are offered on a private placement basis primarily to persons who are not "U.S. Persons," as defined in Regulation S of the Securities Act, and certain U.S. tax-exempt entities. Shares in Aria Opportunity Fund Ltd. are also offered to permitted "U.S. Persons" on a private placement basis, in reliance on a private placement exemption pursuant to Regulation D under the Securities Act of 1933 (the "Securities Act") to persons who are "accredited investors" as defined in Regulation D under the Securities Act and "qualified purchasers" as defined under the Investment Company Act of 1940 (the "Company Act"). The Offshore Funds are subject to certain other conditions, which are set forth in more detail in the offering documents for the Offshore Funds.

Associates serves as the general partner for Tenor Opportunity Fund L.P., a private investment fund organized under the laws of the state of Delaware ("Tenor LP") and together with the Cayman Funds, the "Funds"). The interests in Tenor LP are offered on a private placement basis, in reliance on a private placement exemption pursuant to Regulation D under the Securities Act of 1933 (the "Securities Act") to persons who are "accredited investors" as defined in Regulation D under the Securities Act and "qualified purchasers" as defined under the Investment Company Act of 1940 (the "Company Act"), and subject to certain other conditions, which are set forth in the offering documents for Tenor LP. Associates also serves as the general partner for Tenor Special Situations fund, L.P., a private investment fund organized under the laws of the state of Delaware ("TSSF"). The interests in TSSF are offered on a private placement basis, in reliance on a private placement exemption pursuant to Regulation D under the Securities Act to persons who are "accredited investors" as defined in Regulation D under the Securities Act and "qualified purchasers" as defined under the Company Act, and subject to certain other conditions, which are set forth in the offering documents for TSSF.

Tenor and Associates have full discretionary authority with respect to investment decisions, and their advice with respect to the Funds (individually, a "Fund") is made in accordance with the investment objectives and guidelines as set forth in each Fund's respective offering memorandum and/or pursuant to the investment management agreements entered into between each Fund and Tenor. Tenor also provides certain management and administrative services to all of the Funds.

Tenor also provides investment management services to a separately managed account ("Separate Account" and together with the Funds, "Clients"). Tenor has full discretionary authority with respect to investment decisions, and its advice with respect to the Separate Account is made in accordance with the investment objectives and guidelines set forth in the investment advisory agreement entered into between the Separate Account and Tenor.

Tenor and Associates generally utilize the following types of investment strategies for Clients: convertible arbitrage, capital structure arbitrage, volatility and credit relative value, and special situations. Tenor and Associates offer clients investment advice regarding various types of investments, including, but not limited to: (1) currencies; (2) bank debt instruments; (3) non-U.S. investments; (4) forward contracts; (5) equity swaps (a contract returning the total return of an underlying equity); (6) credit default swaps (a contract which protects the buyer from bankruptcy risk by allowing the delivery of bonds at par value in the event of a triggering event of default); (7) asset swaps (the right to purchase an asset such on a pre-agreed price or pricing methodology); interest rate swaps (a cash payout based on the level or levels of interest rates); (8) variance swaps (a contract with a cash payout based on the realized volatility of an underlying index or equity); (9) credit index swaps; (a contract with a payout based on the level of a credit indexes); (10) equity securities including exchange-listed securities, securities traded over-the-counter, and foreign issuers; (11) warrants; (12) corporate debt; (13) options contracts on securities and commodities; (14) United States government securities; and (15) futures contracts.

## **Fees and Compensation**

The fees applicable to each Fund are set forth in detail in each Fund's respective offering documents. A brief summary of those fees is provided below. For separate account clients, Tenor negotiates its fees and compensation on a case-by-case basis.

