

**FORM ADV, PART 2A**

**FIRM BROCHURE**

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**March 28, 2014**

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**This Brochure provides information about the qualifications and business practices of Berkshire Property Advisors, L.L.C. If you have any questions about the contents of this Brochure, please contact us at (617) 646-2300 or [compliance@bpadv.com](mailto:compliance@bpadv.com). 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 Berkshire Property Advisors, L.L.C. also is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

**Berkshire Property Advisors, L.L.C. is registered with the SEC as an investment adviser. Being a “registered investment adviser” or describing ourselves as being “registered” does not imply a certain level of skill or training.**

Item 2.           **Material Changes**

The Material Changes section of the Brochure will be updated annually when material changes occur since our last annual update.

**Material Changes**

The date of our last annual updating Brochure was March 28, 2013.

There are no material changes to this Brochure since March 28, 2013.

Please contact us at (617) 646-2300 or [compliance@bpadv.com](mailto:compliance@bpadv.com) to obtain a free copy of our Brochure.

Additional information about Berkshire Property Advisors, L.L.C. is also available via the SEC's website [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

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Item 4. **Advisory Business**

Berkshire Property Advisors, L.L.C. (the “Adviser”) is a Delaware limited liability company that was established in 2002. The Adviser is a part of The Berkshire Group of affiliated entities (collectively, “Berkshire”), founded in 1969, which is a vertically-integrated, national organization primarily focused on multifamily real estate. Over its 43-year history, Berkshire has been one of the most active multifamily owners and lenders in the U.S. Berkshire is led by a team of nine senior officers with an average tenure of 17 years with the company and an average of 35 years of overall real estate experience.

The Adviser’s advisory business primarily provides advisory services to pooled investment vehicles, specializing in multifamily equity and debt investments throughout the U.S. The Adviser also provides property management, construction management and development management services for multifamily real estate developments and other properties.

The Adviser provides advisory services to multiple privately offered pooled investment vehicles (each, a “Fund”) and to Berkshire Income Realty, Inc., a publicly-traded real estate investment trust (“BIR,” and collectively with the Funds, the “Clients”). The Adviser may provide advisory services to additional pooled investment vehicles and other types of clients in the future.

The primary focus of the Adviser’s advisory business is managing its Clients’ portfolios of multifamily real estate and real-estate related investments through acquisitions, finance, portfolio management and dispositions in accordance with the strategies set forth in each Client’s applicable offering documents and/or governing documents and agreements (collectively, “Governing Documents”). These activities are complemented by other services the Adviser or its affiliates provide, including property management, construction management and development management services. For a further description of the Clients and the investment strategies the Adviser uses in formulating investment advice and managing its Clients’ assets, please see Items 7 and 8 below.

Berkshire Property Advisors, L.P., a Delaware limited partnership (“BPA LP”), is the sole owner of all of the membership interests in the Adviser. Douglas Krupp and George Krupp are the co-founders of Berkshire, and are the principal owners of BPA LP. Douglas Krupp and George Krupp are also the owners of BPA Manager, Inc., the non-member manager of the Adviser.

The Clients do not impose restrictions on the Adviser in relation to investing in certain securities or types of securities, except as may be set forth in their respective Governing Documents. If provided in a Client’s Governing Documents, the application of certain of

such restrictions may be waived, generally only with the approval of an “Advisory Committee” of the relevant Client, if applicable. A Client’s Advisory Committee, if applicable, is generally composed of representatives of a number of the underlying investors (each, an “Underlying Investor”) of the applicable Client.

The Adviser manages substantially all of its Clients’ assets on a discretionary basis. As of December 31, 2013, the Adviser had approximately \$5,515,555,000 in assets under management.

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

The fee and compensation arrangements between the Adviser and each of its Clients are set forth in each Client’s applicable Governing Documents, and generally are not negotiated, provided, however, that if permitted in a Client’s Governing Documents, the fees applicable to an Underlying Investor in such Client may be reduced at the Adviser’s discretion.

##### Funds

Certain Funds pay the Adviser an annual investment management fee or asset management fee, paid quarterly in advance or in arrears, based upon a percentage of their committed and/or invested capital, or as a flat fee based on a percentage of the value of a Fund’s investments at the Fund’s inception (in each case, as specified in a Fund’s Governing Documents). For existing Funds that are subject to such fees, the applicable percentages range from 0.5% to 1.5%, as provided in their respective Governing Agreements. Such fees will be paid out of a Fund’s distributable proceeds, operating cash flows, borrowings, or capital contributions from the its Underlying Investors. If provided in a Fund’s Governing Documents, the General Partner of a Fund may reserve the right to waive all or a portion of any future installment of an investment management fee, and the waived portion of an investment management fee installment shall reduce the amount of capital contributions that such General Partner would otherwise be required to contribute to such Fund after the date such waived amount would otherwise be due.

In addition, if provided in a Fund’s Governing Documents, the Adviser’s management fee may be reduced by an amount equal to (i) fees and expenses paid by such Fund to any placement agent in connection with the placement of interests in such Fund and (ii) organizational and offering expenses paid by such Fund in excess of any applicable cap set forth in its Governing Documents.

Currently, certain Funds are organized as limited partnerships for which an affiliate of the Adviser serves as the general partner (each, a “General Partner”). The General Partner of each such Fund will be entitled to receive distributions of “carried interest” (see Item 6

below) from the applicable Fund. Such carried interest distributions generally range up to 25% of the applicable Fund's profits after such Fund's Underlying Investors have received their applicable preferred return, if any, and all capital contributions have been returned to such Underlying Investors.

In addition, the Adviser may be entitled to the payment of an acquisition fees in an amount equal to 1.0% of the purchase price of any new property acquired by certain Funds.

Underlying Investors should review the respective Fund's Governing Documents for detailed information with respect to applicable fees.

### *BIR*

The following compensation is payable to the Adviser by BIR: (1) an annual asset management fee, payable quarterly in arrears, of 0.40% of the purchase prices of its properties, as adjusted to reflect current fair market value, subject to an annual cap set forth in BIR's Governing Documents; (2) an acquisition fee of 1.0% of the purchase prices of any new property acquired for BIR; and (3) an incentive advisory fee of up to 12% of the increase in value of BIR above an established base value. The incentive advisory fee is structured as a reimbursement to the Adviser by BIR of certain accrued payment obligations corresponding to payments made by the Adviser to its employees in connection with a long-term incentive compensation plan. The incentive advisory fee is variable, and generally to the extent the value of BIR decreases, the incentive advisory fee will be reduced accordingly. None of the foregoing fees or reimbursements are payable by BIR to the Adviser during any time when any amounts payable and due with respect to BIR's publicly traded preferred stock have not been paid in full.

### *Valuation*

Clients' real estate assets are primarily "fair valued."

The Adviser's Valuation Committee, consisting of the Chief Investment Officer, Director of Capital Markets, Chief Financial Officer and a representative of Asset Management (based on the Client being valued), and other individuals representing specific functions relevant to the valuation of particular assets, meet as necessary and generally quarterly.

The Adviser's valuation process includes the use of internal valuation models and the use of third party valuation experts. The Adviser generally performs internal valuations for the first 3-quarters and a third party valuation expert is consulted when performing the "annual" valuation.

Valuation methodologies include, among others, real estate appraisals using the direct capitalization method, discounted cash flow method and/or the sales comparison method.

### Other Fees

In addition to the compensation described above, Clients may pay the Adviser or its affiliates certain other fees for services rendered in addition to advisory services, in each case as set forth in a Client's Governing Documents (and subject to applicable caps, if any, included in a Client's Governing Documents). Such fees may include property management, construction management and/or development management fees. The Adviser or its affiliates may also provide Clients with servicing and origination services in connection with certain Clients' investments and will be entitled to receive fees from the third-party borrowers for such services. The foregoing fees are or will be payable to the Adviser or its affiliates on terms described in a Client's Governing Documents, and will generally be charged at rates that the Adviser considers to be consistent with fees payable in arm's length transactions with qualified independent third parties providing comparable services.

The Adviser does not bill its Clients or the Underlying Investors for investment management or other fees to the Adviser from any Client. Rather, such amounts are deducted from the assets of the Clients directly, and the Underlying Investors are indirectly charged for such amounts by corresponding reductions of their capital accounts balances in the Funds or, effectively, in the net asset value of their shares in BIR, as applicable. Similarly, distributions of carried interest are made within the Funds to which they apply, through periodic distributions of net cash flows.

The Adviser and its supervised persons do not accept any compensation for the sale of securities or other investment products, including any interests or shares in the Clients.

### Expenses

Each Client will bear directly and/or will reimburse the Adviser for a Client's various operating and other expenses. Such expenses as specified in a Client's Governing Documents may include, but are not limited to:

- Legal and other organizational and offering expenses incurred in connection with a Client's formation (and the formation of any entities affiliated with a Client), subject to any related terms described in such Client's Governing Documents, including any applicable cap on such expenses.
- All costs and expenses incurred in maintaining the operations of a Client and its investments, as further described in a Client's Governing

Documents. Such costs and expenses applicable to a Client may include, but are not limited to, (a) legal, auditing, consulting, third party administration and accounting fees and expenses (including costs of reports to the Client's Underlying Investors, financial statements, tax returns and K-1s), and fees of any service providers; (b) expenses of any meetings of the Client's Advisory Committee, if applicable, and of its Underlying Investors; (c) all expenses (including travel expenses) associated with the consideration, acquisition, holding and disposition of the Client's proposed or actual investments, including, without limitation, any and all costs associated with alternative investment vehicles and any holding vehicles, insurance, indemnification and other unreimbursed expenses; (d) all extraordinary expenses (such as litigation); (e) interest on and fees and expenses arising out of all permitted borrowings made by the Client; (f) all third party expenses relating to unconsummated transactions; (g) all expenses of liquidating the Client; and (h) any taxes, fees or other governmental charges levied against the Client and all expenses incurred in connection with any tax audit, investigation, settlement or review of the Client.

