

**Item 1. Cover Page**



**AVENUE ASIA  
CAPITAL MANAGEMENT, L.P.**

399 Park Avenue, 6<sup>th</sup> Floor  
New York, NY 10022

Contact: Eric Ross

**Website: [www.avenuecapital.com](http://www.avenuecapital.com)**

**FORM ADV PART 2**

May 22, 2015

**This brochure provides information about the qualifications and business practices of Avenue Asia Capital Management, L.P. If you have any questions about the contents of this brochure, please contact Eric Ross, Senior Managing Director and Chief Compliance Officer, at (212) 878-3500 or [eross@avenuecapital.com](mailto:eross@avenuecapital.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority. Registration as an investment adviser with the SEC does not imply a certain level of skill or training.**

**Additional information about Avenue Asia Capital Management, L.P. is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

## **Item 2. Material Changes**

Since the last annual update of this brochure on March 31, 2015, Avenue Asia Capital Management, L.P. has updated this brochure to:

- clarify the firm's (as defined herein) relationship with respect to certain private investment funds managed by, or in conjunction with, one or more affiliates of the firm (see Item 10 under the heading "Other Financial Industry Activities and Affiliations – Material Financial Industry Affiliations of the Firm"); and
- remove disclosure with respect to an agreement with Foreside Fund Services, LLC, a broker-dealer registered with the Securities and Exchange Commission, pursuant to which certain employees of the firm, as registered representatives of Foreside Fund Services, LLC, were eligible to receive indirect compensation related to their capital raising activities. Avenue Capital (as defined herein) terminated this arrangement in April 2015.

Because this Item 2 discusses only those changes to this brochure that have been made since March 31, 2015 that the firm believes to be material, this brochure should be reviewed in its entirety.

### Item 3. Table of Contents

	<u>Page</u>
Item 2. Material Changes .....	i
Item 3. Table of Contents .....	ii
Item 4. Advisory Business .....	1
Structure: History and Ownership .....	1
Types of Advisory Services .....	2
Assets Under Management .....	2
Item 5. Fees and Compensation .....	2
Fees .....	2
Expenses .....	3
<i>Funds</i> .....	3
<i>Separately Managed Accounts</i> .....	6
Item 6. Performance-Based Fees and Side-by-Side Management .....	6
Item 7. Types of Clients .....	6
Item 8. Methods of Analysis, Investment Strategies and Risk of Loss .....	7
Methods of Analysis and Investment Strategies .....	7
Risks Associated with the Firm's Investment Strategies .....	9
<i>Conflicts of Interest</i> .....	9
<i>Risks Related to Our Investment Strategies</i> .....	12
Item 9. Disciplinary Information .....	33
Item 10. Other Financial Industry Activities and Affiliations .....	33
Material Financial Industry Affiliations of the Firm .....	33
Other Activities .....	38
Item 11. Code of Ethics, Participation or Interest in Client Transactions and Personal Trading .....	38
Code of Ethics; Personal Trading .....	38
Participation or Interest in Client Transactions .....	40
Item 12. Brokerage Practices .....	41
Selection of Brokers .....	41
Soft Dollar and Directed Brokerage Arrangements .....	42
Aggregation of Orders .....	42
Allocation Procedures .....	42
Trade Errors .....	45
Item 13. Review of Accounts .....	45

Item 14. Client Referrals and Other Compensation .....	46
Compensation for Client Referrals; Placement Agents for Funds .....	46
Item 15. Custody .....	46
Item 16. Investment Discretion .....	46
Item 17. Voting Client Securities .....	46
Proxy Voting .....	46
Corporate Actions .....	47
Conflict Resolution in Proxy Voting and Corporate Actions .....	47
Class Actions .....	47
Item 18. Financial Information .....	48

## **Item 4. Advisory Business**

### **Structure; History and Ownership**

Avenue Asia Capital Management, L.P. (the “firm”) is an investment adviser with its principal place of business in New York City. The firm provides investment advisory services to private investment funds (“funds”), and may in the future provide investment advisory services to separately managed accounts. In addition to our offices in New York, we have four offices throughout Asia, and an affiliate of the firm has offices in London, Luxembourg, Madrid, Milan and Munich. This brochure provides information about the firm and its “relying advisers” listed in Section 1.B. of Schedule D in Part 1A of the firm’s Form ADV.

As of June 30, 2005, Avenue Asia Capital Management, LLC, a Delaware limited liability company, completed a legal reorganization whereby the company was converted to a Delaware limited partnership now known as “Avenue Asia Capital Management, L.P.” Avenue Asia Capital Management, LLC commenced business in 2001. The firm has been registered as an investment adviser with the U.S. Securities and Exchange Commission (“SEC”) since July 13, 2001 and has been registered as a Foreign Institutional Investor with the Securities Exchange Board of India since 2004.

The firm and its relying advisers are part of Avenue Capital Group (“Avenue” or “Avenue Capital”), an established global alternative investment firm founded in 1995. As of March 31, 2015, Avenue Capital had approximately 203 employees worldwide, including 66 investment professionals. Avenue Capital maintains an institutional infrastructure with extensive accounting, operations, legal, investor relations, risk management, compliance and information technology teams.

Marc Lasry (Chairman, Chief Executive Officer and Co-Founder) and Sonia Gardner (President, Managing Partner and Co-Founder) are the Senior Principals of the firm and together control the general partner of the firm, Avenue Asia Capital Management GenPar, LLC. Richard Furst is the Chief Investment Officer of Avenue Capital and spends a portion of his time providing high level investment oversight globally, including to the firm. Anil Gorthy is a Senior Portfolio Manager and is responsible for the firm’s Distressed strategy.

Our primary investment advisory service is to provide discretionary investment advice to private funds. In addition to the funds, we may in the future advise one or more separately managed accounts on a discretionary basis. The objective and strategy of a managed account may but is not required to be similar to the investment objective and strategy of a fund managed by the firm.

Avenue Capital’s primary focus is investing in credit obligations (public and private), including without limitation, distressed debt and equity opportunities, other special situations and high yield investments in the United States, Europe and Asia. Avenue Capital’s primary advisory service is to provide discretionary investment advice to private funds and registered investment companies (“public funds”). The Senior Principals and the Portfolio Managers of the funds managed by the firm have spent virtually their entire careers in this space.

The firm’s primary investment strategy is an Distressed strategy pursuant to which the firm invests in the distressed debt and undervalued debt and equity securities of companies throughout Asia, with a particular focus on China, Indonesia and India, although investments may be made in other areas in Asia, including Australia and New Zealand.

Our Distressed strategy generally focuses on:

- companies undergoing a restructuring, reorganization or bankruptcy;
- companies that are operationally sound, but financially troubled due to overleveraged balance sheets, inadequate capitalization or limited access to capital;
- companies that are undervalued because of discrete extraordinary events or economic conditions;
- companies being sold for less than their intrinsic value.

We focus on special situations investment opportunities in the Asian region. Our investment professionals seek undervalued securities or assets being sold at a discount by non-economic sellers, including single assets or concentrated pools of assets. We leverage our network of local investment, legal, and accounting professionals to source and execute investment opportunities and engage in active portfolio management. In addition to seeking special situations, our Distressed strategy focuses on investments in debt and equity across industries, sectors and geography.

Prospective investors in any fund are advised to review the fund's private placement memorandum, explanatory memorandum, or confidential offering circular for a more in-depth description of that fund's investment strategy and objectives, types of assets to be invested in, investment restrictions (if any), and related risk factors.

Some of the private funds we advise are feeder funds to or parallel funds of other funds. In some cases, we advise successor funds to earlier funds that have concluded their investment period.

A list of the funds we manage can be found below at Item 10.

### **Types of Advisory Services**

As described above, we provide advisory services to private funds and separately managed accounts for institutional investors. Neither the firm nor any of our affiliates is acting as an investment adviser or otherwise making any recommendation as to an investor's decision to invest in the funds. The advisory services we provide to investment funds are provided on a discretionary basis. The advisory services we provide to managed accounts may be discretionary or non-discretionary.

The investment strategies we employ on behalf of a majority of the funds are described below at Item 8.

### **Assets Under Management**

As of December 31, 2014, we managed approximately \$950,962,761 of client assets, all on a discretionary basis.<sup>1</sup>

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

### **Fees**

Detailed information regarding fees is included in each fund's confidential offering memorandum. Because this brochure will only be delivered to "qualified purchasers" investing in our funds, as defined in section 2(a)(51) of the Investment Company Act of 1940, a complete description of our compensation

---

<sup>1</sup> The foregoing amount represents "regulatory assets under management" as calculated in Item 5.F.(2) of the firm's Part 1A of Form ADV.

arrangements is not required to be included in this brochure. Fees paid for services provided to managed accounts are determined on a client-by-client basis and may, but are not required to, be substantially similar to those paid by funds.

The private funds we advise generally pay management fees and incentive allocations or carried interest, depending upon each fund's investment strategy. With respect to our funds that pay us a carried interest, management fees are *pro rated* for partial periods in the event that our investment management agreement with the fund is terminated or an investor makes a capital contribution or purchases shares at any time other than at the beginning of a fund's valuation period, but are payable in full for partial periods resulting from distribution of fund assets. With respect to our funds that pay us an incentive allocation, management fees are *pro rated* for partial periods.

Incentive allocations or carried interest are calculated as a percentage of profits of the funds. Some funds pay incentive allocations, in whole or in part, on mark-to-market performance at the end of a period (year-end or upon a partial or full withdrawal), subject to a high watermark. Other funds pay a carried interest on realized returns. Such carried interest payments are not paid to us until investors receive 100% of their capital back plus a preferred return.

Management fees, incentive allocations and carried interest rates may be negotiable.

## **Expenses**

Whether an expense is a fund or firm expense shall be determined jointly by the Chief Compliance Officer and Chief Financial Officer, with the assistance of such other parties as they deem necessary. Expense allocation determinations may be made as to broad categories or expense types or on an expense item-by-expense item basis. How an expense is allocated as between funds and the firm shall be documented by the applicable Controllers and consistently applied thereafter.

Once a determination is made that an expense is a fund expense and that there is more than one fund, the Chief Compliance Officer and Chief Financial Officer, with the assistance of such other parties as they deem necessary, shall determine the appropriate allocation methodology among the funds. There may be situations where an expense may be allocable to some but not all of the funds that receive the benefit of such expense. In these situations, the funds that can bear the expense shall bear their allocation share of the expense and the firm shall pay the remainder.

## **Funds**

The payment of expenses by a fund will reduce the value of each investor's investment in the fund.