- 1-2. Tenor Opportunity Fund, L.P. and Tenor Opportunity Fund, Ltd.
  - Management Fee: 1.25% to 1.5% depending on certain factors including investment date and amount of investment.
  - Incentive Allocation/Fee: 11.5% to 20% depending on certain factors including investment date and amount of investment.
  - Tenor and Associates, as applicable, may in their sole discretion, elect to reduce, waive or calculate differently the management fee or incentive allocation/fee with respect to any limited partner or shareholder in the Funds.
3. Parsoon Opportunity Fund, Ltd. ("Parsoon")
  - Management Fee: 1.25%
  - Incentive Fee: 13% Tenor may in its sole discretion, elect to reduce, waive or calculate differently the management fee or incentive fee with respect to any shareholder in Parsoon.
4. Aria Opportunity Fund, Ltd. ("Aria")
  - Management Fee: 1.25% depending on certain factors including total assets under management.
  - Incentive Allocation: 13%
  - Tenor may in its sole discretion, elect to reduce, waive or calculate differently the management fee or incentive allocation/fee with respect to any limited partner or shareholder in Aria.
5. Tenor Special Situations Fund, L.P. (TSSF)

- **Management Fee:** 1.5% Tenor and Associates, as applicable, may in their sole discretion, elect to reduce, waive or calculate differently the management fee or incentive allocation/fee with respect to any limited partner or shareholder in the Funds.

For the Offshore Funds, an incentive fee or allocation will only be paid with respect to the net realized and net unrealized appreciation in the NAV of each series of shares (before any accruals for incentive fees or allocations and after making adjustments to the NAV of a series due to the issuance of new shares of such series during the applicable period) in excess of the “Prior High NAV” of such series of shares. As discussed in greater detail in the Offshore Funds’ offering memoranda, the Prior High NAV of a series of shares is the NAV of that series (exclusive of redemptions) immediately following, and after reduction for, the most recent calculation of an incentive fee or allocation with respect to such series of shares.

For Tenor LP and TSSF, at the end of each accounting period any net capital appreciation or net capital depreciation will be allocated to all Partners in proportion to their respective opening capital accounts for such period. Generally, at the end of each fiscal year the net capital appreciation allocated to the capital account of each Limited Partner for such fiscal year (after reduction for the Management Fee) will be reallocated as an incentive allocation.

Tenor and Associates and their personnel may invest in one or more of the Funds but will not be charged a management fee or incentive fee/allocation by the applicable Funds in which they invest.

Each of the Offshore Funds’ Board of Directors (“Board”), as applicable, generally are entitled to charge investors a 2% withdrawal fee (with respect to Tenor LP) or redemption fee (with respect to the Offshore Funds) if the investor withdraws or redeems (as the case may be) its investment prior to the first anniversary of investing. Any of the Boards may waive the withdrawal/redemption fee in their sole discretion. Further, Tenor or any of the Boards may, in their sole discretion, require any investor to withdraw or redeem any or all of its investment in a Fund at any time for any reason, or no reason, upon prior written notice.

Any performance-based incentive fees will be charged in accordance with Section 205 of the Advisers Act of 1940 (the Advisers Act) and Rule 205-3 thereunder.

Management fees for the Funds are payable quarterly in advance. Management fees for the Separate Account are paid monthly in arrears. Management fees and incentive allocations for the Funds are directly debited from the Funds’ accounts. Management fees and incentive allocations for the Separate Account are paid via wire.

Tenor may receive advanced “work fees” from potential portfolio investment issuers to help offset certain expenses anticipated to be incurred by Tenor in evaluating a potential investment (e.g., legal fees). This work fee, after expenses may be allocated i) in full to Tenor as a “break fee” if the potential investment is not made and Fund capital has not been committed or ii) pro-rata based on capital to the Funds if an investment is made.

### Expenses

Clients bear their own expenses in connection with their operation, including, without limitation, investment related expenses such as brokerage commissions, research expenses, research related travel expenses, interest on margin accounts and other indebtedness, borrowing charges on securities sold short, custodial fees, bank service fees, withholding and transfer fees, taxes, clearing and settlement charges, professional fees (including, without limitation, expenses of consultants and experts) relating to investments, and expenses related to the purchase, sale or transmittal of Clients' investments.

The Funds also bear expenses related to the costs of providing news, data and quotation services, costs of computer equipment and software, including, without limitation, risk management systems, accounting systems, costs of reporting positions to risk measurement and aggregation reporting services, legal, administration, accounting, audit and tax expenses, expenses for tax services, licensing fees, organizational expenses, expenses relating to the offer and sale of interests. A more complete description of these expenses is included in the relevant Fund's governing documents.

### **Performance Based Fees and Side-by-Side Management**

As stated in the Fees and Compensation section above, Tenor and Associates charge performance based fees which are fees based on a share of capital gains on or capital appreciation of the client's assets.