- Brokerage and any other applicable transaction costs, and custodial fees, if any, applicable to a Client's investments. Please see Item 12 for a description of the Adviser's brokerage practices.
- Third-party expenses attributable to a Client's investments, including fees, costs, and expenses (including travel expenses) incurred in the purchase, financing, management and disposition of such investments, as well as any such fees, costs and expenses attributable to a Client's investments that are not consummated.
- Payment or reimbursement to the Adviser and/or its affiliates for (a) tax return preparation services and services related to compliance with respect to rules applicable to real estate investment trusts, and (b) legal services; *provided*, that such reimbursements shall be limited, for each applicable Client, to services performed for the benefit of that Client and not the general operation of the Adviser's (or its relevant affiliates') business and would have been performed by third parties if the Adviser or its affiliates did not have the capability to perform such services. Such reimbursements may also be limited by any cap provided for in a Client's applicable Governing Documents. In addition, BIR may also pay or reimburse the Adviser for a portion of the salaries of certain of the Adviser's employees who perform accounting and other services for BIR.



Certain miscellaneous revenues of a Client, including certain acquisition, financing, and break-up fees (in each case to the extent specifically described in a Client's Governing Documents), may be applied to offset, pay or reserve for the payment of Fund expenses (including any investment management fee) or to repay any credit facility drawdowns used to pay the same.

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

As described in Item 5 above, the Adviser has several compensation arrangements with its Clients which may include performance-based compensation (also known as "carried interest" distribution arrangements with certain Funds and incentive advisory fees payable by BIR). With respect to the Funds, detailed information about a particular Fund's performance-based distribution arrangements are described in the respective Fund's Governing Documents. Not all performance-based fees are charged at the same rates.

Carried interest distributions can create incentives for us to recommend investments which are riskier or more speculative than those which would be recommended under a different fee arrangement. They can also create an incentive for us to favor higher fee generating investments and Clients over lower fee generating investments and Clients.

Generally when making allocation decisions, we consider a variety of factors including, among others, the investment objective of the particular Client, the sourcing of the investment opportunity, the composition of the portfolios of each of the Clients, and the risks and obligations associated with that portfolio, available capital, risk tolerance, and investment objectives and guidelines of each such Client, the aggregate size of the investment, including whether follow-on investments may be required, the investment strategy and restrictions or other obligations or requirements related to the proposed investment, legal, tax, regulatory and other considerations, and the availability of other investment opportunities. In addition, the method of allocating investment opportunities may change over time, particularly as each Client's investment period comes to an end. Although we seek to allocate investment opportunities in a fair and equitable manner, decisions as to the allocation of investment opportunities which present conflicts of interest may not always be resolved in the manner that is favorable to the interests of a particular Client.

The Adviser has implemented a policy and procedures to seek fair and equitable allocation of investment opportunities among its Clients.

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

As referenced in Item 4, the Adviser's advisory Clients currently include the Funds and BIR, each of which have different investment objectives and strategies, as further set forth in each Client's applicable Governing Documents, but in each case is generally related to multifamily real estate and real estate-related investments and employs one or more of the strategies described in Item 8.

### BIR

Berkshire Income Realty, Inc. is a publicly-traded real estate investment trust. BIR has issued a class of redeemable preferred stock that is publicly traded on the NYSE MKT (ticker: BIR/PRA). There is no established public trading market for the outstanding common stock of BIR, which is held, directly or indirectly, by the owners of the Adviser and their affiliates, and certain executive officers of the Adviser.

### Funds

As of the date of this Brochure, the Adviser's advisory Clients that are Funds include the following entities:

- Berkshire Multifamily Value Fund, L.P., a Delaware limited partnership ("BMVF I").
- Berkshire Multifamily Value Fund II, L.P., a Delaware limited partnership ("BMVF II").
- Berkshire Multifamily Value Plus Fund III, L.P., a Delaware limited partnership ("BMVF III").
- Berkshire FF Multifamily Co-Investment Fund, L.P., a Delaware limited partnership ("BMFF").
- K709 Investor, L.L.C., a Delaware limited liability company ("K709").
- Berkshire Multifamily Equity Fund, L.P., a Delaware limited partnership ("BMEF").
- APTCO Holdings, L.L.C., a Delaware limited liability company ("APTCO").
- Seaport Del Co., L.L.C., a Delaware limited liability company ("DEL CO").
- Seaport U.S. Co., L.L.C., a Delaware limited liability company ("US Co").

Interests in each of the Funds are offered (or were offered, during a Fund's applicable offering period) to qualified investors in reliance upon an exemption from the registration

requirements of the Securities Act of 1933, as amended (the “Securities Act”). The Funds are not registered under the Investment Company Act of 1940, as amended (the “Investment Company Act”), in reliance upon one or more exclusions from the definition of “investment company” therein.

The investors in the Funds generally include a wide array of business entities, pension and profit sharing plans, endowments, charitable organizations, foundations, sovereign wealth funds, funds of funds, financial institutions, trusts, family offices, and high net worth individuals.

Investors in each of BMVF I, BMVF II, BMVF III, BMFF, BMEF, K709 and APTCO must each be an “accredited investor” as defined in Regulation D under the Securities Act or otherwise qualified to invest in the relevant Fund pursuant to an offering of securities that is exempt from registration under the Securities Act. Investors in BMVF I, BMVF II, BMVF III, BMFF, K709 and BMEF must also each be a “qualified purchaser” as that term is defined in Section 2(a)(51) of the Investment Company Act.

Several of the Adviser’s Clients no longer accept new capital commitments or contributions from prospective Underlying Investors, and not all Clients had or have minimum capital commitment or contribution requirements. Certain Funds did have specified minimum capital commitments or contributions from their Underlying Investors, ranging between \$5 million to \$10 million, subject to the right of the General Partner of the applicable Fund to accept commitments of lesser amounts.

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

In providing advisory services to its Clients, the Adviser utilizes various investment strategies and methods of analysis.

The Adviser specializes in the multifamily sector, and the investment themes and strategies it focuses on within the multifamily sector vary to some degree among its Clients, as described in the applicable Governing Documents of each Client.

Summarized below are the four primary investment strategies that the Adviser currently pursues for its Clients who have a continuing commitment period (i.e., generally the period during which such Client can commit to making investments) or who do not have time-limited commitment periods. The Adviser’s specific strategies, or the emphasis it places on different strategies, may be adjusted by the Adviser as it determines is appropriate in order to remain responsive to changing market conditions and, in particular, the changing phases of the real estate market cycle. Any such adjustments shall only be made in accordance with each Client’s applicable Governing Documents.

The Adviser's four current primary investment themes and strategies are:

**Multifamily Debt Programs:** Berkshire has multifaceted experience in debt-related multifamily transactions, and the Adviser is one of a select group chosen nationally to participate in the Freddie Mac Capital Markets Execution ("CME") Program. The Federal Home Loan Mortgage Corporation ("Freddie Mac") is a U.S. government sponsored enterprise formed to acquire mortgages from Freddie Mac approved originators, and then to pool and sell those mortgages as mortgage-backed securities to investors. The CME transactions represent investments in newly-originated Freddie Mac multifamily first mortgage pools. In connection with the Adviser's participation in the CME program, the Adviser may cause Clients to acquire discounted securities representing the junior position in Freddie Mac first mortgages. The Adviser may also cause Clients to invest in opportunities to provide mezzanine financing for new acquisitions and refinancing of properties which have Freddie Mac as the first mortgage lender. In these Freddie Mac mezzanine loans, the Client acquiring an interest in a loan is generally pre-approved to foreclose on the underlying collateral, and the Adviser may consider the need to do so as part of the business plan for given transactions. As with the CME program, the Adviser is one of a select group of multifamily companies in the U.S. that Freddie Mac has included in this program. Additionally, the Adviser may pursue opportunities for its Clients to purchase senior and senior subordinated multifamily loans at a discount with attractive yields-to-maturity based on either a hold-to-maturity or a foreclosure scenario.

**Direct Acquisitions:** The Adviser seeks to identify what it considers to be attractive opportunities to acquire high quality multifamily real estate assets in primary markets at discounts to replacement cost through Berkshire's multiple sourcing channels. The Adviser will focus on these direct acquisition opportunities in what the Adviser considers to be strong markets. Traditional value-add opportunities will be pursued on a select basis, where the Adviser believes that the market will support the higher rental rates needed to provide attractive risk-adjusted returns.

**Recapitalizations:** The Adviser seeks to identify investment opportunities generated by undercapitalized property owners of high quality multifamily assets that have impending debt maturities. These opportunities may be brought to Berkshire by lenders or equity providers to over-leveraged properties based on Berkshire's relationships with these groups. The Adviser may seek investment opportunities for its Clients throughout the capital stack to pursue these types of opportunities. The Adviser will typically seek to incorporate the option to control and manage the underlying assets when investing in complex structured transactions.

**Development:** By pursuing development transactions in certain markets, the Adviser will seek to find investment opportunities that capitalize on favorable supply/demand factors in the multifamily markets, utilizing the Adviser's in-house development expertise. The Adviser will target opportunities where it can determine that certain development risks have been mitigated by causing Clients to acquire partially-entitled projects, typically in a joint venture with development partners experienced in local markets. The Adviser's in-house development team sources and oversees the development, construction and lease-up process for such investment opportunities.

In addition to the investment themes and strategies described above, the Adviser recognizes that the multifamily real estate market is evolving and it is therefore continually evaluating opportunities to capitalize on the current environment. The Adviser may cause Clients to pursue investments in special situations in which the Adviser believes above market returns can be realized outside of the strategies described above. The types of investments that may be pursued include, without limitation, acquisitions of portfolios, selective traditional value-add acquisitions with rehabilitations, and unique joint venture opportunities.