Detailed information regarding the expenses to which each fund is subject is set out in the offering documents with respect to the particular fund. Generally, each feeder fund bears its own expenses and its *pro rata* share of the expenses of any master fund or intermediate fund. Fund expenses may include, without limitation, the following categories of expenses:

- formation expenses of the fund and related entities, including fees and expenses of counsel to, accountants for and agents of the fund, its general partner, if applicable, and the firm, of personnel of the firm and its advisors, and other expenses (including, without limitation, travel and travel-related costs and expenses), in each case, incurred in connection with the formation and marketing of the fund and related entities, the preparation of the fund's operative documents and the offering of equity interests of the fund;

- audit fees and other out-of-pocket expenses incurred in connection with the preparation and distribution of financial statements for the fund or any portfolio company or with respect to any investment and audit compliance;
- expenses incurred in connection with the evaluation, acquisition or disposition of investments (whether or not consummated), except to the extent such expenses are investment expenses, including:
  - private placement fees,
  - sales commissions,
  - appraisal fees,
  - taxes,
  - brokerage fees,
  - underwriting commissions and discounts,
  - travel and travel-related expenses (including business and first-class airfare);
  - legal, accounting, investment banking, consulting fees (including without limitation, fees payable to expert network consultants) and professional fees;
  - research-related fees;
  - data and information service providers (*e.g.*, Bloomberg, Debtwire, general market research with respect to trading models and industries, etc.); and
  - other transaction costs.
- compensation and other similar expenses of consultants (including industry executives, advisors, consultants, operating executives, subject matter experts or other persons acting in a similar capacity (including with respect to potential portfolio investments));
- expenses incurred in connection with the carrying or management of investments, including:
  - custodial, trustee, record keeping and other administration fees;
- expenses incurred in connection with the preparation and distribution of its tax returns, financial statements and reporting for the fund (including Schedules K-1 for fund investors);
- expenses incurred in connection with tax compliance (including FATCA compliance);
- attorneys' and accountants' fees and disbursements relating to fund matters;
- taxes and other governmental charges levied against it;
- any and all expenses (including legal fees and expenses) incurred to comply with any law or regulation related to the activities of the fund (including regulatory expenses of the general partner, if any, and the firm incurred in connection with reporting to regulatory authorities and preparation and making of any required regulatory filings or notice (including Form PF, U.S. Bureau of Economic Analysis or Federal Reserve Board forms, AIFMD or similar regulatory filings)) or otherwise incurred in connection with any litigation or governmental inquiry related to the activities of the fund (to the extent such expenses would be indemnifiable under the fund's operative documents), including filing and registration fees and expenses related to regulatory sweeps;
- insurance premiums and other insurance costs and expenses incurred in connection with the activities of the fund, including without limitation, errors, omissions, fidelity, crime, general



- partner liability, directors' and officers' liability and similar coverage for any indemnified party;
- expenses incurred in connection with its dissolution, liquidation or winding-up and termination;
  - expenses relating to defaults by investors in the payment of any capital contributions;
  - expenses for transactions not consummated;
  - expenses incurred in connection with any restructuring or amendments to its constituent documents and related entities, including the fund's general partner, if applicable, and related entities;
  - expenses incurred in connection with the formation of alternative investment vehicles to the extent permitted under the fund's constituent documents;
  - expenses incurred in connection with the formation, maintenance and operation of special purpose vehicles through which the fund makes, holds or manages investments (including Luxembourg vehicles), including:
    - rent,
    - employee costs,
    - office expenses,
    - taxes and other governmental charges,
    - administrator fees and
    - professional fees incurred with respect to tax planning and tax compliance;
  - expenses of any administrator of the fund and any special purpose vehicles through which the fund makes, holds or manages investments (including Luxembourg vehicles);
  - expenses incurred in connection with distributions to investors;
  - expenses incurred in connection with any meetings with investors called by the fund's general partner (including any annual conferences) or the preparation and distribution of any investor communications (including Intralinks);
  - expenses related to the fund's indemnification obligations;
  - certain litigation expenses;
  - any amounts paid by the fund for, or resulting from, hedging transactions;
  - investment management fees;
  - other extraordinary expenses relating to the fund and to its activities that are not investment expenses; and
  - such other expenses as are set forth in the fund's private placement memorandum and/or limited partnership agreement.

Fee income, including commitment fees, break-up fees, directors' fees and similar income realized with respect to investments or proposed investments by a fund, will first be applied to unreimbursed out-of-pocket expenses related to the applicable transaction; any excess amount will be used to reduce the applicable investment management fee otherwise payable by the fund's investors by an identical amount.

### ***Separately Managed Accounts***

The expenses borne by separately managed accounts are set forth in agreements with us and generally include all custodial fees, brokerage commissions, clearing fees, interest and withholding or transfer taxes incurred in connection with trading for the client's account.

For more information regarding our brokerage practices and brokerage expenses that may be incurred, please see Item 12.

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

As discussed in Item 5 above, the private funds we advise generally pay incentive allocations or carried interest, depending upon the fund's investment strategy. Incentive allocations or carried interest are calculated as a percentage of profits of the funds. Some funds pay incentive allocations, in whole or in part, on mark-to-market performance at the end of a period (year-end or upon a partial or full withdrawal), subject to a high watermark. Other funds pay a carried interest on realized returns. Such carried interest payments are not paid to us until investors receive 100% of their capital back plus a preferred return. Incentive allocations and carried interest rates may be negotiable.

We have a fiduciary duty to our clients not to favor the account of one client over that of another, without regard to the types and amounts of fees paid by those accounts. In light of this, we have allocation and other policies and procedures in place to ensure that accounts are treated fairly. We seek to allocate investments among funds with similar strategies that are managed by the same investment team on a *pro rata* basis, based on available cash or on a net asset value basis. However, as described in Item 12, under the heading "Allocation Procedures," there are a number of reasons for which a particular transaction may not be allocated on a *pro rata* basis. Explanations for variations from the applicable allocation procedure are required to be documented and are subject to the periodic review of our Chief Compliance Officer to ensure that all accounts are being treated fairly.

Avenue Capital Management II, L.P. serves as adviser to registered investment companies under the Investment Company Act of 1940 (*i.e.*, public funds), in addition to private funds. The public funds advised by Avenue Capital Management II, L.P. do not pay a performance fee. The public funds may invest in securities that are the same as or similar to certain investments that may be held in certain of our private funds (which do pay a performance fee). In allocating investments between the public funds advised by Avenue Capital Management II, L.P. and our private funds, Avenue Capital will adhere to a policy pursuant to which, at the time an investment is made by a public fund, each public fund's portfolio will have no more than 20% overlap, on a market value basis, at the security specific level with the portfolio securities held by Avenue Capital's private funds (in the aggregate) (*i.e.*, no more than 20% of a public fund's portfolio securities will be identical to the securities held by Avenue Capital's private funds in the aggregate, subject to any exceptions set forth in Item 12 under the heading "Brokerage Practices – Allocation Procedures."). For more information regarding the allocation of investments between Avenue Capital's public and private funds, see Item 12 under the heading "Allocation Procedures."

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

We serve as the investment manager of, and provide investment advisory services to, private investment funds and may, in the future, serve as the investment manager for managed accounts. Neither the firm nor any of our affiliates is acting as an investment adviser or otherwise making any recommendation as to an investor's decision to invest in the funds. With respect to the funds, investment advice is provided

directly to the funds and not individually to each of the funds' limited partners or shareholders, as applicable. With respect to the managed accounts, the investment objective and strategy of each client will not involve a recommendation or determination by us as to the appropriate investment program for such client nor due diligence by us as to such client's financial condition or risk profile.

The funds' investors may consist of one or more of the following: individuals, pension and profit sharing plans, financial institutions (including funds of funds), trusts, endowments, charitable organizations and corporations or other business entities.

Each fund investor or managed account client is required:

- to be an "Accredited Investor" as such term is defined in Rule 501(a) of Regulation D under the Securities Act of 1933;
- to be a "Qualified Client" as such term is defined in SEC Rule 205-3 under the Investment Advisers Act of 1940;
- to be a "Qualified Purchaser" as such term is defined in Section 2(a)(51) of the Investment Company Act of 1940; and
- to meet such other eligibility requirements as we determine on a case by case basis.

Managed account clients may consist of one or more of the following: individuals, pension and profit sharing plans, financial institutions (including funds of funds), trusts, endowments, charitable organizations and corporations or other business entities.

There is no minimum size for the funds or managed accounts we advise. The funds have minimum investment amounts ranging from \$500,000 to \$10,000,000. Certain funds, however, may have higher or lower minimum investment amounts depending upon the agreement negotiated between the firm and a fund's investor(s), particularly in the case of single investor funds. Subject to applicable statutory minimums, such minimum investment amounts are negotiable.

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

### **Methods of Analysis and Investment Strategies**

The firm's primary investment strategy is an Distressed strategy pursuant to which the firm invests in the distressed debt and undervalued debt and equity securities of companies throughout Asia, with a particular focus on China, Indonesia and India, although investments may be made in other areas in Asia, including Australia and New Zealand.

Our Distressed strategy generally focuses on investments in the debt, equity or other securities, including indebtedness or other obligations, of Asian:

- companies undergoing a restructuring, reorganization or bankruptcy;
- companies that are operationally sound, but financially troubled due to overleveraged balance sheets, inadequate capitalization or limited access to capital;
- companies that are undervalued because of discrete extraordinary events or economic conditions;
- companies being sold for less than their intrinsic value.

We focus on special situations investment opportunities in the Asian region. Our investment professionals seek undervalued securities or assets being sold at a discount by non-economic sellers, including single assets or concentrated pools of assets. We leverage our network of local investment, legal, and accounting professionals to source and execute investment opportunities and engage in active portfolio management. In addition to seeking special situations, our Distressed strategy focuses on investments in debt and equity across industries, sectors and geography. Our investment team conducts comprehensive due diligence of fundamental aspects of potential investments including some or all of the following:

- business fundamentals, including analysis of both individual companies and the industries in which they operate;
- valuation, including going concern and liquidation values;
- legal issues;
- capital structure and off-balance sheet liabilities; and
- expected recovery on non-performing loans.

Our Distressed strategy generally targets:

- distressed debt;
- performing/restructured debt;
- non-performing loans; and
- viable companies generating positive cash flow.

In addition, the funds that employ our Distressed strategy may act as lenders originating floating rate and fixed rate loans.

As a general matter, we do not use fund-level leverage as part of our Distressed strategy, although we may in the future, but we do invest in asset classes (derivatives and options) that include implicit leverage.

Funds may use one or more special purpose vehicles to effect a fund investment or in such circumstances as the firm may deem appropriate, including in an effort to increase the tax efficiency of a fund investment or to enable compliance with local investment laws. Expenses related to the creation and maintenance of these special purpose vehicles, including, among other things, rent, salaries, equipment and insurance, will be borne by the funds.

All funds have the ability to use security-level leverage in respect of their investments, and certain of our funds invest in asset classes (derivatives and options) that include implicit leverage. As a general matter, most of our funds do not use fund-level leverage as part of their investment strategy(ies), although each fund has the authority to do so. For a detailed description of the specific leverage restrictions with respect to a fund and/or the manner in which leverage may be employed by a fund, please refer to that fund's offering documents. See Item 8 "Methods of Analysis, Investment Strategies and Risk of Loss – Risks Associated with the Firm's Investment Strategies – Use of Leverage."

Our investment strategies and certain risks associated with our investment strategies are described in this Item 8. Prospective investors in any fund(s) are advised to review the respective funds' private placement memorandum, explanatory memorandum, or confidential offering circular for a more in-depth description

of that fund's investment strategy and objectives, types of assets to be invested in, investment restrictions (if any) and related risk factors.

## **Risks Associated with the Firm's Investment Strategies**

The investment strategies described above that we use for the funds cover a wide range of investment types. Material risks involved in our investment strategies are described below. Prospective investors in any fund are advised to review the fund's private placement memorandum, explanatory memorandum, or confidential offering circular for a more in-depth description of that fund's risk factors.

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

An investment in a fund or managed account involves certain potential conflicts of interest, including those described below.

**Other Clients.** In addition to responsibilities with respect to the management and investment activities of any particular fund or managed account, the firm will have similar responsibilities with respect to various other existing and future pooled investment vehicles and client accounts. The existence of such multiple vehicles and accounts necessarily creates a number of potential conflicts of interest.

**Investment Activities of Funds and Other Clients; Allocation of Investment Opportunities Among Funds and Other Clients.** The firm conducts the various funds' investment programs in a manner that is similar to the investment programs of other clients, particularly where the investment objectives and policies of various clients overlap. As a result, there may be conflicts between clients with respect to the allocation of investment opportunities. See Item 12 ("Brokerage Practices") below for a description of how the firm addresses such potential or actual conflicts.

**Combined Orders; Nominee Arrangements.** If the firm has determined to invest at the same time for one or more clients, the firm will generally place combined orders for all such accounts simultaneously and if all such orders are not filled at the same price, it will generally average the prices paid. Similarly, if an order on behalf of more than one fund or client cannot be fully executed under prevailing market conditions, the firm will allocate the investments among the different funds or clients on a basis that it considers equitable. Situations may occur where a fund or client could be disadvantaged because of the investment activities conducted for other funds or clients. A fund may also serve as a nominee or hold securities as a nominee for the other Avenue funds and any other client that is participating in an investment alongside the fund.

**Time Commitment.** The firm and its affiliates are not obligated to devote any specific amount of time to the affairs of any fund or managed account. The firm's affiliates spend substantial time on other business activities, including those related to the other Avenue clients (as defined herein). The firm's Senior Principals and their affiliates currently engage in and will be free to continue to engage in investment activities for their own accounts.