The fact that the Tenor and Associates are compensated based on the trading profits may create an incentive to make investments on behalf of Clients that are riskier or more speculative than would be the case in the absence of such compensation. In addition, the performance based fee received by Tenor/Associates is based primarily on realized and unrealized gains and losses. As a result, the performance based fee earned could be based on unrealized gains that clients may never realize.

It is the policy of Tenor and Associates to allocate investment opportunities fairly and equitably over a period of time. Tenor and Associates follow procedures to ensure that allocations do not involve a practice of favoring or discriminating against any Client. Account performance is never a factor in trade allocations.

### **Types of Clients**

Tenor and Associates provide advice to a foreign corporation and private pooled investment vehicles offered to investors on a private placement basis. The investment vehicles are structured as limited partnerships or other types of non-U.S. entities. Interests in the investment vehicles are offered and sold exclusively to investors satisfying the applicable eligibility and suitability requirements either in private transactions within the United States or in offshore transactions. Typically, these investors are high net worth individuals, institutions and other entities.

Institutional investors in the Funds generally are required to make minimum initial investments of at least \$5 million, and individual investors generally are required to make a minimum initial investment of \$1 million, although the Fund's Board of Directors may accept lower amounts from

either. In the case of the Offshore Fund, the Board of Directors, in its discretion, may accept subscriptions of lesser amounts, provided that the minimum initial subscription will not be less than \$50,000. Investors generally will not be permitted to redeem their interests in a Fund under circumstances in which (i) the amount being redeemed is less than \$500,000 for individual investors and \$2,500,000 for institutional investors, or (ii) if the redemption would result in the value of such investor's total remaining investment in a Fund being less than \$1,000,000 for individual investors and \$5,000,000 for institutional investors, or such lesser amount as Tenor, in its sole discretion, may determine.

Tenor has entered into side letters with investors in the Funds that provide preferential fees, reporting requirements and position transparency.

Side letters are also entered with co-investors through certain of the Funds in specific investments that describe the terms of those investments

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

The investment objective of Clients is to generate attractive risk-adjusted returns by employing a variety of strategies primarily focused on credit and volatility relative value. These strategies include convertible arbitrage, capital structure arbitrage, volatility and credit relative value, and special situation trades. The Clients seek to optimize risk-adjusted returns by actively managing capital allocation across these strategies. While Tenor and Associates utilize certain external research resources during the investment decision making process, investment decisions ultimately rely primarily on the investment team's internal research.

The portfolio is constructed to reduce systematic risk through diversification and to limit exposure to overall levels of equity market valuations and interest rates. The portfolio intentionally has exposure to company specific risks when the investment team believes that these risks are mispriced. The portfolio will have exposure to general levels of volatility and credit spreads when the investment team believes these negatively correlated strategies can provide attractive risk-adjusted returns. The team focuses on mid-cap companies with a market capitalization of 500 million to 5 billion. Within that universe, the team is searching for asymmetric return investments that will experience a catalyst to unlock the value of the underlying trade.

Issuer specific risks that the investment team retains usually have the following features: cheap volatility and credit on an intra-industry relative value basis, favorable credit and volatility relationships (e.g. high issuer credit spreads and low issuer volatility), mispriced capital structure components, credit hedged with equity or equity put options, restructuring opportunities, and special situations related to convertible and high yield bonds.

An investment in the Funds/Separate Account involves a high degree of risk, including the risk of loss of the entire amount invested. The Clients invest in and actively trade securities and other financial instruments using a variety of strategies and investment techniques with significant risk characteristics, including risks arising from the use of short sales, leverage, options, swaps, futures and other derivatives investments. Moreover, an investment in the Funds provides limited liquidity since the shares are not freely transferable and investors will have limited redemption rights.

Leverage is used in the investment program of Clients. While leverage presents opportunities for increasing the total return on investments, it has the effect of potentially increasing losses as well. Accordingly, any event which adversely affects the value of an investment could be magnified to the extent leverage is utilized. The cumulative effect of the use of leverage with respect to any investments in a market that moves adversely to such investments could result in a substantial loss which would be greater than if the investments were not leveraged.

## **Disciplinary Information**

Tenor and Associates and its employees have not been involved in any legal or disciplinary events in the past 10 years that would be material to a client's evaluation of the company or its personnel.

