

Part 2A of Form ADV: Firm Brochure

Item 1 - Cover Page

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The date of this brochure is March 28, 2013.

This brochure provides information about the qualifications and business practices of Nierenberg Investment Management Company, Inc. If you have any questions about the contents of this brochure, please contact us at (360) 604-8600. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (the “SEC”) or by any state securities authority.

Additional information about Nierenberg Investment Management Company, Inc. also is available on the SEC’s website at www.adviserinfo.sec.gov.

Any reference to Nierenberg Investment Management Company, Inc. as a “registered investment adviser” or as being “registered” does not imply a certain level of skill or training.

Item 2 - Material Changes

The following material changes have been made to this Brochure since the last amendment filed on February 14, 2012. This Brochure has been updated with the following material changes:

- Subject to certain exposure thresholds, we may make investments in private companies. Please see Item 8.A. for additional details; and
- While not a regular practice, we can, and have, utilized leverage by purchasing options contracts. Please see Item 8.A. for additional details.

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Item 4 - Advisory Business

- A. **Nierenberg Investment Management Company, Inc.** (“Advisor,” “we” or “us”) is a Washington corporation that was formed on April 12, 1995. We are wholly owned by David Nierenberg. Our subsidiary, Nierenberg Investment Management Offshore, Inc. (“NIMO”), a Bahamas international business company, is a “Relying Adviser” as that term is described in the SEC Staff No-Action Letter dated January 18, 2012, to the American Bar Association, Business Law Section. NIMO is a wholly owned subsidiary.
- B. We and NIMO provide discretionary investment advice to private investment funds. References herein to the “Advisor,” “we,” “us” or similar pronouns will include references to NIMO as applicable. We generally invest and trade on behalf of our clients in a wide variety of securities and financial instruments, domestic and foreign, of all kinds and descriptions, whether publicly traded or privately placed. We currently serve as the general partner to The D3 Family Fund, L.P. (the “Family Fund”), The D3 Family Bulldog Fund, L.P. (the “Bulldog Fund”) and The D3 Family Canadian Fund, L.P. (the “Canadian Fund”), and NIMO serves as the general partner to The DIII Offshore Fund, L.P. (the “Offshore Fund,” and together with the Family Fund, the Bulldog Fund and the Canadian Fund, each, a “Fund,” and collectively, the “Funds”). Currently, the Funds are our only clients. (See Item 7 – Types of Clients)

We have established an advisory committee, (the “Advisory Committee”) comprised of individuals with substantial business and/or investment experience, most of whom are, or work for entities that are, investors in the Funds. The members of the Advisory Committee are selected by us, and serve at our pleasure. We may, in our discretion, consult with the Advisory Committee on matters of strategy, the valuation of Fund assets, the resolution of any potential conflicts of interests, the handling of any dispute involving the Funds, and any other matters we deem appropriate in our discretion.

- C. We generally do not permit investors in the private investment funds we manage to impose limitations on the investment activities described in the offering documents for those funds. Under certain circumstances, we may contract with a Fund or an individual investor to adhere to limited risk and/or operating guidelines (in most cases, only to comply with legal or regulatory requirements applicable to the Fund or investor). Any such arrangements will be negotiated on a case by case basis. (*See Item 16 “Investment Discretion.”*)
- D. We do not participate in wrap fee programs.
- E. As of December 31, 2012, we managed approximately \$323,511,872 on a discretionary basis. We do not manage any assets on a non-discretionary basis.

Item 5 - Fees and Compensation

- A. We are compensated by a management fee that is based upon a percentage of assets under management and performance based allocations. The fees and allocations are generally non-negotiable.

Management Fees

Each of the Funds pays a quarterly management fee in advance.

Investors in the Funds are generally designated as Old Limited Partners or New Limited Partners. Old Limited Partners include limited partners who invested in any of the Funds prior to March 1, 2003 and certain designated offshore investors that had a separately managed account with NIMCO prior to August 25, 2003, but now invest in one of the Funds. New Limited Partners generally include all other limited partners.

The management fee payable by the Funds is calculated differently for the Old Limited Partners and the New Limited Partners. In calculating the management fees, the net asset value of the Funds will not include any portion of the net asset value attributable to certain investors that are not subject to a management fee.

For each of the Funds, the quarterly management fee payable by Old Limited Partners is determined by calculating:

- (i) the product of (A) .00375 and (B) the portion of the net asset value of the Funds on a combined basis up to but not exceeding \$15 million; plus
- (ii) the product of (A) .0025 and (B) the portion of the net asset value of the Funds on a combined basis that is in excess of \$15 million and not exceeding \$30 million; plus
- (iii) the product of (A) .001875 and (B) the portion of the net asset value of the Funds that is in excess of \$30 million; and
- (iv) multiplying the sum of (i), (ii), and (iii) by a fraction, the numerator of which is the net asset value of the Funds attributable to the accounts of the Old Limited Partners with respect to the Fund for which the calculation is being applied, the denominator of which is the net asset value of the combined Funds. The resulting amount is the "Old Limited Partner Management Fee."