Some of the Adviser's Clients that hold investments commenced their investment activities during an earlier period in the real estate market cycle, when the Adviser's investment themes and strategies may have emphasized different aspects of the investment themes and strategies than set forth above. Such Clients either have commitment periods that have already terminated, or do not have time-limited commitment periods. Such Clients' portfolios generally include investments made during prior periods that reflect the Adviser's application of its investment themes and strategies in light of the market conditions changing phases of the real estate market cycle that were prevailing at the time those investments were made.

### **Material Risks**

An investment in any Client presents potentially significant risks and is not intended as a complete investment program. Investing in real estate, securities and in the other investments in which the Clients invest involves risk of loss that investors should be prepared to bear.

The following material risks may relate to some or all Clients. The following risks do not purport to be a complete list or explanation of the risks involved in an investment for any Client, which may be set forth in further detail in a Client's Governing Documents. References in the following material risk disclosures to "Berkshire" may include either the Adviser itself or an affiliate thereof that serves as a General Partner or managing member to a Client.

***General Real Estate Risks.*** Real estate historically has experienced significant fluctuations, and cycles in value and local market conditions may result in reductions in the value of real property interests. In addition, the properties that the Clients may invest in are often subject to extensive environmental laws and regulations, fire and safety requirements, zoning laws and similar laws, and other governmental rules, regulations and policies. Any changes in these laws, regulations and/or policies could have a materially adverse impact on the relevant properties and, consequently, on the Clients. A Client's ability to generate sufficient net cash flow and the marketability and value of the properties underlying the Client's investments will depend on many factors beyond the control of the Client, including adverse changes in economic conditions; adverse local market conditions; the financial conditions of tenants and buyers and sellers of properties; changes in supply of or demand for competing properties in the area; changing demographics; perceptions of prospective tenants of the convenience, services, safety and attractiveness of the Client's investments; the ability of Berkshire to provide capable management and adequate maintenance; the quality of the construction and design of a Client's investments; changes in availability of debt financing; changes in interest rates, real estate tax rates and other operating expenses, environmental laws and regulations, zoning laws and other governmental rules and fiscal policies; environmental claims arising in respect of real estate acquired with undisclosed or unknown environmental problems or as to which inadequate reserves had been established; energy prices; changes in the relative popularity of property types and locations; risks due to dependence on cash flow; risks and operating problems arising out of the presence of certain construction materials; and acts of God and other uninsurable losses. Real estate investments generally cannot be sold quickly. Accordingly, it may not be possible to sell a Client's investments promptly in response to economic or other conditions.

***Difficulty of Locating Suitable Investments.*** Each of the Adviser's Clients will be relying on the ability of Berkshire to identify, acquire and manage investments using the proceeds of the offering of interests in or shares of such Client. The activity of identifying, completing and realizing attractive real estate investments is highly competitive and involves a high degree of uncertainty, and a Client may be unable to find a sufficient number of attractive opportunities to meet its investment objectives. There are a number of real estate investment funds and other entities looking to invest in similar investments to the Adviser's Clients. The acquisition of investments may be based on competitive bidding, and other competitors for the acquisition, redevelopment and development of properties, including insurance companies, pension funds, partnerships, investment companies and real estate investment funds, may have greater economic and personnel resources than those of Berkshire or any Client, or better relationships with sellers of the investments, lenders and others, thereby putting a Client at a competitive disadvantage. These entities, because of

their resources, may also generally be able to accept more risk than a Client prudently can manage. This competition may generally reduce the number of suitable prospective investments offered to a Client and increase the prices for properties of the type a Client would likely pursue. In addition, the entry of additional investors into the segments of the real estate market in which a Client will focus, or a decline in the number or size of assets being offered for sale, could significantly alter the anticipated dynamics of demand and supply with potentially adverse consequences for a Client. While Berkshire believes that there are currently available attractive investments of the type in which its Clients intends to invest, there can be no assurance that such investments will be available when a Client commences operations or that then-available investments will meet a Client's investment criteria. In addition, because a Client's investment activity will occur over time, adverse changes in the real estate, debt and equity markets may reduce the number of investment opportunities available to such Client. As a result, a Client may be unable to identify and consummate a sufficient number of attractive opportunities to permit it to invest all of its committed capital and/or diversify its investments to the extent required to meet such Client's return objectives.

***Concentration of Investment in Multifamily Properties.*** Berkshire expects that Clients' investments will consist almost entirely of investments related to multifamily properties. Such concentration may increase the volatility of a Client's returns and may also expose a Client to the risk of economic downturns in this sector to a greater extent than if its portfolio also included other property types. As a result, economic downturns in this sector could have an adverse effect on the financial condition, results of operations and cash flow of a Client.

Income from, and the value of, a Client's investments may be adversely affected by the oversupply of apartments or a reduction in demand for apartments in the areas in which they are located, the attractiveness of the apartments to potential tenants, competition from other apartment or residential properties, a Client's ability to provide adequate maintenance and insurance and increases in operating costs.

***Tenancy Risks.*** Unlike many other types of real estate investment, multifamily properties do not have tenants occupying large portions of the property whose lease payments provide relatively reliable sources of income for extended lease terms. Instead such properties will typically have individual residential tenants and with lease terms that are often one year or less. Multifamily properties generally experience frequent tenant turnover due to factors such as transient populations, new competition in the area, and changes in the tenants' economic status. A Client would be adversely affected if a significant number of tenants were unable to pay rent or if vacant apartments could not be rented on favorable terms. Even if tenants renew their

leases or a Client is able to re-let the space, the terms and other costs of renewal or re-letting, including the cost of required renovations, leasing commissions, declining rental rates and other potential concessions may be less favorable or more costly than the terms of current leases or than anticipated and could require the expenditure of significant amounts of capital.

***Acquisition, Redevelopment and Development Activities.*** A Client's acquisition, redevelopment and development activities involve many risks. In addition, investments in undeveloped land and development and redevelopment properties may involve more risk than properties on which development has been completed. Risks associated with a Client's acquisition, redevelopment and development activities include, but are not limited to, the following:

- Acquisition, redevelopment and development opportunities explored by a Client may be abandoned and, as a result, such Client may fail to recover expenses already incurred in connection with exploring such opportunities.
- Acquisition, redevelopment and development costs for a property, including, without limitation, materials, labor or other expenses, may exceed original estimates, possibly making the property uneconomical.
- Zoning, land-use, building, occupancy and other required governmental permits and authorizations may be difficult or impossible to obtain, leading to delays in and/or abandonment of all or a portion of the acquisition, redevelopment or development of a property.
- Construction and lease-up may not be completed on schedule, resulting in increased debt service and redevelopment or development costs.
- Leasing costs and tenant improvement costs may exceed expectations and, therefore, adversely affect the operating performance of a property.
- Construction and permanent financing may not be available on favorable terms.

The occurrence of any of the events described above could result in meaningful unanticipated delays or expenses and, under certain circumstances, could prevent completion of development activities once undertaken, any of which could adversely affect a Client's ability to achieve its currently estimated yields on investments under redevelopment or development and, in turn, could reduce potential distributions to its Underlying Investors. Properties under development or properties planned for development may distribute little or no cash flow from the date of acquisition through the date of completion of development and may experience operating deficits after the date of completion. In addition, market conditions may change during the course of



development that make such development less attractive than at the time it was commenced.

***Operating Risks.*** Multifamily properties are subject to a number of operating risks, including, among other things, (i) competition from other multifamily and residential properties in the same geographic market; (ii) increases in operating and maintenance costs; (iii) dependence on tenants; (iv) fluctuating lease and occupancy rates; (v) the financial stability and related risks of default by tenants experiencing financial problems; and (vi) adverse effects of general and local economic conditions. These factors could adversely affect a Client's ability to generate revenues and make distributions to its Underlying Investors.

***Investments in Operating Companies.*** Clients may invest in securities of real estate-related companies which may be undergoing restructuring or require additional capital and active management. These securities are subject to various inherent risks, including that (i) securities fluctuate in value, often based on factors unrelated to the issuer of the securities, and such fluctuations may be pronounced, (ii) such investments generally may be subject to risks with respect to the issuer and (iii) the market for these securities may be less liquid than that for other higher rated or more widely followed securities.

***Risks Associated with Investments in Real Estate Debt Positions.*** Clients may acquire not only performing but sub-performing or non-performing debt interests on a selective basis and may acquire performing interests that become sub-performing or non-performing in the future. Some of these investments may be made with a goal of "loan-to-own." Investment in real estate debt generally carries with it many if not most of the risks associated with direct real estate investment (see General Real Estate Risks above). Notwithstanding that the Adviser and, ultimately, a Client's General Partner (if applicable), will be responsible for the oversight and management of a Client's investments, the collateral for debt investments may be mismanaged or otherwise decline in value. There exists the risk that re-financing will not be available for assets serving as collateral for debt acquired by a Client. Further, investments operating under the close supervision of a mortgage lender are, in certain circumstances, subject to certain additional potential liabilities that may exceed the value of a Client's original investment therein.

A Client's investments may include interests in multifamily mortgage loans. The ability of a borrower to repay a loan secured by multifamily property typically depends primarily upon the successful operation and the operating income of that property (*i.e.*, the ability of tenants to make lease payments, the ability of a property to attract and retain tenants, and the ability of the owner to maintain the property,

control operating expenses and comply with applicable laws), rather than depending upon the existence of independent income or assets of the borrower. Most multifamily mortgage loans provide recourse only to the mortgaged property, and not against the borrower's other assets or personal guarantees.

There is a significant risk that a Client may experience losses on its debt investments because of defaults by the applicable borrowers. The factors that may result in borrower defaults and losses on a Client's investments include (i) adverse changes in economic and real estate market conditions generally and in the sectors and geographic locations applicable to the specific investment, (ii) the terms and structure of the mortgage loans and (iii) any specific limits on legal and financial recourse upon a default under the terms of the mortgage loans.