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

As described previously, Associates acts as the general partner of the U.S. Fund. Tenor/Associates maintain no other material relationships or arrangements with financial industry participants.

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

### Code of Ethics and Personal Trading

Tenor and Associates may, from time to time, invest in securities or instruments in which Tenor and Associates may also invest Clients' assets. Similarly, Tenor, Associates and their partners and employees may, from time to time, make personal investments in securities or instruments in which Tenor and Associates may invest Clients' assets. Tenor and Associates and their personnel may buy, sell, or hold securities or other instruments for its own or their own accounts while entering into different investment decisions for one or more Clients. In addition, Tenor and Associates and their personnel may invest in eligible Funds of its or their choosing and, in this regard, are not required to invest in all Funds. It is expected that, if such investments are made, the size and nature of these investments will change over time.

Tenor and Associates strive to adhere to the highest industry standards of conduct based on principles of professionalism, integrity, honesty and trust. In seeking to meet these standards, Tenor and Associates have adopted a Code of Ethics (the "Code"). The Code incorporates the following general principles that all employees are expected to uphold: employees must at all times place the interests of clients first; all personal securities transactions must be conducted in a manner consistent with the Code and any actual or potential conflicts of interest or any abuse of an employee's position of trust and responsibility must be avoided; employees must not take any inappropriate advantage of their positions; information concerning the identity of securities and financial circumstances of Clients, as well as the Funds' investors, must be kept confidential; and independence in the investment decision-making process must be maintained at all times. The Code also places restrictions on personal trades by employees, including that they disclose their personal securities holdings and transactions to Tenor on a periodic basis, and requires that employees preclear certain types of personal securities transactions. *Investors may request a copy of the Code by contacting Tenor at the address or telephone number listed on the first page of this document.*

Tenor and Associates also maintain policies and procedures that are designed to prevent the misuse of material, non-public information (the “Insider Trading Policies”). Tenor’s personnel are required to certify to their compliance with the Code, including the Insider Trading Policies, on a periodic basis.

#### Restrictions Due to Insider Information

Tenor’s and Associates’ Insider Trading Policies prohibit Tenor, Associates and their personnel from trading for Clients or themselves, or recommend trading, in securities of a company while in possession of material, non-public information (“Inside Information”) about the company, and from disclosing such information to any person not entitled to receive it. By reason of its various activities, Tenor may have access to inside information or be restricted from effecting transactions in certain investments that might otherwise have been initiated. Tenor and Associates have designed and implemented policies and procedures reasonably designed to shield its investment professionals in most cases from access to inside information so that investment decisions may be made on the basis of public information only. Among other things, such policies seek to control and monitor the flow of Inside Information to and within Tenor, as well as prevent trading based on Inside Information. Accordingly, Tenor may not have access to inside information that other market participants or counterparties are eligible to receive.

Notwithstanding such policies and procedures, there may be certain cases where Tenor either may receive inside information due to its various activities on behalf of itself or Clients or may be restricted in acting for Clients, resulting in limited liquidity. Tenor seeks to minimize those cases whenever possible, consistent with applicable law and our Insider Trading Policies, but there can be no assurance that such efforts will be successful and that such restrictions will not occur.

#### Participation or Interest in Client Transactions

Tenor, Associates and their personnel do not purchase or sell any securities for their own accounts to or from Clients. Subject to applicable restrictions imposed by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), as well as Clients investment guidelines and restrictions, Tenor and Associates will not direct Clients subject to ERISA to buy or sell securities to or from another Client through an internal cross transaction. However, from time to time, subject to each Client’s investment guidelines and restrictions, Tenor and Associates may direct a Client that is not subject to ERISA to buy or sell securities from another Client not subject to ERISA through an internal cross transaction in which neither Tenor nor its affiliate nor a related person of Tenor or the applicable affiliate will receive compensation. Any such cross transaction will be affected based on the then current independent market price and consistent with valuation procedures established by Tenor and Associates. To the extent that any such cross transaction may be viewed as a principal transaction due to the ownership interest in the Funds by Tenor and Associates and/or their personnel, Tenor and Associates will comply with the requirements of Section 206(3) of the Advisers Act, including that Tenor and/or Associates will notify the Funds (or an independent representative of the Funds) in writing of the transaction and obtain the consent of the Funds (or an independent representative of the Funds).