**Agreements with Certain Investors in Private Funds.** The funds, the firm and their respective affiliates have and may from time to time in the future enter into agreements with one or more investors whereby in consideration for agreeing to invest certain amounts in a fund and other consideration deemed material to the fund, such investors may be granted rights not otherwise afforded to other investors, including, without limitation, the right to receive reports from the fund on a more frequent basis or to receive reports that include information not provided to other investors, the right to pay a reduced carried interest and/or investment management fee, the right to receive a share of the carried interest and/or investment management fee earned by the firm or its affiliate and such other rights as may be negotiated between the funds, the firm and their respective affiliates, on the one hand, and such investor, on the other

hand. Such agreements will have the effect of establishing rights under, or altering or supplementing the terms of, the fund's constituent documents with respect to such investors. To the extent that the firm reasonably believes that compliance with any of the provisions of any such agreements would cause the funds, the firm or any of their respective affiliates to violate their respective fiduciary duties or obligations or to violate any applicable laws, any non-compliance with any such provision will not be deemed to be a breach of such agreements.

**Agreements with Certain Managed Account Clients.** An affiliate provides advice to one or more managed accounts. These managed accounts invest side-by-side (*i.e.*, in parallel) with one or more of the funds managed by that affiliate and may invest alongside the funds we manage. The agreements entered into with managed account clients grant rights not afforded to other clients or to fund investors. Such rights may, and in certain cases do, include, without limitation, increased transparency (*e.g.*, the right to receive reports regarding the managed account on a more frequent basis or to receive reports that include information not provided to other clients or fund investors), the right to withdraw capital on a more frequent basis than other clients or fund investors, the right to terminate the managed account on short notice and such other rights as may be negotiated between the firm and its respective affiliates, on the one hand, and such client, on the other hand. In addition, the fees and expenses paid by managed account clients may be less, in some cases substantially less, than those paid by other clients or by the funds and the investors in the funds. To the extent that the firm reasonably believes that compliance with any of the provisions of any managed account agreement would cause the firm or any of its respective affiliates to violate its respective fiduciary duties or obligations or to violate any applicable laws, any non-compliance with any such provision will not be deemed to be a breach of such agreements.

**Transactions with Affiliates.** A client may engage in transactions with the firm or its affiliates. The firm may cause a fund or managed account to engage in cross trades. The value of any affiliated transactions or any cross trades with any affiliated funds will be determined in a manner that is consistent with the fair valuation methodologies that are used by the firm.

**Discounted Products and Services from Portfolio Companies.** Certain portfolio companies may offer product and service discounts from time to time to employees of the firm and its affiliates. For example, in order to encourage greater knowledge and understanding of their products and services, or as a general matter for friends and family, certain hospitality-related portfolio companies of a fund and other clients from time to time provide discounted hotel room rates to employees of the firm and its affiliates.

**Investments Involving Other Clients.** A client may, from time to time, make an investment in a portfolio company in which one or more other clients invests in a different part of the capital structure. There may be instances where such a portfolio company may become insolvent or bankrupt and where a fund's and the firm's other clients' interests in such portfolio company may conflict. Moreover, there may be situations in which a fund determines to invest in an issuer in which another fund managed by the firm or its affiliate(s) maintains an investment, so long as the firm or its affiliate(s) determine that the investment made by the fund(s) is appropriate for, and falls within the investment guidelines of, such fund(s). Furthermore, a fund may invest in the interests of another fund managed by the firm and/or its affiliate(s). To the extent that a fund holds securities in a portfolio company with rights, preferences and privileges that are different than those held by other clients in the same portfolio company, the firm and its affiliates may be presented with decisions when the interests of a fund and the firm's other clients are in conflict. It is possible that in a bankruptcy proceeding, out-of-court restructuring or other corporate action, a fund's interest may be subordinated or otherwise adversely affected by virtue of the firm's other clients' involvement and actions relating to its investment. As a result, there may be conflicts between clients with respect to voting the securities of such issuers and other matters relating to various investments. See Item 11 ("Code of Ethics, Participation or Interest in Client Transactions and Personal

Trading – Participation or Interest in Client Transactions”) and Item 17 (“Voting Client Securities”) for a description of how the firm addresses such potential or actual conflicts.

**Diverse Investment Management Firm.** The firm and the other investment managers that make up Avenue engage in a broad range of investment management activities, including sponsoring and managing other pooled investment vehicles, client accounts and other activities. Although the relationships and activities of the Avenue managers should enable these entities to offer attractive opportunities and services to their clients, such relationships and activities, in the ordinary course of business, may also give rise to circumstances in which the interests of these entities and other affiliates of the Avenue managers conflict with the interests of certain of Avenue’s clients, including, without limitation, competition with other investment vehicles (proprietary or third-party managed) in which clients may have an interest, purchasing and selling investments in entities in which clients may have an interest, or taking or advocating positions in certain transactions that may be considered adverse to the interests of certain clients. The Avenue managers effectively may engage in opposite transactions with respect to a particular investment (*e.g.*, one Avenue client may acquire a long position in a security on behalf of an Avenue client while one or more of the other Avenue clients sells or shorts the security).

**Other Activities.** Except for a dedicated team within Avenue Europe International Management, L.P. who are responsible for managing funds that employ the Direct Lending sub-strategy, the firm and its affiliates are not required to manage the investments of any particular client as their sole and exclusive function and each may engage in other business ventures and other activities unrelated to the affairs of any client, including directly or indirectly purchasing, selling, holding or otherwise dealing with any securities for the account of other investment funds, for their own accounts or for the accounts of family members or other clients. Without limiting the foregoing, the firm’s Senior Principals and employees, including the Portfolio Managers, may invest in, participate on advisory boards of and/or provide other services to, funds that are unaffiliated with the firm and its family of funds. The firm and its Senior Principals and employees, including the Portfolio Managers, may become aware of business opportunities in which clients will not be given an opportunity to participate.

**Investment Management Fee; Incentive Allocation and/or Carried Interest.** The investment management fees and the incentive allocations or carried interest borne by funds have generally not been established on the basis of an arm’s-length negotiation between the fund, on the one hand, and the firm or its affiliates, on the other hand. However, the firm believes that the investment management fees, and the terms of the incentive allocations or carried interest, generally reflect prevailing market terms. The existence of an incentive allocation or carried interest may create an incentive for the firm to cause a fund to make, more speculative investments than it would otherwise make in the absence of such performance-based compensation. In addition, the investment management fees for some of our funds that are structured like private equity funds may be charged on capital contributions that have not yet been invested or redistributed. Other private equity structured funds pay management fees on drawn capital only, which may create an incentive for a fund to draw down capital more quickly.

Although an incentive allocation or carried interest, such as is paid to the general partners of certain of our private funds, has largely become a customary standard for private investment funds, this type of relative allocation of profits and losses can be characterized as creating an incentive to the general partner for speculative investment and thus a potential conflict with the interests of the limited partners. In addition, since the incentive allocation of certain of our private funds (our hedge funds) is based upon portfolio gains, both realized and unrealized (net of realized and unrealized losses), it is possible that the general partner may receive an incentive allocation based upon unrealized appreciation in particular positions that was not in fact achieved upon disposition of such positions. Further, while the general partner is entitled to receive an incentive allocation based upon the realized and unrealized net profits

initially allocated to each limited partner, it is allocated net losses solely on the basis of its invested capital.

**Diverse Investors.** Each fund's investors may include taxable and tax-exempt entities and persons or entities resident of or organized in various jurisdictions. As a result, conflicts of interest may arise in connection with decisions made by the firm or an affiliate that may be more beneficial for one type of investor. In making such decisions, the firm and its affiliates intend to consider the investment objectives of the fund as a whole, not the investment objectives of any investor individually.

**Minority Investor in Avenue Capital.** In the ordinary course of a fund's investment activities, from time to time the fund may enter into transactions with parties related to Morgan Stanley, which is a minority investor in certain entities that are part of Avenue Capital. Such transactions may include, among other things, consulting services, prime brokerage and custodial services and/or the fund purchasing securities from, or settling trades with, a party related to Morgan Stanley.

### ***Risks Related to Our Investment Strategies***

#### **Risks Associated With Market Conditions And Investment Opportunities**

**General Economic Conditions and Current Events.** Investments made by the funds are expected to be sensitive to the performance of the overall economy. A negative impact on economic fundamentals and consumer and business confidence would likely increase market volatility and reduce liquidity, both of which could have a material adverse effect on the performance of the funds and these or similar events may affect the ability of the funds to execute their investment strategies.

The SEC, the Commodity Futures Trading Commission ("CFTC") and Congress have devoted increased attention to the issue of whether hedge funds, fund of funds, and other private investment vehicles should be subject to increased or different modes of regulation. As a consequence of amendments to the CFTC rules, the firm, its affiliates and its funds may be, but to date have not been, required to register with the CFTC as a commodity pool operator or commodity trading advisor in the future. Future changes in applicable securities laws or regulations could impose additional compliance or financial burdens upon the firm or its clients, including funds managed by the firm, or affect their operations in other respects.

**Economic and Political Risks of Investments in Europe and Asia.** A portion of the assets of one or more funds managed by the firm may invest in Europe and/or Asia. There is often a high degree of government regulation in European and Asian economies, including in the securities markets. Action by such governments may directly affect foreign investment in securities in those countries and may also have a significant indirect effect on the market prices of securities and of the payment of dividends and interest.

Changes in policy with regard to taxation, fiscal and monetary policies, repatriation of profits and other economic regulations are possible, any of which could have an adverse effect on private investments. The European and Asian economies may differ favorably or unfavorably from the U.S. economy and other economies with regard to the rate of growth of gross domestic product, the rate of inflation, capital reinvestment, resource self-sufficiency and balance of payments. Governments in certain of the countries in Europe and Asia participate to a significant degree, through ownership interests or regulation, in their respective economies. Action by these governments could have a significant adverse effect on market prices of securities and payment of dividends. The economies of certain countries depend heavily on international trade and can be adversely affected by the enactment of trade barriers or changes in the economic conditions of their trading partners. With respect to certain countries, there may be the possibility of expropriation or confiscatory taxation, political, economic or social instability, limitation on the removal of funds or other assets or the repatriation of profits, restrictions on investment opportunities,



the imposition of trading controls, withholding or other taxes on interest, capital gain or other income, import duties or other protectionist measures, various laws enacted for the protection of creditors, greater risks of nationalization or diplomatic developments which could adversely affect the investments or interests of the fund in those countries.

Many countries in Europe and Asia have undergone a substantial political and social transformation and there can be no assurance that the economic, educational and political reforms necessary to complete political and economic transformation will continue. The state of development of certain political systems in Europe and Asia makes them susceptible to changes and potential weakening from economic hardship and social instability. In certain European and Asian countries, the extent of the success of economic reform is difficult to evaluate. Information on these economies is often contradictory or absent. In certain countries, much of the workforce remains under-employed or unemployed. Continued unemployment could hinder the ability of various governments to keep deficit spending in check.

Changing political environments, regulatory restrictions, and changes in government institutions and policies in Europe and Asia could adversely affect private investments. Civil unrest, ethnic conflict or regional hostilities may contribute to instability in some countries of Europe and Asia. Such instability may impede business activity and adversely affect the environment for foreign investments. We do not intend to obtain political risk insurance on behalf of the funds. Actions in the future of one or more European and Asian governments could have a significant effect on the various economies, which could affect market conditions, prices and yields of securities in a fund's portfolio. Political and economic instability in any of the countries in Europe or Asia in which a fund invests could adversely affect the fund's investments.

Laws affecting international investment and business in Europe and Asia also continue to evolve, although at times in an uncertain manner that may not coincide with local or accepted international practices. Laws and regulations, particularly those concerning non-U.S. investment and taxation, can change quickly and unpredictably. Inconsistencies and discrepancies among the vast number of local, regional and national laws, the lack of judicial or legislative guidance on unclear or conflicting laws and broad discretion on the part of government authorities implementing the laws produce additional legal uncertainties. The burden of complying with changing and conflicting laws may have an adverse impact on the operations of the funds.

**Eurozone Uncertainty.** Significant Eurozone uncertainty persists with low-to-negative economic growth, high unemployment, growing sovereign debt-to-GDP ratios, and challenges to the European Union in developing a regionwide solution that will stabilize economies and encourage sustainable growth. In response to the economic situation facing the European Economic and Monetary Union, or Eurozone, based on factors including tightening credit conditions, higher risk premiums on Eurozone sovereigns and disagreement among European policy makers as to how best to address the declining market confidence with respect to the Eurozone, credit rating agencies have downgraded a number of countries in the Eurozone. These downgrades and outlooks could have a material adverse impact on the funds' portfolio. The primary geographic focus of our Distressed strategy is Asia, but a portion of the capital allocated to this strategy could be invested in one or more countries in, or affected by, the Eurozone.