At the maturity of multifamily mortgage loans, there is typically a significant outstanding principal balance which must be repaid. This loan feature frequently requires the borrower either to sell the property or to refinance the remaining principal balance at or prior to maturity of the mortgage loan. Accordingly, investors in multifamily mortgage loans bear the risk that the borrower will be unable to sell, refinance or otherwise generate the funds required to repay the mortgage loan at maturity, thereby increasing the ultimate likelihood of a default on the borrower's obligation. Such a default may be more likely if the value of the encumbered real estate has declined in value or if market rates of interest have significantly increased.

As part of its investment program, a Client may invest in fixed-and floating-rate loans. Floating rate loan investments would expose a Client to the risk of lower cash flow in the event that interest rates decrease from the date of investment. Fixed rate debt investments would expose a Client to the risk of value deterioration in the event of interest rate increases. A Client's debt investments may be subject to early redemption features, refinancing options, pre-payment options or similar provisions which, in each case, could result in the issuer repaying the principal on an obligation held by a Client earlier than expected, resulting in a lower return to a Client than currently estimated. If market interest rates decline, it is likely that borrowers will seek to repay their loans prior to stated maturity in order to refinance at lower rates. If that happens, then, except as protected by any yield maintenance provisions, a Client will lose the benefit of the above-market interest rate payments it otherwise would receive on the repaid loans. In addition, certain of the mortgage loans in which a Client invests may be structured so that all or a substantial portion of the principal will not be paid until maturity, which increases the risk of default at that time.

Moreover, in certain situations, because a Client's General Partner, the Adviser or an affiliate thereof may, in the exercise of remedies or rights under loan documents,

obtain contractual rights to participate in or to influence the management of properties by borrowers, the likelihood is increased that a borrower may claim that a Client interfered with the borrower's business, acted in bad faith in exercising its management rights or otherwise acted in a manner giving rise to a claim for lender liability. The exercise of rights or remedies may not be led or controlled by a Client's General Partner or the Adviser, but may be led or controlled by a holder of a different debt position who may have interests that are in conflict with the interests of a Client. As a lender, a Client may also be subject to penalties for violations of state usury limitations, which penalties may be triggered by contracting for, charging or receiving usurious interest.

In the event of default and the exhaustion of any equity support, reserve fund or letter of credit support, a Client might not be able to recover all of its investment in the debt obligations purchased. A Client's investments in loans may involve workout negotiations, restructuring and the possibility of foreclosure. Even if a restructuring were successfully accomplished, however, there exist the risks of a substantial reduction in the interest rate and a substantial write-down of the principal of such loans. It is possible that Berkshire may find it necessary or desirable to foreclose on collateral securing one or more real estate loans purchased by a Client.

***Risks Associated with Enforcement of Rights Against Borrowers Following Defaults.*** If the borrowers under the debt instruments comprising a Client's investments default in their obligations, a Client may seek to pursue foreclosure and other remedies, if any, available under the terms of the related loans. Exercise of foreclosure and other remedies may involve lengthy delays and additional legal and other related expenses. The foreclosure process varies from jurisdiction to jurisdiction and can be lengthy and expensive. Applicable laws in certain jurisdictions may provide borrowers with an array of rights to resist foreclosure actions by asserting numerous claims, counterclaims and defenses against the holder of a real estate loan including, without limitation, lender liability claims and defenses. In some jurisdictions, foreclosure actions can take several years or more to litigate. Foreclosure litigation can create a negative public image of the applicable property and may result in disruption of the ongoing leasing and management of the property. In certain circumstances, foreclosing mortgage creditors may also become liable, upon taking title to collateral, for environmental or structural damage at the property site. Because of the potential difficulties presented by the foreclosure process, in some cases instead of pursuing foreclosure or other remedies, a Client or, if applicable, senior lenders may seek to negotiate with the borrower to restructure the debt. Although a restructuring may avoid the delay and expense of foreclosure, it is likely to have other adverse consequences for a Client. Any restructuring may involve either or both a substantial reduction in the interest rate and a substantial

write-down of the principal of the restructured loans, which will reduce the value of a Client's investment and may result in a loss on the investment. A restructuring could also delay the realization of value. If any of the above occurs, a Client's ability to make anticipated distributions to the Partners could be delayed or otherwise adversely affected.

***Bankruptcy Considerations.*** Claims on real estate assets operating in workout modes or under applicable bankruptcy laws could, if a Client inappropriately exercises control over the management and policies of the debtors, be subordinated or disallowed, and may, in certain circumstances, be subject to additional potential liabilities that could exceed the value of a Client's original investment, including equitable subordination and/or disallowance of claims or lender liability. Furthermore, payments made to a Client with respect of such claims, and distributions by a Client to its Underlying Investors, could be recovered if such payments or distributions are found to have been fraudulent conveyances or preferential payments or the equivalent under the laws of certain jurisdictions. Bankruptcy laws may delay the ability of a Client to realize on collateral for claims held by it or may adversely affect the priority of such claims through doctrines such as equitable subordination or may result in a restructuring of the debt through principles such as the "cramdown" provisions of the bankruptcy laws. In addition, there are other risks and uncertainties related to litigation, bankruptcy and other laws and regulations affecting the rights and remedies of a Client with respect to these assets that can create additional financial risks to a Client.

***General Risks of Secured Loans.*** Certain loans held by a Client will be secured. While secured loans originated or purchased by a Client or its affiliates will often intend to be over-collateralized, a Client may be exposed to losses resulting from default and foreclosure. Therefore, the value of the underlying collateral, the creditworthiness of the borrower and the priority of the lien are each of great importance. The Adviser cannot guarantee the adequacy of the protection of such Client's interests, including the validity or enforceability of the loan and the maintenance of the anticipated priority and perfection of the applicable security interests. Furthermore, the Adviser cannot assure that claims may not be asserted that might interfere with enforcement of the Client's rights. In the event of a foreclosure, a Client may assume direct ownership of the underlying asset. The liquidation proceeds upon sale of such asset may not satisfy the entire outstanding balance of principal and interest on the loan, resulting in a loss to such Client. Any costs or delays involved in the effectuation of a foreclosure of the loan or a liquidation of the underlying property will further reduce the proceeds and thus increase the loss.

***Risks Associated with Subordinate Debt.*** Certain debt instruments in which a Client may invest may be subordinated to substantial amounts of senior indebtedness, all or a significant portion of which may be secured and/or subject the Client to a “first loss” subordinate holder position. In such cases, the ability of the Client to exercise its remedies upon a default, or to take action in anticipation of a default to protect the value of its investment, is likely to be substantially less than that of senior creditors. For example, under the terms of typical subordination agreements, senior creditors are able to block the acceleration of the junior debt or the exercise by junior debt holders of other rights they may have as creditors. Accordingly, the Adviser may not be able to take the steps necessary to protect the Client’s interests in a timely manner or at all.

Debt securities and investments of the type in which a Client may invest are also subject to other risks arising out of the laws governing creditors’ rights, including (i) the possible invalidation of an investment transaction as a “fraudulent conveyance” under relevant creditors’ rights laws, (ii) the possible assertion of so-called “lender liability” claims by the issuer of the obligations and (iii) environmental liabilities that may arise with respect to the collateral securing the obligations. In many cases, the Adviser’s management of Clients’ investments and remedies with respect thereto, including the ability to foreclose on any collateral securing such investments, will be subject to the rights of senior lenders (if any) and contractual inter-creditor provisions. Accordingly, there can be no assurance that the Client’s rate of return objectives will be realized.

***Risks Associated with CMBS.*** A Client may invest in commercial mortgage-backed securities (“CMBS”) and mezzanine debt. Some of these investments in CMBS and mezzanine debt securities may be unsecured and subordinated to substantial amounts of senior indebtedness, all or a significant portion of which may be secured and/or subject a Client to a “first loss” subordinate holder position. The ability of the Adviser to influence a company’s affairs, on behalf of a Client, especially during periods of financial distress or following an insolvency, is likely to be substantially less than that of senior creditors. For example, under terms of subordination agreements, senior creditors will typically be able to block the acceleration of the mezzanine debt or other exercises by a Client of its rights as a creditor. Accordingly, the Adviser may not be able to take the steps necessary to protect the Clients’ investments in a timely manner or at all. Further, the ability of a borrower to make payments on the loan underlying these securities is dependent primarily upon the successful operation of the property rather than upon the existence of independent income or assets of the borrower. In the event of default and the exhaustion of any equity support, reserve fund, letter of credit and any classes of securities junior to those in which a Client invests, it will not be able to recover all of its investment in

the securities purchased. Investments in subordinate securities, such as CMBS and mezzanine debt, have a higher risk of loss than investments in more senior securities.

CMBS and mezzanine debt securities are also subject to other creditor risks including, but not limited to: (i) the possible invalidation of an investment transaction as a “fraudulent conveyance” under relevant creditors’ rights laws, (ii) so-called lender liability claims by the issuer of the obligations and (iii) environmental liabilities that may arise with respect to collateral securing the obligations. The securities a Client invests in may be subject to early redemption features, refinancing options, pre-payment options, or similar provisions which, in each case, could result in the issuer repaying the principal on an obligation held by a Client earlier than expected, resulting in a lower return to a Client than currently estimated. In many cases, the Adviser’s management of Clients’ investments and remedies with respect thereto, including the ability to foreclose on any collateral securing such investments, will be subject to the rights of the senior lenders and contractual inter-creditor provisions. In addition, depending on fluctuations of the equity markets and other factors, warrants and other equity securities may become worthless. Accordingly, there can be no assurance that a Client’s rate of return objectives will be realized.