The Old Limited Partner Management Fee for any fiscal quarter is allocated among Old Limited Partners in proportion to their capital account balances as of the first day of such fiscal quarter.

The quarterly management fee payable by each New Limited Partner is equal to 0.0025 multiplied by the net asset value of such New Limited Partner's capital account.

Investments in the Funds are also subject to an annual performance-based allocation to us or our affiliates as discussed in *Item 6* below.

- (i) The performance-based allocation from Old Limited Partners is calculated at a rate of 15% per annum; and
 - (ii) The performance-based allocation from New Limited Partners is calculated at a rate of 20% per annum
- B. We generally deduct our management fees quarterly in advance. Generally, we or our affiliates receive performance-based allocations from the Funds on an annual basis in arrears and upon withdrawals of capital by investors in the private investment funds we manage.

- C. The Funds generally bear the direct costs and expenses associated with their respective operations, including, but not limited to: (i) all organizational and other expenses associated with their formation and the formation of the general partner, (ii) broker's commissions, clearance charges and other costs and expenses incident to the purchase, sale or other disposition of securities, including, without limitation, all costs of registering any restricted securities, (iii) all taxes or governmental fees payable by or with respect to the Fund or its securities or to federal, state or other governmental agencies, domestic or foreign, including, without limitation, sales and use taxes and stamp or other transfer taxes, (iv) all expenses of the transfer, receipt, safekeeping, servicing and accounting for securities, cash and other property, including all charges of depositaries, custodians and other agents, if any, (v) all charges for the services and expenses of legal counsel, outside accountants, auditors, administrators and other professionals or service providers (including the audit of annual financial statements and the preparation of tax returns and the costs of preparing and mailing reports to the investors), (vi) a portion of the legal and compliance expenses incurred by us in connection with our obligation to register with the U.S. Securities and Exchange Commission as an investment adviser, (vii) all expenses relating to the admission of any additional partner, including, without limitation, the cost (including reasonable attorneys' fees and expenses) incurred in connection with the preparation, filing and publication of the private offering memorandum, the partnership agreement and all other documents required as a condition of such partner's admission and any blue sky filing fees and expenses, (viii) all expenses relating to any dissolution and liquidation, (ix) certain expenses of insurance and of any bonds, (x) such nonrecurring expenses as may arise, including, without limitation, consulting fees, the costs of actions, suits or proceedings to which the Fund is a party and the expenses that the Fund may incur as a result of its legal obligation to provide indemnification under its partnership agreement, (xi) all interest on borrowings and other obligations, and (xii) and other ordinary operating and out-of-pocket expenses. (*See Item 12 "Brokerage Practices" below.*)

We may also allocate a portion of certain Funds' capital to money market funds or exchange-traded funds. In addition to the fees and expenses discussed above, investors will indirectly incur similar fees and expenses if we invest a Fund's capital in such money market funds or exchange traded funds, as these funds in turn pay similar fees to their investment managers and other service providers.

- D. Management fees are generally paid quarterly in advance, and are not refundable if the advisory contract is cancelled or investors withdraw capital prior to the end of a payment period.
- E. Not applicable.

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

We or our affiliates receive annual performance-based allocations from the private investment funds we manage, which are based on a percentage of the capital appreciation of client assets.

Although the terms of the performance-based allocations are the same for each of the Funds, because the relative number of Old Limited Partners and New Limited Partners will vary, we may face a conflict of interest when we allocate opportunities among the Funds because we may have an incentive to favor Funds that are expected to have higher performance-based allocations. To avoid such a conflict of interest we generally allocate opportunities among the Funds on a *pari*

passu basis, and follow documented procedures in allocating opportunities among the Funds, which does not take into account the performance-based allocations to which the Funds are subject (see Item 12, Section A.3, “Allocation of Investment Opportunities” below).

As the management fees and performance-based allocations are based directly on the net asset value of the Funds, we may have a conflict of interest in valuing the assets held in the accounts. We will follow our documented valuation policies in order to mitigate this risk.

Item 7 - Types of Clients

We primarily provide investment advice to clients who are private investment funds. Currently, the Funds are our only clients. Investors in the Funds are generally high net worth individuals and institutional investors that qualify as “accredited investors” (as defined in Rule 501 under the Securities Act of 1933, as amended) and “qualified clients” (as defined under the Investment Advisers Act of 1940, as amended (the “Advisers Act”). Investors in the Bulldog Fund and the Canadian Fund must also qualify as “qualified purchasers” (as defined under the Investment Company Act of 1940, as amended). The minimum investment in the Funds is generally \$500,000.