**Market Disruptions.** The funds may incur major losses in the event of market disruptions and other extraordinary events in which historical pricing relationships (on which we base a number of the funds' trading positions) become materially distorted. The risk of loss from pricing distortions is compounded by the fact that in disrupted markets many positions become illiquid, making it difficult or impossible to close out positions against which the markets are moving. Certain of Avenue's previous investments have benefited from favorable borrowing conditions in the debt markets, which historically have been cyclical. The financing available to the funds from their banks, dealers and other counterparties is

typically reduced during market disruptions. Market disruptions caused by unexpected political, military and terrorist events may from time to time cause dramatic losses for the funds and such events can result in otherwise historically low-risk strategies performing with unprecedented volatility and risk.

**Availability of Suitable Investments.** While we believe that many attractive investments of the type in which the funds invest are currently available, there can be no assurance that such investments will continue to be available or that available investments will continue to meet the funds' investment criteria. Furthermore, the funds may be unable to find a sufficient number of attractive investment opportunities to meet their investment objectives. Past performance is not necessarily indicative of future performance.

**Competition.** The markets for potential investments in the funds' investment programs are highly competitive. The funds will be competing for investment opportunities with a significant number of financial institutions and other private funds as well as various institutional investors. Some of these competitors are larger and have greater financial, human and other resources than the funds and may in certain circumstances have a competitive advantage over the funds. As a result of this competition, there may be fewer attractively priced investment opportunities than in the past, which could have an adverse impact on the ability of the funds to meet their investment goals or the length of time that is required for the funds to become fully invested. There can be no assurance that the returns on any fund's investments will be commensurate with the risk of investment in the fund.

**No Assurance of Investment Return.** The funds' task of identifying and evaluating investment opportunities, managing such investments and realizing a significant return for investors is difficult. Many organizations operated by persons of competence and integrity have been unable to make, manage and realize a profit on such investments successfully. Avenue believes that its investment strategy and investment approach moderate this risk through a careful selection of securities and other financial instruments. However, there is no assurance that the funds will be able to invest their capital on attractive terms or generate returns for their investors. Investors in the funds could experience losses on their investment.

### **Risks Relating to the Asian Region**

Investments in the countries in the Asian region involve a broad range of political, economic, legal and financial risks. Many of these risks are not quantifiable or predictable and are not typically associated with investments in securities of companies in economies that have developed and been regulated over a longer period of time.

**Market Characteristics.** The funds may invest in a relatively limited number of issuers, some or many of which may operate in the same industry or economic sector. Many companies traded on securities markets in certain countries in the Asian region are smaller than companies whose securities are traded on securities markets in developed countries. Investments in smaller companies typically involve greater risk than is customarily associated with investing in larger companies. Smaller companies may have limited product lines, markets or financial or managerial resources and may be more susceptible to losses and risks of insolvency or bankruptcy. Additionally, market making and arbitrage activities are generally less extensive in such markets, which may contribute to increased volatility and reduced liquidity of such markets as compared to developed securities markets. Accordingly, each of these markets may be subject to greater influence by adverse events generally affecting the market and by large investors trading significant blocks of securities, than is usual in developed countries. There is also generally less government supervision and regulation of foreign securities exchanges, brokers and listed companies in the countries in the Asian region than exists in developed countries.

Accounting, auditing and financial reporting standards in the Asian region may not be similar to those of developed countries. In addition, existing regulations are sometimes inconsistently applied. Less

information may, therefore, be available to the funds than in respect of investments in developed countries. Trading practices that are prohibited in a number of other countries may also be present in some of these markets in the Asian region. Further, in certain countries in the Asian region, less information may be available to the funds than to local market participants.

Brokerage commissions and other transaction costs on securities exchanges in certain of the countries in the Asian region may be generally higher than in developed countries. Foreign security settlements may in some instances be subject to delays and related administrative uncertainties.

**Economic and Political Risks.** The funds may invest in securities markets and in securities of issuers located in countries in non-U.S. regions, and in particular in the Asian region, that have less political and economic stability than many developed countries. The economies of such countries may be burdened by heavy debt and high rates of inflation. Foreign securities' markets also may be less liquid, more volatile and less subject to governmental supervisions than in the United States. Investments could be affected by other factors not present in the United States, including the lack of uniform accounting, auditing and financial reporting standards, inadequate settlement procedures and inadequate corporate disclosure standards.

In addition, because many countries in the Asian region are heavily dependent on international trade, such countries may be affected by economic conditions in the international marketplace by the imposition of trade barriers, quotas and other protectionist measures, as well as by fluctuations in exchange rates. Given that such countries may have a short "free market" trading tradition, there is often a high degree of government regulation in the economy, including in the securities markets. Action by such governments may directly affect foreign investment in securities in those countries and may also have a significant indirect effect on the market prices of securities and of the payment of dividends and interest. The application of non-U.S. tax laws (*e.g.*, the imposition of withholding taxes on dividend or interest payments) may also affect investment in non-U.S. securities.

Political instability in countries in which the funds invest may result in adverse effects on the economy and hence the market value of securities in those countries. Political instability may result from, among other things, the following:

- authoritarian governments or military involvement in political and economic decision-making, including changes in government through extra-constitutional means;
- popular unrest associated with demands for improved political, economic and social conditions;
- internal insurgencies;
- hostile relations with neighboring countries; and
- ethnic, religious and racial disaffection.

Such social, political and economic instability could disrupt the principal financial markets in which the funds invest and as a result adversely affect the value of the funds' assets.

Not all of the countries in the Asian region have fully democratic governments. In addition, there may be a risk of expropriation, nationalization or confiscatory taxation, limitations on the use or removal of funds or other assets, changes in governmental administration or economic or monetary policy or changed circumstances in dealings between nations, the imposition or modification of exchange controls, price volatility, the imposition of withholding taxes on dividends, interest and gains, fluctuations in currency exchange rates, different bankruptcy laws and customs; and different legal systems and laws relating to

creditors' rights, all of which may affect the funds' investments either directly or by consequent adverse effects on the value of the funds' investments in those countries.

Governments in certain of the countries in the Asian region participate to a significant degree, through ownership interests or regulation, in their respective economies. Action by these governments could have a significant adverse effect on market prices of securities and payment of dividends.

**Legal Infrastructure.** The legal infrastructure in each of the countries in the Asian region is unique. In addition, certain countries in the Asian region, securities laws are evolving and far from adequate for the protection of the public from serious fraud. In addition, many countries in the Asian region have undeveloped shareholder rights and provide inadequate legal remedies for breaches of contract, which could adversely affect the funds' minority investments and rights under shareholders agreements. Courts in some of the countries in the Asian region lack experience in commercial dispute resolution, and many of the procedural remedies for enforcement and protection of legal rights typically found in more developed jurisdictions are not available in such countries. The extent to which local parties and entities, including local government agencies, will recognize the contractual and other rights of the parties with which they deal may be uncertain in certain parts of the Asian region. The funds may therefore be unable to protect and enforce their rights against local governmental and private entities. The funds may also encounter difficulties enforcing judgments of foreign courts in the Asian region.

**Currency and Exchange Rate Risks.** The funds may invest in securities denominated in various currencies of the countries in the Asian region, whereas the capital subscriptions to the funds are denominated in U.S. Dollars and the funds' assets will be valued in U.S. Dollars. The funds may be affected favorably or unfavorably by exchange control regulations or changes in the exchange rate between foreign currencies and the U.S. Dollar, as well as the transaction costs associated with converting foreign currencies into U.S. Dollars. Changes in foreign currency exchange rates may also affect the value of dividends and interest earned, and the level of gains and losses realized on the sale of such investments. The rates of exchange between the U.S. Dollar and other currencies are affected by many factors, including forces of supply and demand in the currency markets. Exchange rates also are affected by the international balance of payments and other economic and financial conditions, government intervention, speculation, and other factors. The funds may, but is not required to, engage in currency hedging. The funds may benefit from the use of such currency hedging mechanisms; however, such mechanisms may result in losses for the funds and an overall poorer performance for the funds than if they had not entered into such currency hedging transactions. Additionally, there can be no assurance as to the success of any hedging arrangements that the funds may implement, and there can be no assurance that adequate hedging arrangements will be available on an economically viable basis.

**Repatriation of Investments and Profits.** The income that the funds will receive from their investments may be denominated in currencies other than U.S. dollars. The repatriation of the funds' capital and investment income in U.S. dollars may be subject to the laws and regulations of the individual countries in the Asian region in which the funds invest. Therefore, such repatriation may require prior government approval in some countries. Although the right to remit capital dividends and interest income is generally respected by countries throughout the Asian region, the funds may be adversely affected in certain countries by delays in procuring any required government approval for repatriation of such capital, dividends and interest income in U.S. dollars.

**Foreign Investment Restrictions.** Some countries in the Asian region have laws and regulations that limit direct foreign investment and require government approval or registration prior to effecting any foreign investment in domestic securities. In some cases, such laws may preclude or restrict foreign investment in the securities of resident companies, limit the types of securities that foreigners may buy, or limit foreign investors to special investment structures. In some countries in the Asian region, foreigners

are precluded from investing in certain economic sectors. Furthermore, foreign ownership limitations also may be imposed by the individual companies. As a result of foreign investment restrictions, a fund may not be able to recover investment proceeds or otherwise realize gains to which it is entitled. These restrictions could also have an adverse effect on the companies in which a fund invests.

**Environmental Risks.** The funds may face environmental liability in connection with investments in the Asian region, including real estate investments. When compared to the United States, the historical lack of environmental regulation in some countries in the Asian region has led to widespread pollution of air, ground and water resources. The legislative framework for environmental liability is not fully established or implemented in many countries in the Asian region. The extent of the responsibility, if any, for the costs of abating environmental hazards may be unclear when a fund is considering an investment.

**Exit Strategies.** A number of factors may complicate exit strategies pursued by a fund. Aggregate trading volumes on securities markets in the Asian region are generally substantially lower than trading volumes in the United States. Securities of most companies in the Asian region are less liquid and more volatile than securities of comparable U.S. companies.

**Tax Risks.** The funds and/or investors could become subject to additional or unforeseen taxation in jurisdictions in which the funds operate and invest. Changes to taxation treaties (or their interpretation) between the U.S. and the countries in which the funds invest may adversely affect the funds' ability to efficiently realize income or capital gains.

**European Union Alternative Investment Fund Managers Directive.** The European Union Directive on Alternative Investment Fund Managers (2011/61/EU) (the "AIFMD") applies to the firm to the extent to which it actively markets the funds into each member of the European Union that has implemented the AIFMD. If the funds are marketed to European Union-based investors, (i) they will be subject to certain reporting, disclosure and other compliance obligations under the AIFMD, which may result in the funds incurring additional costs and expenses; and (ii) compliance with AIFMD will also restrict certain activities of the funds in relation to portfolio companies based in the European Union, including, in some circumstances, the funds' ability to recapitalize, refinance or potentially restructure a European Union-based portfolio company within the first two years of ownership.

**Permanent Establishment Risks.** The firm generally intends to conduct the funds' operations in a manner that will not cause them to have a "permanent establishment" in any country outside the United States, as such term is defined in the relevant income tax treaty. There can be no assurance that a particular country will not assert that a fund has a permanent establishment in such country, and if such assertion were upheld, it can potentially result in adverse tax consequences to the funds.

## **Risks Associated with the Firm's Investments and Investment Activities**

**Nature of Investments.** Our investment strategy involves investing in senior and subordinated, secured or unsecured, debt obligations, securities and assets that are inefficiently priced as a result of business, financial, market or legal uncertainties. The level of analytical sophistication, both financial and legal, necessary for successful returns on such investments is unusually high. There can be no assurance that we will evaluate correctly the nature and magnitude of the various factors that could affect the value of these investments.

In particular, the funds will purchase securities and other obligations of companies that are experiencing significant financial or business distress, including companies involved in bankruptcy or other reorganization and liquidation proceedings. Many of these securities typically remain unpaid unless and until the company reorganizes and/or emerges from bankruptcy proceedings. In addition, it frequently may be difficult to obtain information as to the conditions of these securities. The market prices of these

securities are also subject to abrupt and erratic market movements and above average price volatility, and the spread between the bid and asked prices of such securities may be greater than normally expected. Although such investments may result in significant returns to the funds, they involve a substantial degree of risk and may not show any return for a considerable period of time, if at all.