***Risks Associated with Mezzanine Loan Origination.*** A Client may provide mezzanine financing to real estate development and operating companies for new acquisitions of multifamily real estate and refinancing transactions, which are typically secured primarily by a pledge of the development or operating company’s direct or indirect ownership interests in the underlying real estate property. If a Client provides mezzanine financing, its ability to foreclose on the pledged ownership interests in the underlying property may be constrained by intercreditor arrangements that, for example, may require a Client to cure material defaults under the underlying bank loan before being entitled to foreclose on its collateral. Foreclosure may also be limited by the rights of the borrower under applicable law. Even if a Client is able to foreclose on its collateral, as the new direct or indirect owner of the underlying property, a Client will become the borrower, in effect, with respect to the underlying bank loan and the owner (subject to the underlying bank loan and any other senior mezzanine indebtedness) of the underlying property. Investments in mezzanine loans therefore involve not only the risks associated with subordination to the rights of senior lenders, but also the risks associated with ownership and management of the underlying property and the risks of being the borrower, in effect, with respect to a loan that may be in default.

***Risks Associated with High Yield Debt.*** A Client may invest a portion of its capital in loans that are rated below investment-grade by one or more nationally recognized rating organizations or are unrated but of comparable credit quality to obligations

rated below investment-grade. High yield debt is generally unsecured and is frequently subordinate to other obligations of the obligor. High yield debt is rated lower because the issuers thereof are more likely than other debtors to default on their obligations as a result of adverse changes in the financial condition of such debtor or in general economic conditions (including, for example, a substantial period of rising interest rates or declining earnings). Many issuers of high yield debt are highly leveraged, and as a result of such relatively high debt-to-equity ratios there is a greater risk that their operations might not generate sufficient cash flow to service their debt obligations. In addition, many issuers of high yield debt may (i) be in poor financial condition, (ii) be experiencing poor operating results, (iii) have substantial capital needs, (iv) have negative net worth, (v) be subject to particular competitive issues or (vi) be subject to bankruptcy or other reorganizations or liquidation proceedings. Certain of these securities may not be publicly traded, and therefore it may be difficult to obtain information as to the true condition of the issuers. Overall declines in the below investment-grade bond and other markets may adversely affect such issuers by inhibiting their ability to refinance their debt at maturity. In most cases, such debt will be rated below “investment grade” or will be unrated and face ongoing uncertainties and exposure to adverse business, financial or economic conditions and the issuer’s failure to make timely interest and principal payments. The market for high-yield securities has experienced periods of volatility and reduced liquidity. The market values of certain of these debt securities may reflect individual corporate developments. It is likely that a general economic recession or a major decline in the demand for products and services, in which the obligor operates, could have a materially adverse impact on the value of such securities. In addition, adverse publicity and investor perceptions, whether or not based on fundamental analysis, may also decrease the value and liquidity of these debt securities.

***Risks Associated with Bank Loans.*** A portion of a Client’s investments may consist of interests in loans originated by banks and other financial institutions. The loans invested in by a Client may include term loans and revolving loans, may pay interest at a fixed or floating rate and may be senior or subordinate. Purchasers of bank loans are predominantly commercial banks, investment funds and investment banks.

A Client may acquire interests in bank loans either directly (by way of sale or assignment) or indirectly (by way of participation). The purchaser of an assignment typically succeeds to all the rights and obligations of the assigning institution and becomes a lender under the credit agreement with respect to the debt obligation; however, its rights can be more restricted than those of the assigning institution. Participation interests in a portion of the debt obligation typically result in a contractual relationship only with the institution participating out the interest, not with the borrower. If a Client purchases participations, then the Client generally will

have no right either to enforce compliance by the borrower with the terms of the underlying loan or to set-off obligations that the Client may otherwise owe to the borrower and may only be able to enforce its rights through the institution selling the participation. Furthermore, the Client may not directly benefit from the collateral supporting the loan in which it has purchased the participation. As a result, the Client would assume the credit risk of both the borrower and the institution selling the participation. Purchases of participations in bank loans raise many of the same risks as investments in bank loans and also carry risks of illiquidity and lack of control.

Investment in loans through a direct assignment of a financial institution's interests with respect to the loan may involve additional risks to a Client. For example, if a loan is foreclosed, a Client could become part owner of any collateral, and would bear the costs and liabilities (including tax liabilities) associated with owning and disposing of the collateral. In addition, it is conceivable that, under emerging legal theories of lender liability, a Client could be held liable as a co-lender. It is unclear whether loans and other forms of direct indebtedness offer securities laws protections against fraud and misrepresentation. In the absence of definitive regulatory guidance, a Client relies on the Adviser's research in an attempt to avoid situations where fraud or misrepresentation could adversely affect the Client.

***Limited Information.*** Investment analyses and decisions by a Client's General Partner (if applicable) and/or Adviser may frequently be required to be undertaken on an expedited basis to take advantage of investment opportunities. In such cases, the information available at the time of making an investment decision may be limited, and a General Partner and/or Adviser may not have access to complete information regarding the investment, such as physical matters, zoning regulations or other local conditions affecting an investment. In addition, in certain instances, the General Partner and/or Adviser may not receive access to all available information to determine fully the origination, credit appraisal and underwriting practices utilized with respect to an investment or the manner in which the investment has been serviced or operated. Therefore, no assurance can be given that a General Partner and/or Adviser will have knowledge of all circumstances that may adversely affect an investment. In addition, a Client's General Partner (if applicable) and/or Adviser expect to rely on specialized expert input by various third-party consultants and service providers in connection with its evaluation of proposed investments.

***Portfolio Acquisition and Multi-Step Transaction Risks.*** A Client may acquire multiple assets in a single transaction. Portfolio acquisitions are more complex and expensive, however, than single asset acquisitions, and the risk that a multiple asset acquisition will not close may be greater than in a single asset acquisition. A seller may require that a group of assets be purchased as a package, even though one or



more of the assets in the portfolio does not meet a Client's investment criteria. In such cases, the Adviser, on behalf of a Client, may attempt to make a joint bid with another buyer that may default on its obligations, or the Adviser, on behalf of a Client, may purchase a portfolio of assets with the intent to dispose subsequently of those assets that the Adviser has determined the Client should sell. There is no guarantee, however, that the Adviser, on behalf of a Client, will successfully dispose of such assets or that it will be able to dispose of them on terms favorable to the Client.

In the event that the Adviser chooses to effect a transaction on behalf of a Client by means of a multi-step acquisition, there can be no assurance that all of such required steps can be successfully consummated. This could possibly result in the Client owning a significant real estate investment without having working control over the assets or access to its cash flow to service debt incurred in connection with the acquisition and without being able to dispose of such position at prices equal to or greater than its purchase price.

***Control Issues.*** In certain situations, the Adviser, on behalf of a Client, may acquire a non-controlling interest in a company or other asset in which it a Client invests may rely on independent third-party management or strategic partners with respect to the operation of a company or other asset in which it invests or may only acquire a participation in an asset underlying an investment, and therefore, may not be able to exercise control over the management of such company or investment. Such investments may involve risks in connection with such third-party involvement, including the possibility that a third-party partner or investor may have financial difficulties, resulting in a negative impact on such investment, may have economic or business interests or goals which are inconsistent with those of a Client or may take action contrary to a Client's investment objectives. In addition, a Client may in certain circumstances be liable for the actions of its third-party partners or investors. In instances where a Client co-invests with a co-investment vehicle or another Client, or in a joint venture arrangement, such Client may not have absolute control over the management of such investment.

***Liquidity Considerations.*** A Client's investments generally will be illiquid. Real estate investments by their nature are often difficult or time-consuming to liquidate. Moreover, there can be no assurance that a Client will realize value on its investments in a timely manner. Dispositions of a Client's investments also may be subject to contractually imposed limitations on transfer or other restrictions that could interfere with the sale of a Client's investments or adversely affect the terms that could be obtained upon any sale. This illiquidity may limit the ability of the Adviser to change the composition of a Client's portfolio promptly in response to changes in economic

or other conditions and limit near-term cash flow available for distribution to its Underlying Investors.

***Investments Longer than Term.*** The Adviser, on behalf of a Client, may make investments that may not be advantageously disposed of prior to the date that a Client will be dissolved, either by expiration of such Client's term or otherwise. Although the Adviser expects that investments will be disposed of prior to dissolution or be suitable for in-kind distribution at dissolution, the Adviser generally will have only a limited ability to extend the term of any Client and such Client may have to sell, distribute or otherwise dispose of investments at a disadvantageous time as a result of dissolution.

***Liabilities Upon or Following Disposition of Investments.*** In connection with the sale or other disposition of an investment, a Client may be required to make representations about the business and financial affairs of an investment typical of those made in connection with the sale of any business or asset or be responsible for the content of disclosure documents under applicable securities laws. It may also be required to indemnify the purchaser of such investment to the extent that any such representations or disclosure documents are determined to be inaccurate or misleading. These arrangements may result in contingent liabilities, which might ultimately have to be funded by the Underlying Investors in a Client to the extent that such Underlying Investors have received prior distributions from the Client.

***Third Party Claims.*** A Client may invest in properties subject to known or unknown liabilities and with limited or no recourse. As a result, if liability were asserted against such Client based upon such properties, such Client might have to pay substantial sums to dispute or remedy the matter, which could adversely affect such Client's cash flow. Unknown liabilities with respect to investment properties could include, for example, liabilities for clean-up of undisclosed environmental contamination; claims by tenants, vendors or other persons relating to the former owners of the properties; liabilities incurred in the ordinary course of business; and claims for indemnification by the general partners, directors, officers, and others indemnified by the former owners of the properties.

***Risks of Leverage Generally.*** A Client's underlying investment entities will likely utilize a leveraged capital structure, in which case a third party typically would be entitled to cash flow generated by such investments prior to such Client receiving a return. Although the use of leverage may enhance returns and increase the number of investments that can be made, it may also substantially increase the risk of loss. Additionally, use of leverage on any particular investment will increase the exposure of such investment to adverse economic factors such as rising interest rates, severe

economic downturns or deterioration in the condition of the real estate investment or its market. The extent to which a Client uses leverage may have important consequences to its Underlying Investors, including, but not limited to, the following: (i) greater fluctuations in the net assets of such Client; (ii) use of cash flow (including capital contributions) for debt service and related costs and expenses, rather than for additional investments, distributions or other purposes; (iii) increased interest expense if interest rate levels were to increase significantly; (iv) in certain circumstances, prematurely harvesting investments to service such Client's debt obligations; and (v) limitation on the flexibility of such Client to make distributions to its Partners or sell assets that are pledged to secure the indebtedness. In addition, if a property is mortgaged to secure payment of indebtedness and a Client is unable to meet its mortgage payments, the property could be foreclosed upon or otherwise transferred to the mortgagee, with a consequent loss of income and asset value to such Client.