#### Additional Considerations

From time to time, various potential and actual conflicts of interest may arise from the overall advisory, investment and other activities of Tenor, Associates and their affiliates and personnel. Tenor and Associates have established policies and procedures to monitor and resolve conflicts and will endeavor to resolve conflicts with respect to investment opportunities in a manner it deems equitable to the extent possible under the prevailing facts and circumstances. Tenor, Associates and their personnel may invest on behalf of themselves in securities and other instruments that would be appropriate for, held by, or may fall within the investment guidelines of Clients. Tenor, Associates and their personnel may give advice or take action for their own accounts that may differ from, conflict with or be adverse to advice given or action taken for Clients. These activities may adversely affect the prices and availability of other securities or instruments held by or potentially considered for one or more Clients. Potential conflicts also may arise due to the fact that Tenor and Associates and their personnel may have investments in some Funds but not in others or may have different levels of investments in the various Funds, and because the Funds may pay different levels of fees to Tenor and Associates.

In addition, Tenor and Associates may give advice or take action with respect to the investments of one or more Clients that may not be given or taken with respect to other Clients with similar investment programs, objectives, and strategies. Accordingly, Clients with similar strategies may not hold the same securities or instruments or achieve the same performance. Tenor also may advise Clients with conflicting programs, objectives or strategies. These activities also may adversely affect the prices and availability of other securities or instruments held by or potentially considered for one or more Clients. Finally, Tenor, Associates and their personnel may have conflicts in allocating their time and services among Clients. Tenor and Associates will devote as much time to each Client as Tenor or Associates deems appropriate to perform its duties in accordance with its management agreements.

## **Brokerage Practices**

As noted previously, Tenor and Associates have full discretionary authority to manage Clients including authority to make decisions with respect to which securities are bought and sold, the amount and price of those securities, the brokers or dealers to be used for a particular transaction, and commissions or markups and markdowns paid. Tenor's and Associates' authority is limited by their own internal policies and procedures and each Client's investment guidelines.

In selecting an appropriate broker-dealer to effect a client trade, Tenor and Associates seek to obtain best execution, taking into consideration, among other things, the price of a security offered by the broker-dealer, as well as a broker-dealer's full range and quality of services including, among other things, facilities, reliability and financial responsibility, execution capability, commission rates, responsiveness to Tenor and/or Associates, brokerage and research services provided to Tenor and/or Associates (e.g., research ideas, analysis, and investment strategies), special execution and block positioning capabilities, clearance, and settlement and custodial services. If Tenor and Associates decide to execute over-the-counter ("OTC") transactions on an agency basis through Electronic Communications Networks ("ECNs"), then they may also consider, among others, the following factors when choosing to use one ECN over another: the ease of use, the flexibility of the ECN compared to other ECNs, and the level of care and attention that will be given to smaller orders. Tenor and Associates maintain policies and procedures to review the quality of executions, including periodic reviews by their investment professionals.

### Soft Dollar Usage

From time to time, Tenor and/or Associates may pay a broker-dealer commissions (or markups or markdowns with respect to certain types of riskless principal transaction) for effecting Client transactions in excess of that which another broker-dealer might have charged for effecting the transaction in recognition of the value of the brokerage and research services provided by the broker-dealer. Tenor and Associates will effect such transactions, and receive such brokerage and research services, only to the extent that they fall within the safe harbor provided by Section 28(e) of the Securities Exchange Act of 1934. Tenor and Associates believe it is important to its investment decision-making processes to have access to independent research.

Generally, research services provided by broker-dealers may include information on, among other things, the economy, industries, groups of securities, individual companies, statistical information, accounting and tax law interpretations, political developments, legal developments affecting

portfolio securities, technical market action, pricing and appraisal services, credit analysis, risk measurement analysis, performance analysis, and analysis of corporate responsibility issues. Such research services are received primarily in the form of written reports, telephone contacts, and personal meetings with security analysts. In addition, such research services may be provided in the form of access to various computer-generated data, computer software, and meetings arranged with corporate and industry spokespersons, economists, academicians, and government representatives. In some cases, research services are generated by third parties but are provided to Tenor and Associates by or through broker-dealers.