Distressed investment opportunities can occur in companies that have filed for, or plan to file for, reorganization. Sourcing, diligence, structuring and governance of private distressed investments require consideration of factors that are often not present in standard private equity investing or investments in the senior and secured debt of financially sound companies. If our evaluation of the anticipated outcome of an investment situation should prove incorrect, the funds could experience losses. Successful investing requires a specialized skill set that includes:

- the capacity to accurately value a company's assets and analyze its capital structure;
- a sophisticated knowledge of the complex legal environment in which such investing occurs, particularly bankruptcy, securities, corporate and indenture law;
- the experience necessary to determine accurately the financial interests and legal rights of the debtor and each of its creditor constituencies; and
- refined negotiating skills.

A wide variety of considerations makes any evaluation of the outcome of an investment in a financially distressed company uncertain. These considerations include the possibility of litigation between the participants in a reorganization or liquidation proceeding or a requirement to obtain consents from governmental authorities or others, as well as numerous other factors. In addition, we may not have access to reliable and timely information concerning material developments affecting a company. The uncertainties inherent in evaluating such investments may be increased by legal and practical considerations which limit our access to reliable and timely information concerning material developments affecting an investment, or which cause lengthy delays in the completion of a reorganization or liquidation proceeding. Competition from other investors may also render it unadvisable for us to pursue intended results or promptly effect transactions.

Troubled company and other asset-based investments require active monitoring and will, at times, require participation in business strategy or reorganization proceedings by Avenue. To the extent that Avenue becomes involved in such proceedings, the funds may have a more active participation in the affairs of the issuer. In addition, involvement by Avenue in a company's reorganization proceedings could result in the imposition of restrictions limiting a fund's ability to liquidate its position in the securities of the company.

A portion of the funds' investments may be in obligations or securities that are rated below investment grade by recognized rating services such as Moody's and Standard & Poor's. Securities rated below investment grade and unrated securities generally offer a higher current yield than that available from higher grade issues but typically involve greater risk. The value of securities rated below investment grade and unrated securities is typically sensitive to adverse changes in general economic conditions and changes in the financial condition of their issuers and subject to price fluctuation in response to changes in these conditions or in interest rates. During periods of economic downturn or rising interest rates, issuers of securities rated below investment grade and unrated instruments may experience financial stress that could adversely affect their ability to make payments of principal and interest and increase the possibility of default. Adverse publicity and investor perceptions, whether or not based on fundamental analysis, may also decrease the values and liquidity of securities rated below investment grade and unrated securities, especially in a market characterized by a low volume of trading. In addition, the secondary market for high yield securities, which is concentrated in relatively few market makers, may

not be as liquid as the secondary market for more highly rated securities. As a result, the funds could find it more difficult to sell these securities or may be able to sell the securities only at prices lower than if such securities were widely traded. The prices quoted by different dealers may vary significantly, and the spread between the bid and asked price is generally much larger for high yield securities than for higher quality instruments. Under continuing adverse market or economic conditions, the secondary market for high-yield securities could contract further, independent of any specific adverse changes in the condition of a particular issuer, and these securities may become illiquid.

To the extent that a secondary market does exist for debt obligations, including senior secured floating rate and fixed rate loans and subordinated or unsecured loans, the market is more volatile than for liquid, listed securities and may be subject to irregular trading activity, wide bid/ask spreads and extended trade settlement periods. Markets for other investments of the funds, including derivative instruments, bonds, currencies and other instruments can also be highly volatile. Purchasers of leveraged loans are predominantly commercial banks, investment funds and investment banks. As secondary market trading volumes increase, arrangers and obligors of new leveraged loans are frequently adopting standardized documentation to facilitate trading that should improve market liquidity. There can be no assurance, however, that the current level of liquidity will continue or that future levels of supply and demand in leveraged loan trading will provide an adequate degree of liquidity. No assurance can be given that a fund that purchases a leveraged loan will be able to sell that loan if the obligor has deteriorated in credit quality. Even in the absence of a default with respect to any leveraged loan, due to potential market volatility, the market value of such loan at any time will vary, and may vary substantially, from the price at which such loan was initially purchased and from the principal amount of such loan. The market value of leveraged loans will generally fluctuate with, among other things, the financial condition of the obligors of the loans, general economic conditions, the condition of certain financial markets, political events, developments or trends in any particular industry and changes in prevailing interest rates. No assurance can be given as to the amount of proceeds of any sale or disposition of any leveraged loan, or that the proceeds of any such sale or disposition would be sufficient to repay principal of and interest or other amounts due on the notes that may have been issued by a fund using such leveraged loan as collateral, and/or pay other amounts payable prior thereto.

The funds may invest in securities which are subject to legal or other restrictions on transfer or for which no liquid market exists, or acquire illiquid securities, *e.g.*, through bankruptcy reorganization proceedings. The sale of restricted and illiquid securities often requires more time and results in higher brokerage charges or dealer discounts and other selling expenses than does the sale of securities eligible for trading on national securities exchanges or in the over-the-counter markets. Restricted securities may sell at a price lower than similar securities that are not subject to restrictions on resale. Because the markets for such securities are still evolving, liquidity in these securities is limited and liquidity with respect to lower-rated and unrated subordinated classes may be even more limited. The funds may be unable to liquidate all or a portion of their positions in such securities. In addition, the market prices, if any, for such securities tend to be more volatile and the funds may not be able to realize what it perceives to be their fair value in the event of a sale. The high yield securities markets have suffered periods of extreme illiquidity for certain types of instruments in the past. For these reasons, among others, calculating the fair market value of the funds' holdings may be difficult. The funds may, in their discretion, utilize the assistance of internal or external pricing services or valuation sources in calculating such fair market values when and if available.

If market quotations for the funds' investments are not readily available, the funds may seek to value their investments by modeling and other methods to fair value such investments, either through third-party service providers or by the firm's valuation team and by the firm's valuation committee, which has been charged with the responsibility of valuing the funds' portfolios. Illiquid securities are subject to wide spreads. Fair valuation is not exact and prices can vary significantly from one period to the next.

Debt investments are subject to credit and interest rate risks. “Credit risk” refers to the likelihood that an issuer will default in the payment of principal and/or interest on an instrument. Financial strength and solvency of an issuer are the primary factors influencing credit risk. In addition, lack or inadequacy of collateral or credit enhancement for a debt instrument may affect its credit risk. Credit risk may change over the life of an instrument, and debt obligations, which are rated by rating agencies, are often reviewed and may be subject to downgrade. Senior loans, like most other debt obligations, are subject to credit risks of default. In addition, because second lien or other subordinated or unsecured loans or debt are subordinated in payment and/or lower in lien priority to senior loans, they are subject to additional risk that the cash flow of the borrower and property securing the loan or debt, if any, may be insufficient to meet scheduled payments after giving effect to the senior secured obligations of the borrower. This risk is generally higher for subordinated unsecured loans or debt, which are not backed by a security interest in any specific collateral.

“Interest rate risk” refers to the risks associated with market changes in interest rates. Interest rate changes may affect the value of a debt instrument indirectly (especially in the case of fixed rate debt securities) and directly (especially in the case of debt instruments whose rates are adjustable). In general, rising interest rates will negatively impact the price of a fixed rate debt instrument and falling interest rates will have a positive effect on price. Adjustable rate instruments also react to interest rate changes in a similar manner although generally to a lesser degree (depending, however, on the characteristics of the reset terms, including the index chosen, frequency of reset and reset caps or floors, among other factors). Interest rate sensitivity is generally more pronounced and less predictable in instruments with uncertain payment or prepayment schedules. In addition, interest rate increases generally will increase the interest carrying costs to the funds of borrowed securities and leveraged investments (*e.g.*, derivative transactions). If interest rates fall, it is possible that issuers of fixed income securities with high interest rates will prepay or “call” their securities before their maturity dates. In this event, the proceeds from the prepaid or called securities would likely be reinvested in securities bearing the new, lower interest rates, resulting in a possible decline in the funds’ income.

In addition, the funds may agree to buy or sell bank claims or other similar private paper, with an understanding that formal written contracts for the purchase or sale will be prepared at a later date. The terms of these contracts may be less favorable than the funds anticipated. In some circumstances, they may be so unfavorable that a fund decides to terminate a proposed transaction.

The funds may from time to time make investments in securities of private companies without an active trading market. Traditional exit opportunities for such investments have consisted primarily of initial public offerings and acquisitions of portfolio companies by publicly traded companies, often for stock. The ability of the funds to sell securities and realize investment gains will depend upon favorable market conditions. Initial public offering and merger and acquisition opportunities may be limited or non-existent for extended periods of time, whether due to economic, regulatory, or other factors. In addition, general fluctuations in the market prices of securities may affect the value of the investments held by the funds. Therefore, there is no assurance that the funds will be able to realize liquidity for such investments in a timely manner, if at all.

The funds’ investments may also be adversely affected by changes in economic conditions or political events that are beyond their or our control. For example, a market crash, a war, or the death of a major political figure may have significant adverse effects on the funds’ investment results.

**Nature of Bankruptcy and Similar Proceedings.** There are a number of significant risks when investing in companies involved in bankruptcy cases, including the following:

- Many events in a bankruptcy case are the product of contested matters and adversary proceedings that are beyond the control of the creditors. While creditors are generally given



an opportunity to object to significant actions, there can be no assurance that a bankruptcy court in the exercise of its broad powers would not approve actions that would be contrary to the interests of the funds.

- A bankruptcy filing may have adverse and permanent effects on a company. For instance, the company may lose its market position and key employees and otherwise become incapable of restoring itself as a viable entity. Further, if the reorganization case becomes a liquidation, the liquidation value of the company may not equal the liquidation value that was believed to exist at the time of the investment.
- The duration of a bankruptcy case is difficult to predict. A creditor's return on investments can be adversely impacted by delays while the plan of reorganization is being negotiated, voted on by the creditors and confirmed by the bankruptcy court, until it ultimately becomes effective.
- The administrative costs in connection with a bankruptcy case are frequently high and may be paid out of the debtor's estate prior to any return to creditors. Reorganizations can be contentious and adversarial. It is by no means unusual for participants to use the threat of, as well as actual, litigation as a negotiating technique. We anticipate that Avenue and/or the funds may be named as defendants in civil proceedings. For example, if a proceeding involves protracted or difficult litigation, or turns into a liquidation, substantial assets may be devoted to administrative costs.
- Creditors can be subject to equitable subordination and lose their ranking and priority if they engage in certain inequitable conduct or they exercise "domination and control" over a debtor and other creditors can demonstrate that they have been harmed by such actions, especially in the case of investments made prior to the commencement of bankruptcy cases.
- Bankruptcy law in certain jurisdictions permits the classification of "substantially similar" claims in determining the classification of claims in a reorganization. Because the standard for classification is vague, there exists the risk that a fund's influence with respect to the class of securities or other obligations it owns can be lost by increases in the number and amount of claims in that class or by different classification and treatment.
- In the early stages of a bankruptcy case, it is often difficult to estimate the extent of, or even to identify, any contingent claims that may be made.
- Certain claims, such as claims for taxes, may have priority by law over the claims of certain creditors.
- If a fund seeks representation on creditor's committees, it may owe certain obligations generally to all similarly situated creditors that the committee represents and it may be subject to various trading or confidentiality restrictions. As the funds will indemnify any person serving on a committee or the board of directors on its behalf for claims arising from breaches of those obligations, indemnification obligations could adversely affect the return on any investment related to a reorganization.
- Certain Asian jurisdictions may present different risks.

**Concentration.** Because a significant portion of a fund's aggregate capital commitments may be invested in a single company, any single loss may have a significant adverse impact on the fund's capital. Accordingly, the fund's assets may be subject to greater risk of loss than if they were more widely diversified since the failure of one or a limited number of investments could have a material adverse effect on the fund. The funds generally are not subject to any requirement to diversify by industry. Moreover, given the research intensive nature of the firm's investment strategies, the exposure of certain

of the funds will be highly concentrated in financially troubled or distressed companies and the aggregate return of the funds may be substantially adversely affected by the unfavorable performance of the overall relative performance of the distressed sector. Concentration in financially troubled or distressed companies may subject the funds to greater volatility than a more diversified portfolio of investments. In addition, because any fund may invest a higher percentage of its assets in a relatively small number of issuers, each fund is more susceptible to any single economic, market, political or regulatory event affecting those issuers than is a more broadly diversified fund.