***Deterioration of the U.S. Financial System.*** Events over the course of the past several years in the subprime mortgage market and other areas of the fixed income markets have caused significant dislocations, illiquidity and volatility in the mezzanine debt, structured credit and high-yield bond markets, as well as in the wider global financial markets. Such deterioration of the global credit markets made it more difficult for real estate owners and investors to obtain favorable financing and, in some cases, financing at all, for their investments. During that time, a widening of credit spreads, coupled with the deterioration of the subprime and global debt markets and a rise in interest rates, dramatically reduced certain investor demand for high yield debt, higher leverage levels, and senior bank debt, which in turn led some investment banks and other lenders to be unwilling to finance new investments or to only offer committed financing for these investments on unattractive terms. While more recently credit spreads have narrowed and the availability of financing has become more widespread, there is no assurance that such a trend will continue.

The Adviser's ability to generate attractive investment returns for a Client may be materially and adversely affected to the extent the Adviser is unable to obtain favorable financing terms for a Client's investments. Moreover, such marketplace and financial system events have had an adverse impact on the availability of credit generally and have led to an overall weakening of the U.S. and global economies. Such marketplace events may materially restrict the ability to sell or liquidate investments at favorable times or for favorable prices. In particular, a Client's investment strategy with respect to its investments relies in part on the stabilization or improvement of the conditions in the global financial markets generally and credit markets specifically. Absent such a recovery or in the event of a further market deterioration, the value of a Client's investments may not appreciate as estimated or

may suffer a material loss. There can be no assurance as to the duration of the current market dislocation or financial system weakness.

***Interest Rate Fluctuation.*** A Client may incur variable rate indebtedness. In that case, increases in interest rates would increase such Client's interest costs thereby decreasing the amount of available funds for distribution to its Underlying Investors. Increases in interest rates also may cause a reduction in the value of the Client's investments. Interest rates are highly sensitive to many factors, including governmental monetary and tax policies, that are beyond the control of a Client. The Adviser, on behalf of a Client, may employ a hedging strategy to limit the effects of changes in interest rates including engaging in interest rate swaps, caps, floors and other interest rate exchange contracts. There is a cost associated with the use of these types of derivatives to hedge a Client's assets and liabilities. Moreover, there is no perfect hedge for any investment, and a hedge may not perform its intended use of offsetting losses on an investment. With respect to certain potential hedge instruments, a Client is exposed to certain counterparty risks, such as a swap counterparty ceasing to make markets and quote prices in such instruments, which may render the Client unable to enter into an offsetting transaction with respect to an open position. Consequently, the profitability of a Client may be adversely affected during any period as a result of changing interest rates.

***Environmental Considerations.*** A Client could face meaningful risk of loss from lawsuits related to environmental claims associated with such Client's investments. A Client may be held liable pursuant to environmental claims under various federal, state and local laws, ordinances and regulations as well as common law principles (collectively, "Environmental Laws") for the costs of removal or remediation of certain hazardous or toxic substances on or in a property and subject a Client to claims or liability for the costs of removal or remediation of hazardous substances that are released at, in, on, under or from the property. The cost of any required remediation and the owner's liability therefor as to any property are generally not limited under such laws and could exceed the value of the property and/or the aggregate assets of the owner. In addition to claims for cleanup costs, the presence of hazardous substances on or the release of hazardous substances from a property or a facility and persons who arranged for off-site disposal activities could result in a claim by a private party for personal injury or property damage or could result in a claim from a governmental agency for other damages. Liability under such Environmental Laws can be imposed on the owner or the operator of real property or a facility without regard to fault or even knowledge of the release of hazardous substances and other regulated materials on, at, in, under, or from the property or facility. In addition, some Environmental Laws create a lien on the contaminated site in favor of the government for damages and costs it incurs in connection with

contamination. Any environmental studies that may be conducted before a Client invests in a property cannot guarantee that such Client will be aware of all contamination at such property and the subsequent costs of removal, management or remediation, either because such conditions were latent or because of changes in laws and regulations. The presence of hazardous substances in amounts requiring response action or the failure to undertake necessary remediation may adversely affect a Client's ability to use or sell real estate or borrow money using such real estate as collateral, which could have an adverse effect on a Client's return from such investment.

Certain U.S. federal, state, and local laws, regulations, and ordinances govern the removal, encapsulation, or disturbance of asbestos-containing materials ("ACMs") when such materials are in poor condition or in the event of construction, remodeling, renovation, or demolition of a building. These laws may impose liability for release of ACMs and may provide for third parties to seek recovery from owners or operators of real property for personal injury associated with ACMs. In connection with its ownership and operation of real estate, a Client may incur liability for such costs.

***Compliance with Americans with Disabilities Act and the Fair Housing Act and Other Changes in Governmental Regulations.*** Under the Americans with Disabilities Act of 1990 (the "ADA"), all public properties are required to meet certain U.S. federal requirements related to access and use by disabled persons. In addition, changes in governmental rules and regulations, including Title VIII of the Civil Rights Act of 1968 (the "Fair Housing Act"), or enforcement policies affecting the use or operation of the properties, including changes to building, fire, and life-safety codes, may occur. Properties underlying a Client's investments may not be in compliance with the ADA, the Fair Housing Act or other governmental requirements. If a property is not in compliance with the ADA, the Fair Housing Act or other governmental requirements, then a Client may be required to make modifications to such property to bring it into compliance, or face the possibility of an imposition of fines or an award of damages to private litigants. A Client may also incur additional costs from time to time in the future to stay in compliance with any changes in the ADA, the Fair Housing Act or other governmental regulations. Additional legislation may impose further burdens or restrictions on owners with respect to access by disabled persons. The ultimate amount of the cost of compliance with the ADA, the Fair Housing Act or such other legislation is not currently ascertainable and, while such other costs are not expected to have a material effect on a Client, such costs could be meaningful.

***Uninsured Losses.*** The Adviser generally intends to maintain and/or require to be maintained comprehensive insurance on each of Clients' real property investments,

including general liability, fire, extended coverage and rental loss insurance, with reputable carriers and with policy specifications and insured limits which the Adviser believes are adequate and appropriate under the circumstances, given relative risk of loss, the cost of such coverage and industry practice. If any of the portfolio companies in which a Client invests fails to comply with these requirements and an uninsured loss occurs, the consequences may be adverse for the Client. Additionally, there are certain types of losses, generally of a catastrophic nature, including, without limitation, wars, natural disasters, terrorist attacks and other similar events, that may be uninsurable or insurable only on commercially unrealistic terms. In general, losses related to terrorism are becoming harder and more expensive to insure against. Even if insurance is in place and an insured loss is paid, inflation, changes in building codes and ordinances, environmental considerations and other factors may also make it infeasible to use the insurance proceeds to repair or replace a property if it is damaged or destroyed. Should an uninsured loss or a loss in excess of insured limits occur with respect to one or more of a Client's investments, the Client could lose the value of these investments, as well as the anticipated future revenue from those investments. Any such loss could adversely affect the financial condition, results of operations and cash flow of a Client.

***Investment by BIR in a Fund.*** BIR may directly or indirectly invest in one or more of the Funds advised by the Adviser. In order for BIR to maintain its qualification as a real estate investment trust, its investments must satisfy certain requirements. As a result, if BIR does own an interest in a Fund, there may be certain prospective investments that the Adviser elects not to pursue or consummate for such Fund despite their attractive characteristics for the Fund, because they are not suitable for BIR to own an interest in. Accordingly, this is a potential conflict of interest that a Fund's Underlying Investors should consider before making an investment in a Fund.

Disclosures regarding risk factors applicable to BIR are also contained in BIR's 10-K filings, which can be viewed online at [www.sec.gov](http://www.sec.gov).

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

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of the investment adviser or the integrity of the investment adviser's management.

There are no legal or disciplinary events to report that are material to a Client's or prospective Client's evaluation of our advisory business or the integrity of our management.

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

Each of the Adviser's Clients (as of the date of this Brochure) that is a Fund organized as partnership has an affiliate of the Adviser serving as its General Partner. Listed below are the current General Partners:

- Berkshire Multifamily Value Fund GP, L.L.C. (the General Partner to BMVF I).
- Berkshire Multifamily Value Fund GP II, L.L.C. (the General Partner to BMVF II).
- Berkshire Multifamily Value Plus Fund GP III, L.L.C. (the General Partner to BMVF III).
- Berkshire FF Multifamily Co-Investment Fund GP, L.L.C. (the General Partner to BMFF).
- Berkshire Multifamily Equity Fund GP, L.L.C. (the General Partner to BMEF).

Each General Partner has made a capital commitment to invest in the applicable Fund for which it serves as General Partner, and in connection with such commitment, it will be (or is) invested *pro rata* with the limited partners in such Fund in all transactions of the Fund. Each General Partner and its affiliates may invest their capital through one or more limited partners in a Fund or, in the sole discretion of the applicable General Partner with respect to any particular investment, through a separate coinvestment vehicle on substantially the same terms and conditions as the Fund. A General Partner's investment in a Fund through a limited partnership interests may create conflicts of interest to the extent that the consent of limited partners in a Fund is required with respect to any matter relating to the Fund, and therefore, any such limited partner through which a General Partner invests in a Fund will not participate in any consent process relating to the limited partners of such Fund.

The Adviser does not recommend or select other investment advisers for its Clients. From time to time, however, the Adviser may cause one or more of its Clients to make investments in joint ventures, whether through tenancies-in-common or other venture partnerships, with a seller of a property investment, an independent third party or another investment entity sponsored by the Adviser's affiliates (including another Client), generally in structures where the Adviser retains control rights over any major decisions relating to such joint ventures.