Item 8 - Methods of Analysis, Investment Strategies and Risk of Loss

A. Methods of Analysis and Investment Strategies Generally

We may acquire, purchase, invest in, hold, exchange, sell, trade, on margin or otherwise, and otherwise deal in securities and other intangible investment instruments consisting principally, but not solely, of stocks and other securities and instruments, principally of publicly traded entities, that we believe to be undervalued and not widely followed by securities analysts, institutional investors and others in the investment community. Although we invest principally in securities that are publicly traded, such securities may not be actively traded. We expect that we will hold most positions for approximately five to seven years, but are not required to hold a security for any particular period of time. We may also seek occasionally to profit from declines in the value of securities by short selling, trading in publicly traded options and various other hedging strategies, though we expect such strategies to be a small part of the Funds’ portfolios. We may also invest in non-public entities. Investments in private companies may arise if an existing publicly traded investment is taken private to increase the expected return on investment by eliminating public company costs, or if we have identified an economic trend in which we would like to invest, but cannot find a publicly traded entity within our market cap range that fits our quality and valuation parameters, outlined below. Private investments are limited in cost value to 25% of assets under management. Our principal objective is to achieve long-term, real, after-tax gain and capital preservation by making significant investments in the equity securities of what we believe to be under-researched, undervalued companies. We invest primarily in a small portfolio of public companies (and occasionally private entities) whose long-term prospects for growth in value either have been misunderstood significantly or are not recognized at all by the public markets. These investments are expected to be principally equity securities because of our belief that investments in equity securities are the best means for us to achieve long-term capital appreciation. Because the prices of equity securities fluctuate, however, and because company, industry, market and macro-economic risks are omnipresent, we work to mitigate the risk of permanent loss. We will do this by investing only where we believe we can develop an informational advantage over other market participants and only

where the gap between the acquisition price of a security and its intrinsic value appears sufficiently substantial, in light of relevant circumstances, that we believe that an investment in that security provides an acceptable margin of safety.

We seek to develop an informational advantage by identifying and focusing our investment activity on pockets of informational inefficiency in the public markets. We believe informational inefficiencies exist where investors and analysts panic over bad news or where there is not enough potential trading and fee income to justify the cost of analytical coverage by larger market players. Pockets of informational inefficiency that we hope to take advantage of include micro-capitalization stocks, turnarounds, busted IPOs, industry and regional panics, corporate spin-outs and spin-offs, well-managed cyclical growth companies or growth companies in cyclical industries and closed-end mutual funds. As we will be required to invest significant time in performing our own primary research to develop insight into these companies, our client portfolios likely will be concentrated in eight to fourteen companies in industries understood by us. We believe that diversification beyond this number would unwisely substitute breadth for insight. In addition, having a highly concentrated portfolio of positions where our clients are among the largest owners of each company enables us to be active in communicating with and influencing management and the boards of directors of the portfolio companies. From time to time, we may constructively engage with management or the board of directors, or we may take a seat on the board of directors of a portfolio company to instigate change or advance shareholder interests. These actions may from time to time constrain liquidity.

We intend that the companies invested in by us will share certain common attributes that we believe should both reduce the risk of permanent loss and maximize the potential for long-term gain. The shares should be priced at a bargain, providing the margin of safety between the company's market price and its intrinsic value. There should be a form of catalyst present to unlock what we believe to be the "hidden value" that the financial community has missed. Sometimes we may serve as a catalyst for change at a company. Management should be committed to, and capable of, building shareholder value. The company should have a strong competitive and customer position and a manageable debt load, if any debt at all. The company should be able to increase its earnings per share significantly. Based on these investment guidelines, we will not be interested in owning shares of a company simply because they are cheap or out of favor; we strive to own securities of quality, growing businesses with good management that can be purchased at bargain prices. Once such investments have been identified, we intend to hold them until their fundamentals change for the worse, they become fairly valued or they are displaced by a superior investment opportunity. We are not and do not anticipate being an active trader.

We may employ short selling, hedging and similar strategies using options and other investment vehicles from time to time in situations where we consider these strategies appropriate. In selecting investments for short sale and similar strategies we seek securities we believe (i) reflect unrealistic earnings expectations on the part of analysts or investors, (ii) employ aggressive accounting practices or (iii) are likely to decline in value over the near term because of company-specific, industry, market and economic factors and expectations that we consider relevant. In selecting securities for hedging, we seek liquid securities we believe will provide protection to the portfolio in times of market illiquidity and stress.

We do not regularly use leverage to magnify returns. However, from time to time, we may purchase securities on margin or otherwise with borrowed funds solely for short-duration bridging purposes where we believe it to be in the best interest of the Funds and with an intent to promptly repay such borrowings. We may also purchase options contracts with implied leverage to limit downside and magnify upside, to achieve asymmetric return potential.

Investing in securities involves risk of loss that clients and investors should be prepared to bear.