**Control Investments and Provision of Managerial Assistance.** The funds may make control investments in issuers, obtain rights to participate substantially in and to influence substantially the conduct of the management of issuers or obtain rights to designate directors (and non-executive chairmen) to serve on the boards of directors of issuers. Control investments, or the obtaining of these rights, could give rise to conflicts of interest between the funds and the issuers, and expose the funds to risk of claims by the issuers and their security holders and creditors, risk of liability for environmental damage, product defect, failure to supervise management, violation of governmental regulations and other types of liability, in which the limited liability characteristic of business operations may be ignored. For example, a conflict of interest may arise when the firm designates one or more directors to the board of an issuer in which a fund managed by the firm invests because the firm's fiduciary duty to act in the best interest of the fund could potentially conflict with a firm-designated director's fiduciary duties with respect to that issuer.

The funds may also be exposed to risk in connection with the disposition of control investments, particularly if a fund (i) obtains material non-public information with respect to any portfolio company on whose board of directors a member of the fund or its affiliates serves or (ii) is subject to trading restrictions pursuant to the internal trading policy of such a portfolio company. Disposition of these investments may be more difficult than if the firm did not have a close relationship with the issuer. The funds may be required to make representations and warranties about the business and financial affairs of the investments typical of those made in connection with the sale of any business, or may be responsible for the contents of disclosure documents under applicable securities law. The funds may also be required to indemnify the purchasers of such investment or underwriters to the extent that any such representations and warranties or disclosure documents turn out to be incorrect, inaccurate or misleading. These arrangements may result in contingent liabilities, which will be borne by the funds and such liabilities may exceed the value of the funds' investments.

In addition, the funds may not be able to dispose of these investments when they desire to do so. Some of these investments may be subject to legal or contractual restrictions on resale by the funds. In some instances, the disposition of these investments may require lengthy negotiations and/or take extended periods of time to complete.

**Legal Risks of Funds as Part of Larger Firm.** The firm is part of Avenue Capital, a larger corporate structure with multiple business lines in multiple jurisdictions that are governed by a multitude of legal systems and regulatory regimes, some of which are new and evolving. As a result, the funds, the firm and/or their respective affiliates are subject to a number of unusual risks, including changing laws and regulations, developing interpretations of such laws and regulations and increased scrutiny by regulators. Some of this evolution may result in scrutiny or claims against the funds, the firm and/or their affiliates directly for actions taken or not taken by the funds, the firm and/or their affiliates. Thus, the funds, the firm and/or their respective affiliates face the continuing risk of pending and potential litigation and regulatory action. These risks are often difficult or impossible to predict, avoid or mitigate in advance. The effect on the funds, the firm or any affiliate of any such legal risk, litigation or regulatory action could be substantial and adverse.

**Risk of Minority Positions.** The funds may hold minority positions in issuers. Accordingly, the funds may not be able to exercise control over such issuers. In addition, in certain situations, including where the issuer is in bankruptcy or undergoing a reorganization, minority investors may be subject to the decisions taken by majority investors and the outcome of the funds' investments may depend on such majority controlled decisions, which decisions may not be consistent with the funds' objectives.

**Counterparty Risk.** Some of the markets in which the funds may effect transactions are "over-the-counter" or "interdealer" markets. The participants in such markets are typically not subject to credit evaluation and regulatory oversight as are members of "exchange-based" markets. This exposes the funds to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a dispute over the terms of the contract (whether or not bona fide) or because of a credit or liquidity problem, thus causing the relevant fund to suffer a loss. Such "counterparty risk" is accentuated for contracts with longer maturities where events may intervene to prevent settlement, or where a fund has concentrated its transactions with a single or small group of counterparties. The funds are generally not restricted from dealing with any particular counterparty or from concentrating any or all of their transactions with one counterparty. Moreover, the funds' internal counterparty review process, which evaluates the creditworthiness of their counterparties, may prove insufficient. The lack of a complete and "foolproof" evaluation of the financial capabilities of the funds' counterparties and the absence of a regulated market to facilitate settlement may increase the potential for losses by the funds. Changes in the credit quality of the companies that serve as the funds' counterparties with respect to derivatives, swaps or other transactions supported by the counterparty's credit will affect the value of those instruments. Certain entities that have served as counterparties in the markets for these transactions have incurred significant financial hardships including bankruptcy and losses as a result of the credit crisis and making investments that have experienced recent defaults or otherwise suffered extreme credit deterioration. As a result, such hardships have reduced such entities' capital and called into question their continued ability to perform their obligations under such transactions. By using derivatives, swaps or other transactions, a fund assumes the risk that its counterparties could experience similar financial hardships. In the event of default by, or the insolvency of, a counterparty, such fund may sustain losses or be unable to liquidate a derivative or swap position.

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

**Current Economic Conditions in European Countries.** Certain European countries, including Greece, Ireland, Italy, Portugal and Spain, are currently experiencing varying degrees of financial distress. Risks from the debt crisis in Europe could result in a disruption of the financial markets which could have a detrimental impact on global economic conditions. Contagion fears have expanded to Spain and Italy, and credit spreads widened further in European peripheral countries and European banks. There remains considerable uncertainty as to future developments in the European debt crisis and the impact on global financial markets. A significant deterioration of the European debt crisis could result in material reductions in the value of sovereign debt and other asset classes, disruptions in capital markets, widening of credit spreads, loss of investor confidence in the financial services industry, a slowdown in global economic activity, and other adverse developments that could negatively impact the performance of the funds.

**Projections.** The funds may make investments relying upon projections developed by the firm, a prospective portfolio company or other third-party source concerning such company's future performance and cash flow. Projections are inherently subject to uncertainty and factors beyond the control of the

firm, the portfolio company or such other sources. The inaccuracy of certain assumptions, the failure to satisfy certain financial requirements and the occurrence of other unforeseen events could impair the ability of a portfolio company to realize projected values.

**Fraud.** Instances of fraud and other deceptive practices committed by senior management of certain companies in which the funds invest may undermine our due diligence efforts with respect to such companies, and if such fraud is discovered, negatively affect the valuation of the funds' investments. In addition, when discovered, financial fraud may contribute to overall market volatility, which can negatively impact the funds' investment programs.

### **Risks Associated with the Firm's Investments**

**Bank Loans, Participations and Assignments.** The firm's investment program may include investments in significant amounts of bank loans purchased by assignment (where the fund is the record holder) or by participation (participations arise when a fund acquires a beneficial economic interest in a debt obligation but is not the record owner of such instrument; in such instances, there is an agreement between or among the parties to the transaction with respect to beneficial interest being transferred to the fund).

Assignments and participations are sold strictly without recourse to the selling institutions and the selling institutions will generally make no representations or warranties about the underlying loan, the borrowers, the documentation of the loans or any collateral securing the loans. In addition, the funds will be bound by provisions of the underlying loan agreements, if any, that require the preservation of the confidentiality of information provided by the borrower. Because of certain factors including confidentiality provisions, the unique and customized nature of the loan agreement and the private syndication of the loan, loans are not purchased or sold as easily as are publicly traded securities.

#### *Assignments*

The purchaser of an assignment of an interest in a loan typically succeeds to all the rights and obligations of the assigning institution and becomes a lender and record holder under the loan agreement with respect to that loan. As a purchaser of an assignment, a fund generally will have the same voting rights as other lenders under the applicable loan agreement, including the right to vote to waive enforcement of breaches of covenants or to enforce compliance by the borrower with the terms of the loan agreement and the right to set off claims against the borrower and to have recourse to collateral supporting the loan. Assignments, however, are not always available to our funds based on a borrower's restrictions and where available are arranged through private negotiations between assignees and assignors and in certain cases the rights and obligations acquired by the purchaser of an assignment may differ from, and be more limited than, those held by the assigning selling institution.

#### *Participations*

In circumstances where owning by assignment is not available or desirable, the fund may purchase loans through participation agreements. Investing through participation agreements is subject to unique risks, including:

- the possible invalidation of an investment transaction as a fraudulent conveyance under relevant creditors' rights laws;
- so-called lender-liability claims by the issuer or creditors of the obligations;
- environmental liabilities that may arise with respect to collateral securing the obligations; and

- limitations on the ability of the funds to directly enforce their rights with respect to participations. For example:
  - In the event of the insolvency of the record holder, a fund, by owning a participation interest, may be treated as a general unsecured creditor of the record holder and may not benefit from any set off between the record holder and the borrower.
  - A fund may purchase a participation interest from a selling institution that agrees to be the record holder for the funds but does not itself retain any portion of the applicable loan and, therefore, may have limited interest in monitoring the terms of the loan agreement and the continuing creditworthiness of the borrower.
  - When a fund holds a participation interest in a loan it will not have the right to vote under the applicable loan agreement with respect to every matter that arises thereunder and it is expected that the record holder will reserve the right to administer (*i.e.*, vote) the loan sold by it as it sees fit and to amend the documentation evidencing such loan in all respects.
  - The record holder may have interests different from those of the funds and may fail to consider the interests of the funds in connection with their votes.

In analyzing each bank loan participation, we compare the relative significance of the risks against the expected benefits of the investment. Successful claims by third parties arising from these and other risks will be borne by the funds.

**Loan Origination.** The funds may seek to originate loans, including, but not limited to, senior, second lien and mezzanine loans and other similar investments. The funds may subsequently offer such investments for sale to third parties; *provided, however*, that, there is no assurance that a fund will complete the sale of such an investment. In determining the target amount to allocate to an originated investment, we may take into consideration the fact that a fund may sell, assign or offer participations in such investment to third parties. Accordingly, if the fund is not successful in offering such participations, this could result in the fund being “overweighted” with respect to a particular borrower.

**Bankruptcy Claims.** The funds may invest in bankruptcy claims, including trade claims, which are amounts owed to creditors of companies in financial difficulty. Bankruptcy claims are illiquid, generally do not pay interest and there can be no guarantee that the debtor will ever be able to satisfy the obligation on the claim. The markets in bankruptcy claims are not generally regulated by foreign securities laws or regulators. Because bankruptcy claims are frequently unsecured, holders of such claims may have a lower priority in terms of payment than certain other creditors in a bankruptcy proceeding. In addition, under certain circumstances, such investments may be adversely affected by laws relating to, among other things, fraudulent conveyances, voidable preferences, lender liability and the bankruptcy court’s discretionary power to disallow, subordinate and disenfranchise certain claims.

The trade claims market, in particular, is highly specialized and consists of purchasing the unsecured debt, or the priority and administrative debt, owed to trade vendors by companies in financial distress. In addition to the risks otherwise associated with low-quality obligations and inherent in investments in entities experiencing financial distress, the risks associated with trade claims include:

- the possibility that the amount of the claim may be disputed by the obligor,
- difficulties in obtaining information regarding the obligor’s true financial condition,
- fraud on the part of the assignor of the claim, and

- logistical and mechanical issues that may affect the ability of the fund or its agents to collect on the claim in whole or in part.

**Equitable Subordination.** Common law principles in the jurisdictions in which the funds invest can create lender liability for our funds if a lender (*i.e.*, one or more of our funds):

- intentionally takes an action that results in the undercapitalization of a borrower or issuer to the detriment of other creditors of such borrower or issuer,
- engages in other inequitable conduct to the detriment of such other creditors,
- engages in fraud with respect to, or makes misrepresentations to, such other creditors or
- uses its influence as a stockholder to dominate or control a borrower or issuer to the detriment of other creditors of such borrower or issuer, a court may elect to subordinate the claim of the offending lender or bondholder to the claims of the disadvantaged creditor or creditors (a remedy called “equitable subordination”).

The funds do not intend to engage in conduct that would form the basis for a successful cause of action based upon the equitable subordination doctrine; however, because of the nature of the debt obligations, the funds may be subject to claims from creditors of an obligor that debt obligations of such obligor which are held by the funds should be equitably subordinated. Each jurisdiction will apply this common law doctrine differently and may present additional issues.