Also, consistent with Section 28(e), research products or services obtained with “soft dollars” generated by one or more Client may be used by Tenor and Associates to service one or more other Clients. Where a product or service obtained with soft dollars provides both research and non-research assistance to Tenor and/or Associates (e.g., a “mixed use” item), Tenor and Associates will make a good faith allocation of the cost, which may be paid for with soft dollars. In making good faith allocations of costs between administrative benefits and research and brokerage services, a conflict of interest may exist by reason of Tenor’s and/or Associates’ allocation of the costs of such benefits and services between those that primarily benefit Tenor and/or Associates and those that primarily benefit Clients.

At least annually, Tenor and Associates consider the amount and nature of research and brokerage services provided by broker-dealers, as well as the extent to which such services are relied upon, and attempt to allocate a portion of the brokerage business of its clients on the basis of such considerations. Broker-dealers sometimes suggest a level of business they would like to receive in return for the various products and services they provide. Actual brokerage business received by any broker-dealer may be less than the suggested allocation, but can (and often does) exceed the suggested level, because total brokerage is allocated on the basis of all of the considerations described above. In no case will Tenor or Associates make binding commitments as to the level of brokerage commissions each will allocate to a broker-dealer, nor will either commit to pay cash if any informal targets are not met. A broker-dealer is not excluded from receiving business because it has not been identified as providing research products or services.

#### Additional Brokerage Considerations

Tenor and Associates have entered into agreements on behalf of the Funds with certain brokers-dealers that act as prime brokers on behalf of the Funds. From time to time, personnel of Tenor and Associates may speak at conferences and programs for potential investors interested in investing in hedge funds, which are sponsored by those prime brokers. These conferences and programs may be a means by which Tenor and Associates can be introduced to potential investors in the Funds. Currently, Tenor, Associates, and the Funds do not compensate prime brokers for organizing such “capital introduction” events or for any investments ultimately made by prospective investors attending such events (although they may do so in the future). While such events and other services provided by a prime broker may influence Tenor or Associates in deciding whether to use such prime broker in connection with brokerage, financing and other activities of the Funds, Tenor and Associates will not commit to allocate a particular amount of brokerage to a broker-dealer in any such situation.

#### Trade Allocation and Aggregation Policies and Procedures

It is the policy of Tenor and Associates to allocate investment opportunities fairly and equitably over a period of time. Tenor and Associates will follow procedures to ensure that allocations do not involve a practice of favoring or discriminating against any Client. Account performance is never a factor in trade allocations. Generally, trade allocations will be made pro rata based on the relative capital size of each of the Clients. Tenor currently manages the Tenor Opportunity Master Fund Ltd through a master-feeder structure, and the assets of the feeder Funds are managed primarily through a single portfolio at the master fund level.

Tenor and Associates, however, will have no obligation to purchase, sell or exchange any security or financial instrument for the Clients if Tenor and/or Associates believe in good faith at the time the investment decision is made that such transaction or investment would be unsuitable, impractical or undesirable for any of the Clients.

In making allocation decisions, Tenor and Associates generally consider the following factors, among others: the investment objectives and restrictions on the Clients; the nature and size or the proportion of a securities issue likely to be available to Tenor and/or Associates or the nature and size of the proposed sale; the relative size and cash availability of the applicable strategy of the Clients; the ability to borrow and the cost of borrowed funds; tax consequences; legal restrictions, including those that may arise in foreign jurisdictions; the liquidity of the investment relative to the need of the Clients; the degree of specialization of the Clients relative to the investment offered; the relative historical participation of the Clients in the investment; the difficulty of liquidating an investment for the Client; the possibility that an allocation may result in a small or odd lot; the existence of new Clients with a substantial amount of investable cash; and other factors considered relevant.

If Tenor or Associates, as applicable, determine that the purchase or sale of the same security is in the best interest of the Clients, Tenor or Associates may, but are not obligated to, aggregate orders in order to reduce transaction costs to the extent permitted by applicable law. When an aggregated order is filled through multiple trades at different prices on the same day, each participating Client will receive the average price with transaction costs allocated pro rata based on the size of the Clients participation in the order (or allocation in the event of a partial fill) as determined by Tenor or Associates, as applicable. In the event of a partial fill, allocations generally will be made pro rata based on the initial order, but may be modified on a basis that Tenor or Associates, as applicable, deems to be appropriate, including, for example, in order to avoid odd lots or *de minimis* allocations.