B. Certain Risks Associated with Methods of Analysis and Investment Strategies

The Funds may lose some or all of their money invested in securities and other financial instruments. As a result of such losses, limited partners in the Funds may lose some or all of the money they invest in the Funds. We invest substantially all of the available capital of the Funds (other than capital we determine to retain in cash) in securities and other intangible financial instruments, with particular emphasis on investments in companies we believe to be undervalued. However, investments in any securities involve significant risks. While the majority of the Funds' investments are expected to trade in public markets, the Funds also may have investments in privately owned companies. The markets are subject to fluctuation and the market value of any particular investment is subject to substantial variation. Notwithstanding the existence of a public market for particular securities, such securities may be thinly traded or may cease to be traded after the Fund invests in them. In addition to being illiquid, some securities may be issued by unseasoned companies and may be highly speculative. The Funds' investment portfolios may not generate any income or appreciate in value. Moreover, there can be restrictions on trading in a portfolio company's stock by a Fund because an officer or employee of the Advisor is a director of the company or the Fund owns ten percent (10%) or more of its equity or both.

The confidential private offering memorandum of each of the Funds contains a discussion about the particular risks associated with our methods of analysis and investment strategies. Investors in the Funds should carefully review such risk factors prior to investing in a Fund.

C. *Not applicable.*

Item 9 - Disciplinary Information

Not applicable.

Item 10 - Other Financial Industry Activities and Affiliations

A. *Not applicable.*

B. *Not applicable.*

C. The following describes any relationship or arrangement that is material to our advisory business or to the Funds that we or any of our management persons have with any related person listed below. We have identified any such related persons and if the relationship

or arrangement creates a material conflict of interest with the Funds, we have described the nature of the conflict and how we address it.

1. **broker-dealer, municipal securities dealer, or government securities dealer or broker**

Not applicable.

2. **investment company or other pooled investment vehicle (including a mutual fund, closed-end investment company, unit investment trust, private investment company or “hedge fund,” and offshore fund)**

The Funds, which we and our related persons manage, are deemed to be our related persons.

The management of multiple pooled investment vehicles may result in conflicts of interest when we (and our related persons) allocate our time and investment opportunities among the Funds. However, we believe that this is mitigated because the Funds have identical investment objectives and strategies, and generally trade on a *pari passu* basis. As a result, we do not expect to have a conflict of interest in the day to day management of the investments of the Funds, and expect to generally be able to attend to the affairs of the Funds concurrently. Nevertheless, on occasion certain matters may arise that pertain to one Fund that is not relevant to another Fund, and we may have to allocate a portion of our time between such Fund and the other Funds. In addition, in the future, we (and our related persons) may manage other private funds or provide advice to other clients which may, or may not, have the same or a similar investment strategy as the Funds.

In addition, depending on the relative composition of Old Limited Partners in relation to New Limited Partners in each of the Funds, the compensation earned by us (and our related persons) from each of the Funds may differ from one another.

We (and our related persons) will generally follow documented procedures in allocating trades among such Funds (*see Item 12, Section A.3, “Allocation of Investment Opportunities” below*).

Subject to applicable law, there may be situations where we determine that it is advantageous to the Funds to effect a securities transaction between two or more Funds for rebalancing or other purposes (each such transaction, a “cross trade”). This may result in a conflict of interest because a potential transaction may result in benefits to one transacting party that may be greater than the benefits to the other transacting party. In order to mitigate such conflicts, we effect cross trades only when we believe that such transactions are in the best interests of the applicable Funds, and subject to the following guidelines:

- Cross trades will only be effected by one of our prime brokers for cash consideration, at the current market price of the particular securities, within the context of the market at a time that is fair to both Funds involved in the transaction;
- The prime broker’s commission will be borne equally by both Funds;

- No brokerage commissions or transfer fees will be paid to us (or our related persons) in connection with any cross trade;
- All cross trades will be approved by the Chief Compliance Officer before the orders are executed and the Chief Compliance Officer will document the reason for the cross trade; and
- We will not effect a cross trade between Funds if such cross trade would constitute a “principal transaction,” unless the prior notice and consent requirements described in our Compliance Manual are satisfied (*see Item 11, Section B, below*).
- We will not effect cross trades with any Fund that is considered to include plan assets under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) or the Internal Revenue Code of 1986, as amended (the “Code”), unless we first consult with outside legal counsel.

Our principals (and/or other related persons) may have a greater portion of their personal assets invested in certain of the Funds than in the others. As a result, we may have a conflict of interest in allocating investment opportunities among the Funds. We will generally allocate trades among the Funds on a *pari passu* basis and follow documented procedures in allocating trades among Funds. (*See Item 12, Section A.3 “Allocation of Investment Opportunities” below.*)

3. other investment adviser or financial planner

As described above, NIMO serves as the general partner to the Offshore Fund. There are no material conflicts of interest resulting from the relationship between us and these other investment advisers other than any conflicts described in Item 10, section C.2 above.