**Sovereign and Other Governmental Debt Investments.** The funds may invest their assets in sovereign and other governmental debt instruments, which involve special risks. The governmental authority that controls the repayment of the sovereign and other governmental debt may be unwilling or unable to repay the principal and/or interest when due in accordance with the terms of such securities due to:

- the extent of its foreign reserves;
- the availability of sufficient foreign exchange on the date a payment is due;
- the relative size of the debt service burden to the economy as a whole; or
- the government debtor’s policy towards the International Monetary Fund and the political constraints to which a government debtor may be subject.

In addition, sovereign and other governmental debt instruments may be subject to credit spread risks resulting from exposures to changes in a sovereign and other governmental issuer’s probability of default, expected recovery rate and actual default. Some sovereign and other governmental issuers have encountered difficulties in servicing their external debt obligations, which led to defaults on certain obligations and the restructuring of certain indebtedness. If an issuer of sovereign and other governmental debt defaults on payments of principal and/or interest, the funds may have limited legal recourse against the issuer and/or guarantor. In certain cases, remedies must be pursued in the courts of the defaulting party itself, and the funds’ ability to obtain recourse may be limited. All of the funds’ investments in sovereign and other governmental debt instruments will be subject to typical market risks.

**Investments in Equity Securities.** The funds may invest their assets in equity securities, including preferred or common stocks. Investments in equity securities of small or medium-sized market capitalization companies will have more limited marketability than the securities of larger companies. In addition, securities of smaller companies may have greater price volatility. All of the funds’ investments in stocks will be subject to normal market risks. While diversification among issuers may mitigate these

risks, investors must expect fluctuations in value of equity securities held by the funds based on market conditions.

**Event Driven Situation Investing.** Certain funds may focus on securities or indebtedness of companies that are engaging, or which have recently been engaged, in extraordinary transactions and in other special situations (“event driven situations”). Investing in event driven situations entails discovering value by analyzing companies experiencing corporate change. These situations include investing in companies that the firm believes are likely to become the subject of a takeover, merger, exchange offer, rights offering, restructuring, liquidation, spin-off or any other extraordinary event that the firm believes would be likely to increase the value of the companies’ debt or equity securities. Investments in event driven situations typically will entail a higher degree of risk than investments in companies that are not engaging in or have recently engaged in event driven situations. If an evaluation of the anticipated outcome of an event driven situation should prove incorrect, the funds could experience losses. The uncertainties inherent in evaluating such investments may be increased by legal and practical considerations which limit the access of the firm and its affiliates to reliable and timely information concerning material developments affecting an investment.

The funds may invest and trade in securities and obligations of U.S. or non U.S. companies which it believes are undervalued in the sense that, although they are not the subject of an announced event driven situation transaction, the companies are, in the view of the firm, potential candidates for such transaction. In such a case, if the anticipated transaction does not in fact occur, the funds may sell the investments at a loss. The funds may invest in the securities of a company engaging in an event driven situation after the event has been announced. Since the price offered for securities of a company involved in an announced transaction may be at a significant premium above the market price prior to the announcement, in the event the proposed transaction is not consummated the value of such securities held by the funds will decline significantly if their market price returns to a level comparable to that which exists prior to the announcement of the transaction.

Furthermore, the difference between the price paid by the funds for securities of a company involved in an announced transaction and the anticipated value to be received for such securities upon consummation of the proposed transaction will often be very small. If the proposed transaction appears likely not to be consummated or, in fact, is not consummated or is delayed, the market price of the securities will usually decline sharply, perhaps by more than the funds’ anticipated profit.

Investing in securities in anticipation of a merger is extremely competitive. The funds compete with firms, including many of the larger investment banking firms, which have substantially greater financial resources, larger research staffs and more securities traders than are available to the funds.

We will attempt to assess all of the foregoing risk factors, and others, in determining the extent of the position the funds will take in the relevant securities and the price the funds are willing to pay for such securities. However, such risks cannot be eliminated.

**Credit Derivative Transactions.** As part of its investment strategy, a fund may enter into credit derivative transactions. Credit derivatives are transactions between two parties which are designed to isolate and transfer the credit risk associated with a third-party (the “reference entity”). Credit derivative transactions in their most common form consist of credit default swap transactions under which one party (the “credit protection buyer”) agrees to make one or more fixed payments in exchange for the other party’s (the “credit protection seller”) obligation to assume the risk of loss if an agreed-upon “credit event” occurs with respect to the reference entity. Credit events are specified in the contract and are intended to identify the occurrence of a significant deterioration in the creditworthiness of the reference entity (mainly a default on a material portion of its outstanding obligations, a bankruptcy or a restructuring of its debt). Upon the occurrence of a credit event, credit default swaps may be cash settled

(either directly or by way of an auction) or physically settled. If the transaction is cash settled, the amount payable by the credit protection seller following a credit event will usually be determined by reference to the difference between the nominal value of a specified obligation of the reference entity and its market value after the occurrence of the credit event (which sometimes may be established in an industry-wide auction process). If the transaction is physically settled, the credit protection buyer will deliver an obligation of the reference entity that is either specified in the contract or the general characteristics are described therein to the credit protection seller in return for the payment of its nominal value.

Credit derivatives may be used to create an exposure to the underlying asset or reference entity, to reduce existing exposure or to create a profit through trading differences in their buying and selling prices. The funds may enter into credit derivatives transactions as protection buyers or sellers.

There are a number of uncertainties in the tax laws relating to credit default swaps. There can be no assurance that the characterization adopted by the funds with respect to a particular credit default swap will be respected by the Internal Revenue Service or a court, and any re-characterization by the Internal Revenue Service, if successful, could adversely affect the investors' investments in the funds.

Credit derivative transactions are an established feature of the financial markets and both the number of participants and range of products available have significantly increased over the years. Credit derivative transactions dependent upon credit events are priced incorporating many variables including the pricing and volatility of the common stock of the reference entity, potential loss upon default by the reference entity on any of its obligations, and the shape of the curve of the applicable risk-free rate, among other factors. As such, there are many factors upon which market participants may have divergent views. Additionally, credit derivatives may require the posting of collateral. A bankruptcy of the collateral holder may result in losses to the extent posted collateral exceeds the obligations of the pledging party under the credit derivative transaction.

For swaps that are cleared through a clearinghouse, the funds will face the clearinghouse as legal counterparty and will be subject to clearinghouse performance and credit risk. Clearinghouse collateral requirements may differ from and be greater than the collateral terms negotiated with derivatives counterparties in the OTC market, and U.S. regulators have discretion to set collateral requirements for trades that are not cleared through a clearinghouse. OTC derivative dealers will be required to post margin to the clearinghouse through which they clear their customers' trades instead of using such margin in their operations, as they historically were allowed to do. This will further increase the dealers' costs, which costs are expected to be passed through to other market participants in the form of higher fees and less favorable dealer marks. In addition, the funds' assets are also subject to the risk of the failure of any of the exchanges on which its positions trade or of its clearinghouses or counterparties.

**Other Derivatives.** The funds may take advantage of opportunities in the area of swaps, options on various underlying instruments and certain other customized derivative instruments. The funds may enter into swap transactions, including credit default, total return, index and interest rate swap agreements, as well as options thereon, and may purchase or sell interest rate caps, floors and collars. In addition, the funds may take advantage of opportunities with respect to certain other derivative instruments which are not presently contemplated for use by the funds or which are currently not available. Derivative instruments contain much greater leverage than do non-margined purchases of the underlying instrument in as much as only a very small portion of the value of the underlying instrument is required to be paid in order to effect such investments. Other risks may include market risk, liquidity risk, counterparty credit risk, legal risk and operations risk. Swaps generally do not involve delivery of securities, other underlying assets or principal. Accordingly, the risk of loss with respect to swaps generally is limited to the net amount of payments that the fund is contractually obligated to make, or in the case of the other



party to a swap defaulting, the net amount of payments that the fund is contractually entitled to receive. If the firm is incorrect in its forecast of market values, interest rates or currency exchange rates, the investment performance of the funds would be less favorable than it would have been if these investment techniques were not used.

Special risks may apply to instruments which are invested in by the funds in the future which cannot be determined at this time or until such instruments are developed or invested in by the funds. For example, certain types of derivative instruments may be highly illiquid and it is possible that the funds will not be able to terminate such derivative instruments prior to their expiration date or that the penalties associated with such a termination might impact the funds' performance in a material adverse manner. If the funds seek to participate through the use of such derivative instruments, the funds will not acquire any voting interests or other shareholder rights that would be acquired with a direct investment in the underlying securities or financial instruments. Accordingly, the funds will not participate in matters submitted to a vote of the shareholders. In addition, the funds may not receive all of the information and reports to shareholders that the funds would receive with a direct investment. Further, the funds will pay the counterparty to any such derivative instrument structuring fees and ongoing transaction fees, which will reduce the investment performance of the funds. Finally, certain aspects of the appropriate U.S. federal income tax treatment of such derivative instruments are uncertain and, if the funds' U.S. federal income tax treatment of such instruments proves to be inappropriate, an investor's after tax return from its investment in a fund may be adversely affected.

Transactions in certain derivatives are subject to clearance on a U.S. national exchange and to regulatory oversight, while other derivatives are subject to risks of trading in the over-the-counter ("OTC") market or on non-U.S. exchanges. As a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") and the European Union Regulation No 648/2012 on OTC derivatives, central counterparties and trade repositories (also known as the European Market Infrastructure Regulation, or "EMIR"), swaps are subject to increased regulation. Such regulation could:

- significantly increase the cost of derivative contracts (including through requirements to post collateral which could adversely affect a client's available liquidity);
- materially alter the terms of derivative contracts;
- reduce the availability or desirability of derivatives;
- reduce the ability to monetize or restructure existing derivative contracts; and
- increase a client's exposure to less creditworthy counterparties.

In particular, the Dodd-Frank Act amendments to the Investment Advisers Act of 1940 require a large proportion of transactions in the derivatives markets to be conducted on a swap execution facility. The impact of the swap execution facilities on transaction liquidity and pricing cannot be determined at this time. Currently, the clearing mandate applies to certain interest rate and credit index swaps. Swaps that are not cleared through registered clearinghouses are potentially subject to regulations including increased mandatory margin requirements without the benefit of protections afforded to participants in cleared swaps (for example, centralized counterparty, guaranteed funds and customer asset segregation). Price movements of futures and options contracts and payments pursuant to swap agreements are influenced by, among other things, interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, and national and international political and economic events and policies. The value of futures, options and swap agreements also depends upon the price of the commodities underlying them. In addition, a client's assets are also subject to the risk of the failure of any of the exchanges on which its positions trade or of its clearinghouses or counterparties.

In addition, there is no assurance that the funds themselves will not be determined to be a regulated market participant or otherwise become subject to new entity-level regulation as a result of the Dodd-Frank Act. Such additional regulation could lead to significant new costs which could materially adversely affect the performance of the funds.

EMIR requires all counterparties to derivatives to report all derivative contracts (OTC and exchange traded) to a trade repository. The reporting obligation applies separately to each applicable counterparty but may be delegated. Reporting to a trade repository requires a significant amount of preparation and resources, such as selecting and registering with a trade repository and putting in place internal systems to enable reporting of derivative contracts. It is difficult to predict the precise impact of EMIR on the funds. The firm will monitor the position and react appropriately. However, prospective investors should be aware that the regulatory changes arising from EMIR may in due course adversely affect the funds' ability to adhere to its investment strategy and achieve its investment objective.

**Risks of Clearing Houses, Counterparties or Exchange Insolvency.** The liquidity of a secondary market in derivatives is subject to the risk of trading halts, suspensions, exchange or clearing house equipment failures, government intervention, insolvency of a brokerage firm, clearing house or exchange or other disruptions of normal trading activity, including prime brokers refusing to clear or settle any trade.

**Synthetic Obligations.** Synthetic obligations, *i.e.*, swap transactions, structured investments or other investments purchased from, or entered into by a fund, with respect to a reference debt security or other obligation, present risks in addition to those resulting from direct purchases of the reference obligations underlying such synthetic obligations. With respect to each synthetic obligation, the relevant fund will usually have a contractual relationship only with the counterparty of such synthetic obligation, and not the reference obligor on the reference obligation. The fund generally will have no right directly to enforce compliance by the reference obligor with the terms of the reference obligation nor any rights of set-off against the reference obligor (and may be subject to setoff rights exercised by the reference obligor against the counterparty or another person or entity), nor have any voting or other consensual rights of ownership with respect to the reference obligation. The fund will not directly benefit from any collateral supporting the reference obligation and will not have the benefit of the remedies that would normally be available to a holder of such reference obligation. In addition, in the event of the insolvency of the counterparty, the fund will be treated as a general creditor of such counterparty, and will not have any claim with respect to the reference obligation. Consequently, the fund will be subject to the credit risk of the counterparty as well as that of the reference obligor.