There are occasions when the Adviser and its affiliates encounter potential conflicts of interest in connection with a Client, including in connection with the following aspects of the activities of the Adviser and its Clients:

In addition to the investment advisory services the Adviser provides to its Clients, as described in this Brochure, the Adviser and its affiliates also provide property management, construction management and development management services for multifamily real estate developments and other properties owned as investments by its Clients or affiliates. Additional information regarding such services is included in Item 11.

Each Client will rely on the Adviser (and, in part, on an affiliated General Partner, if applicable) for the day-to-day administration and operation of such Client and the management of such Client's investments. Members of the Adviser's management team are not under any obligation to devote their full time and attention solely to the business of any particular Client. They may work on other projects for the Adviser or its affiliates, subject to any restrictions set forth in a Client's Governing Documents. Consequently, conflicts of interest may arise in allocating management time, services or functions of key personnel, as well as other officers and employees of the Adviser to the extent they are needed for services or functions on behalf of any particular Client at the same time.

Except as limited by a Client's Governing Documents, the Adviser, any applicable General Partner, and their respective directors, members, partners, shareholders, officers, employees, agents and affiliates (collectively, the "Affiliated Parties") could conduct any other business, whether or not such business is in competition with any Client. The Affiliated Parties may own interests in other properties in the same general location as the properties in which a Client has an interest, and such properties may compete with those of a Client for buyers, tenants or financing. While the Adviser and its affiliates intend to avoid situations involving conflicts of interest, conflicts of interest may nevertheless arise in the day-to-day operations of the Adviser's Clients and the conduct of such other businesses. In addition, as a result thereof, the Adviser, any applicable General Partner, and their affiliates may from time to time acquire confidential or material non-public information that they will not be able to use for the benefit of a Client, which may lead to such Client not being able to initiate a transaction that it otherwise might have initiated and not being able to sell an investment that it otherwise might have sold.

An affiliate of the Adviser, Berkshire Realty Ventures, L.L.C. ("BRV"), manages a smaller pooled vehicle that currently has a controlling interest in various joint ventures that are in the business of owning hotels, medical office buildings and senior living facilities. The pooled vehicle may hold interests in other real-estate related operating companies in the future. The pooled vehicle managed by BRV is controlled and managed by Affiliated Parties of the Adviser, and Affiliated Parties also own all of the equity interests therein and in BRV. Therefore, the activities of BRV could



compete for the time, services or functions of those members of the Adviser's key personnel, other officers and employees to the extent that they also work on matters related to BRV from time to time.

Certain investment vehicles managed by the Adviser and its affiliates existing prior to the formation of any particular Client may have limited rights to acquire investments that might otherwise be suitable for such Client. In addition, although a Client's Governing Documents may contain limitations on the ability of the Adviser or its affiliates to form successor investment vehicles (each, a "Successor Fund") until the expiration of certain conditions set forth in such Governing Documents, it is still possible, subject to any such applicable limitations, that a Successor Fund may be launched before an existing Client's capital commitments from Underlying Investors have been fully invested or committed for investment. The Adviser and its affiliates are also permitted to pursue certain investments outside of the Clients, subject to any applicable restrictions set forth in a Client's Governing Documents.

In addition, the Adviser and its affiliates may offer co-investment opportunities to third parties. As a result, the Adviser may encounter conflicts of interest in allocating investments between such entities and the Clients. For a description of the Adviser's policy and procedures relating to the allocation of investment opportunities, see Item 11.

Certain of the Adviser's Clients are controlled and managed by affiliates of Berkshire. In addition, there may be other or different potential conflicts of interest that arise in the future. Additional information regarding investments by affiliates of Berkshire in certain of the Adviser's Clients, as well as other conflicts of interest arising from the relationships and activities of the Adviser and its affiliates, is provided below in Item 11.

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

The Adviser has adopted a Code of Ethics (the "Code"), which includes policies and procedures governing personal trading activities, conflicts of interests, fair dealing, handling confidential information, handling material non-public information, accepting and offering gifts, making political contributions, and engaging in outside business activities. The Code is applicable to all of the Adviser's personnel, both non-clerical and clerical, who are directly or indirectly involved in Berkshire's investment advisory business (the "Advisory Personnel"). The Code is intended to seek to ensure that such persons act in the best interests of the Adviser's Clients and particularly, that each such

person conducts his or her affairs, including personal securities transactions, in such a manner as to avoid serving his or her own personal interests ahead of the Clients.

As described in Item 10, from time to time the Adviser may cause one or more of its Clients to make investments in joint ventures, whether through tenancies-in-common or other venture partnerships, with a seller of a property investment, an independent third party or another investment entity sponsored by the Adviser's affiliates (including another Client). The Adviser may, in limited circumstances, also cause a Client to invest in another Client managed by the Adviser. The Adviser will only cause a Client to invest in a joint venture as described above, or to invest in another Client, if and to the extent permissible pursuant to a Client's Governing Documents, and provided that the Adviser has determined that such investment is appropriate in light of the Client's applicable investment strategies and restrictions. In the event that a Client makes such an investment through a structure where Berkshire is paid corresponding fees by the Client and at any other level within the structure, Berkshire will waive or set off any such fees payable to Berkshire in order to ensure that no Client pays a "double layer" of fees.

Not all of the Adviser's Clients pay performance-based compensation to the Adviser (or its affiliated General Partners), and not all performance-based compensation is charged at the same rates. The Adviser and its affiliates may face certain conflicts of interest in this regard, as further described in Item 6. In addition, in an effort to increase potential returns to its Clients, and thereby to increase potential performance-based compensation to one or more of its General Partners or to itself, as applicable, the Adviser may have an incentive to select investments for a Client that involve a higher degree of risk than might otherwise be the case if the General Partner were not so compensated. Furthermore, a General Partner could be inclined to take into account the capital needs of Berkshire (including the Adviser and its affiliates) when determining the amount and timing of distributions to be made by a Client to its Underlying Investors.

The Adviser may also face certain related conflicts of interests in relation to its allocation of investment opportunities among its Clients. In allocating investment opportunities among its Clients, the Adviser may face incentives to favor those Clients in which its affiliates hold equity interests or where the Adviser or a General Partner is entitled to receive performance-based compensation over other Clients that do not pay the Adviser or a General Partner any performance-based compensation (or, similarly, to favor Clients with performance-based compensation arrangements that are paid at a higher rate or that otherwise pay higher amounts to the Adviser or a General Partner).

The Adviser has implemented a policy and procedures to seek fair and equitable allocation of investment opportunities among its Clients. Pursuant to its allocation policy and procedures, the Adviser's overall objective is to treat each Client in a fair and

equitable manner, depending on the particular facts and circumstances and the needs and financial objectives of each of the Clients, such that allocations of investment opportunities will not be based upon a Client's performance or applicable fee structures or other factors that might otherwise provide an incentive to give preferential treatment to one or more Clients. Each Client has its own investment guidelines and Governing Documents that must be taken into account by the Adviser in making investment allocation determinations, and many Clients' Governing Documents also include specific allocation rules (each, an "Allocation Rule") that the Adviser is required to observe, subject to any waivers permitted in accordance with the Clients' relevant Governing Documents. Allocation Rules include, but are not limited to: provisions relating to exclusivity with respect to particular types of investments during certain time periods, and specified exceptions thereto; provisions that may permit certain types or categories of investments to be made by a Client, notwithstanding a conflicting Allocation Rule; and provisions that limit the concentration of a Client in one or more particular categories of investments. If and to the extent that an applicable Allocation Rule is permitted to be waived, and is waived, the Adviser shall document the reasons for the determination to do so, and will comply with any required notifications to the relevant Client's Advisory Committee, if applicable pursuant to the applicable Governing Documents.

The Adviser may also face certain conflicts of interests in relation to its allocation of certain expenses among its Clients, as the Adviser may face incentives to allocate fewer expenses to those Clients where the Adviser or a General Partner is entitled to receive performance-based compensation. In particular, if and to the extent permissible pursuant to their applicable Governing Documents, one or more Clients may be required to bear certain expenses relating to unconsummated transactions. In the event that an investment opportunity is not consummated, the Client(s) to which such investment opportunity was initially allocated will generally bear some or all of such expenses, and may also be required to bear certain termination fees, if applicable to that investment opportunity. In the event that a particular investment opportunity has not been allocated to one or more Client(s) at the time that such investment opportunity is terminated or otherwise, for any reason, cannot be consummated, then the Adviser shall seek to allocate any related expenses and termination fees, if any, in a manner that is fair and equitable, in light of all applicable circumstances, and in a manner which is not based upon any Client's applicable fee structures or any other factors which could appear to provide preferential treatment to one or more Clients.

Berkshire and certain of its principals, officers and senior-level employees also may invest in Clients for their own accounts, subject to each Client's applicable eligibility criteria. Berkshire's principal owners and members of their families own, directly or indirectly, all or substantially all of the equity interests in certain of the Adviser's Clients. Such principal owners, in their management capacities with the Adviser and their

positions on the investment committees (each, as further described in Item 16, an “Investment Committee”) for the Adviser’s Clients, may have an incentive to (i) dedicate additional time and resources to those Clients in which they and/or their family members hold equity interests, and (ii) allocate attractive investment opportunities to such Clients. Each of the foregoing conflicts of interests could have a detrimental effect on the performance of the investment portfolios of Berkshire’s other Clients. In the event that a conflict arises, Berkshire will address these by acting in the best interests of each applicable Client, in a fair and equitable manner, in accordance with each applicable Client’s Governing Documents, and after taking into consideration all relevant circumstances.