4. futures commission merchant, commodity pool operator, or commodity trading advisor

Not applicable.

5. banking or thrift institution

Not applicable.

6. accountant or accounting firm

Not applicable.

7. lawyer or law firm

Not applicable.

8. insurance company or agency

Not applicable.

9. pension consultant

Not applicable.

10. real estate broker or dealer

Not applicable.

11. sponsor or syndicator of limited partnerships.

Not applicable.

D. *Not applicable.*

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

- A. We have adopted a Code of Ethics (the “Code of Ethics”) which provides that we are committed to conducting our business in accordance with all applicable laws and regulations and in an ethical and professional manner. In addition, we recognize that we have a fiduciary duty to the investors in the private investment funds and other accounts we manage, and that all of our employees must conduct their business on our behalf in a manner that enables us to fulfill this fiduciary duty. In this regard, we have developed policies and procedures in our Code of Ethics that are premised on fundamental principles of openness, integrity, honesty and trust. In addition, among other things, our Code of Ethics governs all personal investment transactions by our employees, our policies with respect to gifts and entertainment, compliance with applicable federal securities laws, the manner in which violations of our Code of Ethics are to be reported, and certain other outside activities of our employees. We will provide a copy of our Code of Ethics to any investor or prospective investor upon request.
- B. We recommend that prospective investors invest in the Funds on a case by case basis. Our principals and other management persons have significant personal investments in the Funds. In addition, we (and our affiliates) receive performance-based allocations from these Funds.

Subject to applicable law, we may effect cross trades between the Funds (generally for rebalancing purposes and to correct misallocations of trades) whereby one Fund will purchase securities from or sell securities to another Fund (*see Item 10, Section C.2 above*).

In the event that we effect a cross trade between a Fund in which we or our controlling persons own more than twenty five percent (25%) and another Fund, such transaction may be deemed to be a principal transaction under the Advisers Act. Such transactions may create a conflict of interest for us because we may put our (or our control persons’) interests in such Fund before the interests of the other Fund. In order to mitigate this conflict of interest, we monitor the interests of our principals, their immediate family

members and their affiliates in the Funds, and we will not effect any cross trades between Funds if we believe that such trade would result in a principal transaction unless:

- 1) We believe that such transaction is in the best interest of the Funds participating in the transaction; and
 - 2) We provide disclosure to, and obtain the consent of, the applicable Funds (or limited partners, if applicable) as required by the Advisers Act.
- C. Our employees are prohibited from purchasing or selling securities (or derivatives thereof) issued by any companies (i) whose securities (or derivatives thereof) are part of, or are currently contemplated to become part of, the portfolio of any of the Funds, and (ii) for which we are in possession of material, non-public information (each such company, a “Restricted Company”). We periodically update and distribute the list of Restricted Companies to our employees.

In addition, employees are not permitted to engage in a personal securities transaction involving an entity having a market capital or enterprise value of less than \$1.5 billion (a “MicroCap Company”) without the prior written consent of our Chief Compliance Officer, in consultation with our President as needed, except for transactions in certain securities and financial instruments set forth in our code of ethics.

In exercising her discretion to grant or reject a proposed MicroCap Company personal securities transaction, the Chief Compliance Officer (or, in the case of a request by the Chief Compliance Officer, our President) shall adhere to the following guidelines:

- 1) employees may not trade opposite our recommendations (except in limited situations where the employee is suffering a financial hardship), and
- 2) employees may not engage in “front-running” of the Funds, which is a practice generally understood to be personally trading ahead of the Funds.

Employees also may not, directly or indirectly, acquire beneficial ownership in any security in a limited offering (*i.e.* a private placement) or in an initial public offering without the prior written consent of the Chief Compliance Officer (or, if the Chief Compliance Officer is unavailable, our President).

Our restrictions on personal securities trading apply to all of our employees, family members of an employee living in the employee’s household (*e.g.*, spouse, domestic partner, siblings, parents and children) and to any account over which the employee exercises investment discretion.

- D. We may, and typically do, buy or sell securities for one Fund at the same time that we or our related persons buy or sell the same security for one or more other Funds (which are considered our related persons). This will typically happen when more than one Fund is capable of purchasing or selling a particular security based on investment objectives, available cash and other factors. This may create a conflict of interest if one Fund may benefit from making the trade before or after the Fund. We will generally aggregate trades, subject to best execution to avoid any such conflict of interest (*see Item 12, Section B “Aggregation of Orders”*).

Our principals and employees are not permitted to trade securities for their own accounts that are the same securities that we are trading on behalf of the Funds (*see Item 11, Section C*).

Item 12 - Brokerage Practices

A. Selection of Brokers

We outsource our trading to BTIG LLC ("BTIG"). BTIG executes and clears through Goldman Sachs Execution & Clearing ("GSEC"). GSEC also serves as the custodian for the Funds' assets.