## **Review of Accounts**

Tenor and/or Associates perform various daily, weekly, monthly, and other periodic reviews of the Clients' portfolios. Such reviews are conducted by Tenor's Portfolio Manager working together with Tenor's investment and/non investment professionals.

Clients and investors in the Funds receive a monthly letter from Tenor documenting the performance of their respective separate account/Fund, along with a commentary by Tenor, although Tenor may provide certain clients/investors with information on a more frequent basis if agreed to by Tenor. In addition, the Funds issue investors tax reports and audited financial statements concerning their respective Funds within 120 days of the end of the Funds' fiscal year.

In addition, Tenor's personnel may participate in monthly portfolio reviews with Clients and Fund investors at Tenor's discretion, which are attended by the appropriate members of Tenor's investment staff.

## **Client Referrals and Other Compensation**

Tenor has entered into an agreement with a non-US broker-dealer, Eureka Capital Partners (HK) Ltd. ("Eurekahedge") to provide certain referral and capital introduction services to Tenor on a non-exclusive basis to institutional investors for the Tenor Opportunity Fund Ltd. In addition Tenor has entered into an agreement with a US broker-dealer, EurekaCap Partners Inc., an affiliated entity of Eurekahedge incorporated in the United States. Additionally, from June 2008 through September 2009 Anaxis S.A. provided introductions to non-U.S. investors on a non-exclusive basis. Eurekahedge and Anaxis S.A. are compensated by Tenor and not by the Funds. All referral fee arrangements will be fully disclosed to investors.

## **Custody**

All client assets are held in custody by unaffiliated broker/dealers or banks. Tenor does not have custody over the Separate Account's funds or securities. However Tenor and Associates have access to the Funds' accounts since it serves as the general partner or managing member of the Funds. Limited partners (or member/owners) of a limited partnership or other investment vehicle will not receive statements from the custodian. Instead the Funds are subject to annual audits and the audited financial statements are distributed to each investor. The audited financial statements will be prepared in accordance with generally accepted accounting principals and distributed within 120 days of the Funds' fiscal year end.

## **Investment Discretion**

As noted previously, Tenor and Associates have full discretionary authority to manage Clients' accounts including authority to make decisions with respect to which securities are bought and sold, the amount and price of those securities, the brokers or dealers to be used for a particular transaction, and commissions or markups and markdowns paid. Tenor's and Associates' authority is limited by their own internal policies and procedures, each Fund's investment guidelines, and the Separate Account's investment guidelines/restrictions.

## **Voting Client Securities**

The Securities and Exchange Commission adopted Rule 206(4)-6 under the Advisers Act, which requires registered investment advisers that exercise voting authority over client securities to implement proxy voting policies. Due to the nature of the investment products and strategies utilized by Tenor and Associates proxy voting is rare. However, to be in compliance with the proxy voting rules Tenor and Associates have adopted proxy voting policies and procedures. The general policy is to vote proxy proposals, amendments, consents or resolutions relating to client securities, including interests in private investment funds, if any (collectively, "proxies"), in a manner that serves the best interests of the Clients, as determined by Tenor and/or Associates in their discretion, taking into account the following factors: (i) the impact on the value of the investments; (ii) the anticipated associated costs and benefits; (iii) the continued or increased availability of portfolio information; and (iv) industry and business practices. In limited circumstances, Tenor and Associates may refrain from voting proxies where they believe that

voting would be inappropriate taking into consideration the cost of voting the proxy and the anticipated benefit to the Clients. If a material conflict of interest over proxy voting arises and the proposal is addressed by the proxy voting policies, Tenor/Associates will vote in accordance such policies. If the proxy proposal is not addressed by the proxy voting policies then the CCO, COO and Portfolio Manager will meet to review and resolve the conflict of interest. A copy of the proxy voting policies and the proxy voting record relating to a client of Tenor or Associates may be obtained by contacting Tenor.

## **Financial Information**

Tenor and Associates have never filed for bankruptcy and is not aware of any financial condition that is expected to affect its ability to manage client accounts.