Certain services are provided to Clients by Berkshire and its affiliates, including property management, construction management and development management services. This may create a conflict of interest with Clients, as they generally cannot select other service providers to provide these services to them or negotiate compensation for such services, having delegated to the Adviser the rights to engage its affiliates for such services (or to provide such services itself), and to cause the fees for such services to be paid by the applicable Clients. Conflicts of interest may also arise with respect to related contract terms, such as, for example, in determining whether a service provider is entitled to be indemnified pursuant to any agreement between a Client and such service provider or whether such service provider has satisfactorily performed in compliance with its agreement with a Client. The Adviser addresses such conflicts by seeking to ensure that the fees chargeable to any Client for the relevant services to be provided by Berkshire or its affiliates, in each case as provided in the Client’s Governing Documents, are clearly defined in the Clients’ Governing Documents. In addition, any other services provided by Berkshire and its affiliates to a Client and its investments are typically required to be made on terms and conditions that are at least comparable to the terms and conditions that would be available in arm’s-length transactions with independent third parties providing similar services. However, any fees charged in connection with such services and any other terms and conditions relating to such services will not actually be determined through arm’s-length negotiations.

Neither the disclosures in this Item 11 nor the policies and procedures in the Adviser’s Code can address every possible circumstance that may give rise to conflicts of interests that may impact the Adviser’s Clients. The Adviser’s Code requires that its Advisory Personnel be alert to potential conflicts of interest and that any potential conflict of interests must be reported immediately to the Adviser’s Chief Compliance Officer.

We will provide a copy of our Code to any Client or prospective Client upon request made to the Adviser’s Chief Compliance Officer.

**Item 12. Brokerage Practices**

The Clients' investment strategies do not typically involve public securities. As such, the Adviser does not generally select or recommend broker-dealers for Client transactions, provided that certain Clients may maintain a brokerage account for purposes of engaging in limited money market fund transactions, as temporary investments, if permitted pursuant to their Governing Documents.

The Adviser does not have any formal arrangements where it obtains research and brokerage services with Clients' commissions ("soft dollars") that would commit the Adviser to any specific or implied level of trading with any broker-dealer or a third party in connection with Clients' securities transactions.

With respect to the selection of real estate brokers to use in connection with the purchase, sale or leasing of Clients' real estate properties, the Adviser and its affiliates will determine the commissions to be paid. This discretion may be exercised without obtaining consent of the Client. In selecting the real estate broker, the Adviser and its affiliates evaluate various factors to consider including, but not limited to, the broker's experience and knowledge of specific property and local market conditions, the type of property involved, and the fee charged.

Due to various considerations, such as Clients' different strategies and where Clients are situated within their respective investing life cycles, the Adviser typically does not aggregate purchases or sales of securities for various Client accounts.

**Item 13. Review of Accounts**

*Account Reviews*

At the time that the Adviser causes a Client to acquire a real estate property investment, the Adviser develops a comprehensive business plan for each property, which typically includes a number of potential exit strategies once the property value has been maximized, as determined by the Adviser. Such business plans are evaluated and amended annually and are monitored by the Adviser throughout the year. The Adviser also uses economic and submarket forecasting information provided by third-party experts along with the Adviser's own experience and resources in an effort to seek to time and implement exit strategies for its Clients' investments. The annual business plans also include the evaluation of individual property improvement plans and potential exit strategies.

The advisory activities of the Adviser with respect to any Client are also subject to the oversight of an investment committee that is responsible for approving all investments

and dispositions of investments for such Client. Such investment committee that is applicable to a Client that is a Fund will, in the case of a Fund organized as a limited partnership, typically be an investment committee formed by the General Partner of such Fund. Each investment committee is comprised of a number of the Adviser's principals and executives. In addition, the advisory activities of the Adviser with respect to BIR are also subject to the oversight of BIR's board of directors.

#### *Client Reports*

Each Fund will use commercially reasonable efforts to furnish unaudited financial statements on a quarterly basis to all of its Underlying Investors (other than for the last fiscal quarter of each fiscal year). Underlying Investors in each Fund will also receive on a quarterly basis descriptive information regarding: (i) the Fund's investments; (ii) transactions between the Fund and its General Partner (if applicable) and other affiliates of the Adviser, other than those specifically provided for in a Fund's Governing Documents; and (iii) each Underlying Investor's own capital account in a Fund and details of all Fund transactions which flowed through such capital account. Each Fund will also include the estimated value of each of its investments in its annual report and each quarterly report. Each Fund (except APTCO), after the end of each fiscal year, will have its audited financial statements prepared and sent to each of its Underlying Investors. APTCO will have financial statements prepared and delivered to its Underlying Investors each year, and will also be subject to an annual surprise examination by its auditor.

#### *BIR*

As an entity with a class of securities that is registered under the Securities Exchange Act of 1934, as amended, BIR is required to publicly file annual reports (including audited financial statements), quarterly reports and other periodic reports with the Securities and Exchange Commission. BIR's public disclosure filings may be viewed online at [www.sec.gov](http://www.sec.gov).

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

#### *Investor Referrals*

The Adviser has entered into agreements with placement agents in connection with the referral of prospective Underlying Investors to make investments in certain of the Funds. While the specific terms of each arrangement differ, generally a placement agent's compensation has been based upon the capital commitments made by the referred Underlying Investors to the relevant Fund.

Under certain circumstances and subject to the Client's Governing Documents, placement agent fees are borne by the Clients, but result in a corresponding reduction in the Management Fee that would be paid to the Adviser.

The Adviser may enter into additional arrangements with placement agents, and compensate such placement agents, for referral activities in the future, and any such arrangements will be fully disclosed to affected Clients and will comply with the requirements of Rule 206(4)-3 under the Advisers Act, where applicable.

#### *Other Compensation*

The Adviser does not currently receive any economic benefits from someone who is not a Client for providing investment advice or other advisory services to our Clients.

### **Item 15. Custody**

Clients' portfolios typically include investments that are not securities, but rather are direct investments in real estate. In such cases, Clients will generally also have accounts that contain funds derived from rents and other operating cash and funds related to the operations of such real estate investments.

Clients' portfolios may also include certain real estate-related debt securities and other interests that are considered to be securities. Under the provisions of Rule 206(4)-2 under the Advisers Act (the "Custody Rule"), the Adviser may be deemed to have custody of such securities, as well as of funds owned by its Clients, due to its ability to obtain possession of such securities and funds from third-party qualified custodians or due to its authority in certain instances to deduct its fees from client accounts. Securities held in Clients' portfolios are typically privately offered securities that are not required to be held by a qualified custodian pursuant to an exemption provided under the Custody Rule. Any securities that do not qualify for an available exception under the Custody Rule and any funds with respect to which the Adviser is deemed to have custody will be held with a qualified custodian.

The Adviser does not use a qualified custodian to send quarterly account statements to its Clients or to their Underlying Investors. With respect to its Clients that are Funds (except APTCO), the Adviser will rely on an exception available to "pooled investment vehicles" from the reporting and other obligations imposed by the Custody Rule by requiring each Fund to distribute its annual audited financial statements to its Underlying Investors within 120 following the end of the Fund's fiscal year, in accordance with the requirements of the Custody Rule. BIR files its Form 10-K, which contains its audited financial statements, with the SEC within 90 days of the end of its fiscal year. Further,

BIR distributes an annual report containing its audited financial statements to its stockholders within 120 days of the end of its fiscal year.

In addition, in connection with the final liquidation of a Fund, the Adviser will obtain a final audit and distribute audited financial statements to the Underlying Investors in the liquidated Fund promptly after completion of the audit.

All Underlying Investors should carefully review these audited financial statements. APTCO will have financial statements prepared and delivered to its Underlying Investors each year, and will be subject to an annual surprise examination by its auditor, in accordance with the requirements of the Custody Rule. All Underlying Investors should contact the Adviser's Chief Compliance Officer if there are any material discrepancies between the audited financial statements and reports that they may receive from the Adviser.

**Item 16. Investment Discretion**

The Adviser has discretionary authority to manage the assets of each of its Clients pursuant to investment management agreements between each Client and the Adviser. These agreements include an explicit grant of discretionary authority to manage the applicable Client's assets. Except as described below, there are no specific limitations placed on this authority, provided that the Adviser will exercise its discretionary authority in accordance with the investment objectives and strategy and applicable limitations, if any, set forth in applicable Governing Documents of each Client.

The advisory activities of the Adviser with respect to any Client are also subject to the oversight of an investment committee (each, an "Investment Committee") that is responsible for approving all investments and dispositions of investments for such Client. Any such Investment Committee that is applicable to a Client that is a Fund will, in the case of a Fund organized as a limited partnership, typically is an Investment Committee formed by the General Partner of such Fund. Each Investment Committee is comprised of a number of the Adviser's principals and executives. In addition, the advisory activities of the Adviser with respect to BIR are also subject to the oversight of BIR's board of directors.

**Item 17. Voting Client Securities**

The Adviser does not expect that its Clients will typically hold investments that give rise to instances of proxy voting, or other voting with respect to its Client's real estate investments.



However, one or more Clients may from time to time hold shares or other securities or interests in special purpose vehicles or other entities, and such Clients may have the opportunity from time to time to vote on certain matters that arise under the governing documents of the special purpose vehicles or entities in which they are invested. In such cases, the Adviser will evaluate the matter which is the subject of the vote in light of the relevant circumstances, and will seek to vote with respect to such matter in a manner that the Adviser determines will further the best interests of the relevant Client.

Any Client or Underlying Investor in a Client may request a copy of the Adviser's policy regarding its voting of Client securities, as well as information regarding how the Adviser has voted any proxies on behalf of the Client in which an Underlying Investor is invested, by calling Christopher M. Nichols at (617) 646-2300, or by submitting a written request to his attention c/o Berkshire Property Advisors, L.L.C., One Beacon Street, Boston, Massachusetts, 02108.

**Item 18. Financial Information**

Registered investment advisers are required to provide you with certain financial information or disclosures about their financial condition.

The Adviser believes that it has no financial condition that is reasonably likely to impair its ability to meet contractual commitments to its clients, and the Adviser has not been the subject of any bankruptcy proceeding.