We seek to obtain the best execution for our trades, which means that we are focused on seeking the best possible price and the lowest possible commission for any given trade. We expect our traders to approach the market for the most favorable terms of execution for the orders we have placed, taking into consideration the size of the order, the speed of execution, and the likelihood that a trade will be executed and settled in a timely manner. Accordingly, the amount of commissions charged by a broker-dealer may be reasonable in relation to the value of the brokerage and related services provided by such broker-dealer even though the commission is in excess of the commission another broker-dealer may charge for the same transaction.

We do not have an exclusive trading agreement with BTIG nor have we committed to giving BTIG a specific percentage of our annual trading in exchange for BTIG's prime brokerage services. Our outsourced trading agreement is separate from our Prime Brokerage agreement and we may trade with any registered broker dealer we choose.

1. Research and Other Soft Dollar Benefits

Other than with respect to broker research services, we do not currently enter into soft dollar arrangements with brokers. While this has been our policy since the commencement of our business operations and we have consistently adhered to this policy and intend to continue following this policy, we may nevertheless determine to change our policy and enter into soft dollar arrangements other than for broker research services in the future. Soft dollar arrangements arise when an investment adviser obtains products and services, other than securities execution, from a broker in return for directing client securities transactions to the broker.

We have three methods to compensate brokerage firms for research services through trading commissions. We may request that BTIG direct a purchase or sale order of a Fund to a specific broker-dealer in order to compensate that firm for providing us with analytical insight into portfolio companies, their competitors and industries, or prospective investments. The Funds pay BTIG 1.0 cent per share for directing such orders. The Funds pay market rate commissions to the specific brokerage firm to whom the trade was directed. We may direct trades to third parties through BTIG and incur a cost to do so as BTIG has greater market insight than we do internally, and therefore can more efficiently allocate trades amongst those brokerage firms we indicate, choosing which orders to allocate to which firm, and at what time, based on liquidity and other factors. In addition, we worry about front running by firms who provide research services and have proprietary trading desks. When BTIG allocates trades on our behalf, the receiving brokerage does not know who the order is from until after

executing the trade, if at all. Rather than go through BTIG, we may also direct purchase or sale orders directly to any brokerage firm in order to access liquidity, get better execution, or compensate for research services. We refer to any such trades as “step out trades.” The Funds pay brokerage firms market rate commissions for executing “step out trades.”

Lastly, while the normal trading commission paid to BTIG is 1.5 cents per share, we may request that BTIG charge more per share on certain trades or on a percentage of the Funds’ trading volume. During these periods, we request that BTIG sets aside the excess commissions in a pool to be distributed to other brokerage firms to compensate them for analytical research and coverage. We distribute this pool of surplus commissions on a periodic basis to the firms that provide us with analytical insight about our Funds’ portfolio companies, their competitors and industries, and prospective investments. We will make use of step out trades, directed trades, and extra commission arrangements only to the extent permitted by the “safe harbor” under Section 28(e) of the Exchange Act. Accordingly, if we determine in good faith that the amount of commissions charged by a broker is reasonable in relation to the value of the brokerage and products or services provided by such broker, a client may pay commissions to such broker in an amount greater than the amount another broker might charge.

We only trade when we need to trade, for bona fide business reasons and do not trade for the sake of generating commission dollars.

Under Section 28(e), research obtained with soft dollars generated by a client account may be used by us to service other client accounts and not exclusively in connection with the management of the client account that generated the particular soft dollar credits.

Where a product or service obtained with client commission dollars provides both research and non-research assistance to us, we will make a reasonable allocation of the cost which may be paid for with client commission dollars.

We may execute securities transactions on behalf of client accounts with broker-dealers that provide us with access to proprietary research reports (such as standard investment research and credit reports). To our knowledge, these services are generally made available to all institutional investors doing business with such broker-dealers. These bundled services are made available to us on an unsolicited basis and without regard to the rates of commissions charged or paid by client accounts or the volume of business that we direct to such broker-dealers.

During the past fiscal year, we obtained analytical insight into portfolio companies in exchange for client commissions on a very limited basis.

2. Brokerage for Client Referrals

We do not currently consider, nor have we ever considered, client referrals received from broker-dealers or other third parties when selecting or recommending broker-dealers. However, subject to applicable law, we may direct some client brokerage business to brokers who refer prospective investors

to the private investment funds we manage, consistent with best execution. Because such referrals, if any, are likely to benefit us but will provide an insignificant (if any) benefit to our clients, we have a conflict of interest with our clients when allocating client brokerage business to a broker who has referred investors to us. To prevent client brokerage commissions from being used to pay investor referral fees, we will not allocate client brokerage business to a referring broker unless we determine in good faith that the commissions payable to such broker are not materially higher than those available from non-referring brokers offering services of substantially equal value to the client account.

3. Directed Brokerage.

Not applicable.

4. Allocation of Investment Opportunities

We will act in a fair and reasonable manner in allocating investment and trading opportunities among the eligible Funds. In furtherance of the foregoing, we will consider participation in all appropriate opportunities within the purpose and scope of each Fund's objectives, and we will evaluate such factors as we consider relevant in determining whether a particular situation or strategy is suitable and feasible for each Fund (which may, but need not, include the investment strategy, parameters, restrictions and/or objectives; existing or desired portfolio exposures or position sizes; existing and desired industry concentration targets and constraints; available cash flow and relative cash balances; risk tolerance; liquidity requirements; existing asset allocation targets; tax implications; and legal, contractual, or regulatory or other constraints). To the extent a particular investment is suitable for several Funds, such investment will generally be allocated among such Funds *pro rata* based on assets under management or in some other manner that we determine is fair and equitable under the circumstances to all Funds. In general, the Funds are managed with the specific intent to invest *pro rata* in the same securities so that to the extent practicable each Fund's portfolio will be comprised of the same securities.

Though we generally endeavor to purchase or sell the same securities for each Fund which we purchase or sell for another Fund, we are not obligated to do so. On a very infrequent basis we may determine not to do so if such a transaction or investment appears unsuitable, impractical or undesirable for a particular Fund; provided that we, to the extent within our control, will not favor ourselves in any way to a Fund's detriment and will act in a manner that over the long term is fair and equitable to all of the Funds.

5. Trade Error Policy

We have established trade reconciliation procedures that are intended to identify erroneous trade information before a trade error actually occurs. Our personnel also review trade records to detect any trade errors not previously identified in order to correct any such errors prior to settlement. Whenever a trade error is discovered by any of our employees (that is directly due to some action or inaction of us or the action or inaction of our trading counterparty), such employee must contact the Chief Compliance Officer. We, with the help of legal

and other advisors if necessary, will make a case by case determination of the appropriate treatment for any trade errors. It is generally noted that such determinations will be made in accordance with the governing documents of the applicable Fund and we will reimburse a given Fund for net losses attributable to trade errors to the extent required pursuant to the applicable governing documents.

B. Aggregation of Orders

Upon determination to buy or sell the same security on behalf of more than one Fund (based upon the investment mandates of such Funds), we may, but will be under no obligation to, aggregate the securities to be purchased or sold in order to seek more favorable prices, lower brokerage commissions or more efficient execution. We will aggregate such purchases only to the extent permitted by applicable law and regulations. Once we have determined to buy a particular company's stock, we typically aggregate the security orders to be split on a *pro rata* basis among those Funds which will participate in such investment. Notwithstanding the prior sentences, it should be noted that we are of the view that it may be more operationally efficient at times to fill trades on a Fund-by-Fund basis. In these situations we expect to adjust the order of which Fund trades in the same security to seek to ensure that a particular Fund is not systematically disadvantaged or advantaged when we do not elect to aggregate trades.

Our goal is to have a fair distribution and equal weighting of each portfolio company for the participating Funds at all times. From time to time we may either hit a company's "poison pill" limit, or decide not to make additional purchases, or we may need to raise cash in a particular Fund; therefore, the equal weighting of portfolio companies is difficult to maintain exactly. Our intent, though, remains the same: to approximate parity among the Funds in the portfolio companies we buy for the Funds.

We use a very similar approach with the purchase of private company stock and aim to have a pro rata distribution of the shares bought among the participating Funds; however, it is noted that in the case of private real estate companies, the Code may require different participation among the Funds. These orders are conducted with the portfolio company directly and not through either our prime broker or the BTIG order management system ("OMS").

If we sell a security on behalf of the Funds, we also execute these orders through the BTIG OMS or directly with the traders and use a similar process as we do with buy orders. We attempt to make sure that each Fund gets its fair share of the incoming cash from the transaction, and work to keep the same relative percentage of the portfolio company in the Fund. From time to time, we may need to raise cash in a particular Fund and at other times we may need to split the sales *pro rata* across the Funds, despite the resulting imbalance that the sales may cause. Our goal is to be fair to all of the Funds and underlying limited partners when we sell, so that the portfolio balance stays close to even on a *pro rata* basis.

If we enter into advisory relationships with an account that is subject to ERISA (e.g., a separate account for an ERISA entity or a Fund that exceeds the 25% limit on benefit plan assets), we may aggregate trades for accounts subject to regulation under ERISA with trades for any other Funds.

Item 13 - Review of Accounts

- A. Fund portfolios are reviewed regularly, and their performance analyzed, by our investment professionals. Fund portfolios are also reviewed by members of our operations team to monitor compliance with the applicable trading mandate and any applicable risk and/or operating guidelines. The Chief Compliance Officer is also involved in the review of trading activity and account allocations. Fund investments are evaluated with regard to market conditions, risk management, performance goals and other considerations deemed appropriate and such other considerations as we deem appropriate. Reviews, on other than a periodic basis, may be triggered by a large withdrawal request or a large inflow of new investable cash or a change in advice received from our outside accountants about the suitability of a specific investment (such as a real estate investment) for a specific Fund.
- B. *Not applicable.*
- C. We furnish investors in the Funds with (i) monthly unaudited reports regarding the applicable Fund's performance; (ii) an annual audited financial report of the applicable Fund; and (iii) annual tax information for the preparation of their respective U.S. federal income tax returns (if applicable).

Item 14 - Client Referrals and Other Compensation

We may from time to time step-out trades to brokers that provide us with particularly useful analytical insight into a portfolio company or prospective investments (*see Item 12, Section A "Selection of Brokers"*).

Item 15 - Custody

The Funds are audited annually by an independent public accountant and the audited financial statement are distributed to investors within one hundred twenty (120) days of the Funds' fiscal year end. Investors should carefully review such statements. As noted above, GSEC serves as the custodian to the Funds' assets.

Item 16 - Investment Discretion

We have discretionary authority to manage securities accounts on behalf of the Funds. The investors in the private investment funds managed by us generally may not place any limits on our authority beyond the limitations set forth in the offering and governing documents of the Funds.

Item 17 - Voting Client Securities

We generally have voting discretion over securities held in the Funds' accounts. Limited partners in the Funds are generally not able to direct their votes in a particular situation. We will always try to vote the proxies of Fund portfolio companies; however, we do not have a set of strict voting guidelines that would force a Fund to vote one way or another. We follow our own business judgment to fit the specific situation. We have adopted a proxy voting policy which is summarized below.

When exercising our voting discretion, we vote on proposals submitted to stockholders in the best interest of the Funds. We exercise our judgment with respect to voting proxies within the bounds of prudent and responsible corporate behavior. It is noted that although we always carefully evaluate the proxies we receive on a case-by-case basis, in certain instances, we may determine to withhold our right to vote a proxy if we determine that such action is in the best interests of the Funds.

All proxies received by us to vote on behalf of the Funds are provided to our Chief Compliance Officer. Our Chief Compliance Officer will generally adhere to the following procedures, subject to limited exceptions:

- A written record of each proxy received by us will be kept in our files;
- Our Chief Compliance Officer will ensure that David Nierenberg and Cara Jacobsen are provided with the following:
 - a copy of the proxy;
 - the number of votes controlled by each Fund; and
 - the deadline that such proxies need to be completed and returned.
- Prior to voting any proxies with respect to the Funds, David Nierenberg and Cara Jacobsen will determine if there are any conflicts of interest related to the proxy in question. If a conflict is identified, we will then make a determination (which may be in consultation with legal counsel) as to whether or not the conflict is material.
- If no material conflict is identified, David Nierenberg and Cara Jacobsen will make a decision on how to vote the proxy in question. Our Chief Compliance Officer or such other designate will deliver the proxy in accordance with instructions related to such proxy in a timely and appropriate manner.
- If a conflict is identified and deemed “material”, our Chief Compliance Officer or such other designee (in consultation with legal counsel) will determine whether voting is in the best interests of the affected Funds. As applicable, we may consider utilizing a third party, such as our Advisory Committee or an independent proxy voting service, to vote such proxies.
- With respect to material conflicts, we will determine whether it is appropriate to disclose the conflict to affected limited partners and give such limited partners the opportunity to vote the proxies in question themselves. It is noted that if a Fund is subject to the requirements of ERISA, and an ERISA limited partner in such Fund has, in writing, reserved the right to vote proxies when we have determined that a material conflict exists that does affect our best judgment as a fiduciary, we will:
 - (i) Give such limited partner the opportunity to vote the proxies in question themselves; or
 - (ii) Follow designated special proxy voting procedures related to voting proxies pursuant to the terms of the written agreements with such ERISA limited partner (if any).

Absent good reason, we will vote the proxies of portfolio companies before the voting is closed for those polls. We will consider each proxy issue individually. We pay particular attention to topics such as board composition, board independence, board stock ownership, management compensation, stock options and other incentive compensation, auditor fees, auditor ratification, anti-takeover provisions conflicts of interest, and total shareholder return, absolutely and relative to market indices and relative to competitors of the portfolio companies. We are careful to vote on the substantive issues in a manner that is consistent with our thesis for the company. We do not have a single topic or select set of topics which we want to drive through our Funds' portfolio companies; instead, we consider the competitive market, the corporate culture, the company's strategy, management team, total shareholder return and other factors to guide our proxy voting.

A limited partner may obtain information about how we voted securities in the Fund in which such limited partner is invested by contacting us at the address set forth on the cover page of this brochure.

Item 18 - Financial Information

Not applicable.

Item 19 - Requirements for State-Registered Advisers

Not applicable.