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

**Hedging Transactions.** The distressed market in which the funds may invest is subject to fluctuations and the market value of any particular investment may be subject to substantial variation. The entire market or, particular securities traded on a market may decline even if earnings or other factors improve since the prices of debt securities and equity securities are subject to numerous economic, political, procedural and other factors that have little or no correlation to the performance of a particular company. The funds may utilize a variety of financial instruments, such as derivatives, exchange-traded funds, options, interest rate swaps, caps and floors, futures and forward contracts, both for investment purposes and for risk management purposes. When used for hedging purposes, an imperfect or variable degree of correlation between price movements of the derivative instrument and the underlying investment sought to be hedged may prevent the funds from achieving the intended hedging effect or expose the funds to risk of loss. While the funds may enter into hedging transactions to seek to reduce risk, such transactions may result in a poorer overall performance for the funds than if they had not engaged in any such hedging transaction. We may determine not to hedge a position and may not identify appropriate risks to hedge. Moreover, it should be noted that the funds' portfolios will always be exposed to certain risks that cannot be hedged.

In connection with a hedging transaction, the funds' may be required to allocate funds or provide a credit line to be used as collateral for the margin capital of the hedge. Such a requirement would tie up a portion of the funds' capital that could otherwise have been available for investment. This could cause a fund to be less invested in its core investment strategy than it would have been absent such hedging transaction, and could possibly result in an adverse effect on the overall returns of the funds.

Furthermore, the funds' ability to enter into hedging transactions may be limited by their compliance with CFTC Rule 4.13(a)(3)'s "de minimis" requirements with respect to the funds' commodity interest positions.

**General Risks of Real Estate Ownership.** The funds may acquire, indirectly, debt interests in real estate. The real estate investments of the funds will be subject to the risks generally incident to the ownership and the development and/or redevelopment of real property, including:

- the risk that construction may not be completed within budget or on schedule because of cost overruns, work stoppages, shortages of building materials, the inability of contractors to perform their obligations under construction contracts, defects in plans and specifications or in construction or other factors;
- uncertainty of cash flow to meet fixed and other obligations;
- adverse changes in local market conditions, population trends, neighborhood values, community conditions, general economic conditions, local employment conditions, interest rates, and real estate tax rates;
- changes in fiscal policies;
- competition from other properties; and
- uninsured losses and other risks that are beyond the control of the funds such as the threat of terrorism and their consequences.

There can be no assurance of profitable operations because the cost of owning the funds' investments may exceed the income produced, particularly since certain expenses related to real estate and its development and ownership, such as property taxes, utility costs, maintenance costs and insurance, tend to increase over time and are largely beyond the control of the owner.

**Follow-On Investments.** The funds may be called upon to make investments to increase their investments in certain portfolio companies or to make investments that help preserve, protect or enhance the value of an existing investment in a portfolio company. There can be no assurance that the funds will want to make such investments or that the funds will have sufficient funds to do so. Any decision not to make such investment or the inability to make such investment could potentially have a substantial negative impact on an investment in a portfolio company. Moreover, to the extent that a fund does not make such investment in a company, such company may seek capital from other investors. Any such arrangements with other investors could rank senior to, and/or cause the dilution of, or otherwise negatively impact, the investment of the fund. In addition, the firm may determine to make a follow-on investment in a portfolio company in which one or more funds previously invested using assets from one or more new funds so long as the firm determines that the follow-on investment made by the new fund(s) is appropriate for, and falls within the investment guidelines of, such fund(s).

**Other Investments.** As we consider appropriate, and to the extent consistent with the funds' investment strategies, we may invest a portion of the funds' assets in one or more money market funds, collective investment trusts, mutual funds and/or exchange-traded funds. When any such investments are made, a fund investor will effectively be paying, in addition to the compensation payable to Avenue, such fund investor's proportionate share of any management fees, or other compensation, charged by the manager of such money market fund, collective investment trust, mutual fund or exchange traded fund, as well as a *pro rata* portion of the expenses incurred by such entity.

**Use of Leverage.** All funds have the ability to use security-level leverage in respect of their investments, and certain of our funds invest in asset classes (derivatives and options) that include implicit leverage. As a general matter, most of our funds do not use fund-level leverage as part of their investment strategy(ies), although each fund has the authority to do so. For a detailed description of the specific leverage restrictions with respect to a fund and/or the manner in which leverage may be employed by a fund, please refer to that fund's offering documents.

Certain of the funds may obtain leverage using any form or combination of financial leverage instruments, including reverse repurchase agreements, credit facilities such as bank loans or commercial paper, and the issuance of preferred shares or notes. These funds may use fund-level leverage opportunistically and may choose to increase or decrease leverage, or use different types or combinations of leveraging instruments, at any time based on the firm's assessment of market conditions and the investment environment. There can be no assurance that a fund will use any form of leverage as part of its investment program, or that it will do so successfully.

The funds also expect to enter into other transactions that may give rise to a form of leverage including, among others, swaps, futures and forward contracts, options and other derivative transactions.

**Short Selling.** The funds' investment program may include short selling. Short selling involves selling securities which may or may not be owned by the seller and borrowing the same securities for delivery to the purchaser, with an obligation to return the borrowed securities to the lender at a later date. Short selling allows the seller to profit from declines in market prices to the extent such decline exceeds the transaction costs and the costs of borrowing the securities. The extent to which a fund engages in short sales will depend upon its investment strategy and perception of market direction. A short sale creates the risk of a theoretically unlimited loss, in that the price of the underlying security could theoretically increase without limit, thus increasing the cost to the funds of buying those securities to cover the short position. There can be no assurance that the securities necessary to cover a short position will be available for purchase at the time a fund desires to close out such short position. Purchasing securities to close out the short position can itself cause the price of the securities to rise further, thereby exacerbating the loss.

In response to dislocations in the financial services industry and other market events, securities regulators of many jurisdictions have implemented certain restrictions and disclosure requirements with respect to short selling of securities and may impose additional restrictions in the future. The restrictions on, and disclosures of, the funds' short sales could have an adverse impact on the markets and investments in which the funds transact.

**Securities Lending.** The risks in lending portfolio securities, as with other extensions of credit, consist of the failure of another party, in this case the approved intermediary, to comply with the terms of agreement entered into between the lender of the securities (*i.e.*, a fund) and the approved intermediary (*i.e.*, the prime broker). Such failure to comply can result in the possible loss of rights in the collateral put up by the borrower of the securities, the inability of the approved intermediary to return the securities deposited by the fund and the possible loss of any corporate benefits (including, without limitation, certain voting rights) accruing to the fund from the securities deposited with the approved intermediary.

## **Item 9. Disciplinary Information**

This Item is not applicable to us.

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

### **Material Financial Industry Affiliations of the Firm**

The firm currently has direct relationships with the following private funds:

- Avenue Asia Special Situations Fund IV, L.P.
- Avenue Asia Employee Participation Plan, LLC

Through affiliated entities, the firm currently has indirect relationships with the following additional private funds:

- Avenue Europe International, Ltd.
- Avenue Europe International Master, L.P.
- Avenue Europe Investments, L.P.
- Avenue Europe Special Situations Fund II (Euro), L.P.
- Avenue Europe Special Situations Fund II (Euro-Feeder), L.P.
- Avenue Europe Special Situations Fund II (U.S.), L.P.
- Avenue Europe Special Situations Fund, L.P.
- Avenue Europe Special Situations Fund (Parallel), L.P.
- Avenue Europe Special Situations Fund (Parallel II), L.P.
- Avenue-SLP European Opportunities Fund, L.P.
- Avenue Europe Opportunities Fund, L.P.
- Avenue Europe Opportunities Fund, Ltd.
- Avenue Europe Opportunities Intermediate Fund, L.P.

- Avenue Europe Opportunities Master Fund, L.P.
- Avenue Europe Private Opportunities Fund, L.P.
- Avenue Europe Private Opportunities Co-Investment Fund, L.P.
- Avenue Europe Capital Solutions Fund, L.P.
- Avenue Europe Capital Solutions Feeder, L.P.
- Avenue Europe Employee Participation Plan, LLC
- GL Europe Iberian SGR Cayman, Ltd.
- Avenue Europe Iberian Opportunity Fund, L.P.
- Avenue SGR Fund, L.P.
- Avenue Special Situations Fund IV, L.P.
- Avenue Special Situations Fund IV (Parallel), L.P.
- Avenue Special Situations Fund V, L.P.
- Avenue Special Situations Fund VI (A), L.P.
- Avenue Special Situations Fund VI (B-Feeder), L.P.
- Avenue Special Situations Fund VI (B), L.P.
- Avenue Special Situations Fund VI (C-Feeder), L.P.
- Avenue Special Situations Fund VI (C), L.P.
- Avenue Special Situations Fund VI (Master), L.P.
- Avenue Investments, L.P.
- Avenue International, Ltd.
- Avenue International Master, L.P.
- Avenue CLO Fund, Ltd.
- Avenue CLO II, Ltd.
- Avenue CLO III, Ltd.
- Avenue Real Estate Fund, L.P.
- Avenue Real Estate Fund (Parallel), L.P.
- Avenue-CDP Global Opportunities Fund, L.P.
- Avenue TC Fund, L.P.
- Avenue Blue TC Fund, L.P.
- Avenue Special Opportunities Fund I, L.P.
- Avenue Special Opportunities Co-Investment Fund I, L.P.
- Avenue Special Opportunities Fund II, L.P.
- Avenue COPPERS Opportunities Fund, L.P.

- Avenue PPF Opportunities Fund, L.P.
- Avenue US/Europe Distressed Segregated Portfolio, a segregated portfolio of Avenue EnTrust Customized Portfolio SPC
- Avenue Employee Participation Plan, LLC
- Avenue Real Estate Employee Participation Plan, LLC
- Lyxor/Avenue Opportunities Fund Limited
- MAGS Capital, LLC
- MAGS Capital II, LLC
- MAGS Capital VI, LLC
- Avenue Energy Opportunities Fund, L.P.
- Avenue Aviation Opportunities Fund, L.P.
- Avenue Strategic Partners Feeder, L.P.
- Avenue Strategic Partners, L.P.
- Avenue Strategic Partners Feeder, Ltd.
- Avenue Strategic Partners, Ltd.
- 12<sup>th</sup> Avenue Employee Participation Plan, LLC

The firm may provide investment advice with respect to a portion of the assets of Avenue-CDP Global Opportunities Fund, L.P., Avenue PPF Opportunities Fund, L.P. and Avenue US/Europe Distressed Segregated Portfolio (a segregated portfolio of Avenue EnTrust Customized Portfolio SPC), either directly or indirectly, pursuant to global services agreements and/or sub-advisory agreements entered into with Avenue Capital Management II, L.P. and Avenue Europe International Management, L.P.

An affiliate of the firm, Avenue Capital Management II, L.P., serves as adviser to Avenue funds that are registered investment companies.

The firm also has relationships with the following entities that act as investment advisers:

- Avenue Capital Management II, L.P. (registered as an investment adviser with the SEC since 2000)
- Avenue Europe International Management, L.P. (registered as an investment adviser with the SEC since 2004)
- 12th Avenue Management, L.P. (registered as an investment adviser with the SEC since 2007)

An affiliate of the firm, Artus Management, L.P., withdrew its registration as an investment adviser with the SEC in March 2015.

The firm has relationships with the following entities (general partners of private funds that are advised by us and certain entities used to carry on our business) that are its “relying advisers”:

- Avenue Asia Capital Partners IV, Ltd.
- GL Avenue Employee Management, LLC

In addition, the firm has relationships with the following entities (sub-advisers to private funds that are advised by us) that are its “relying advisers”:

- Avenue Asia Services, LLC
- Avenue Asia Advisors Private Limited
- Avenue Asia Singapore Pte Ltd.
- GCF Services, Ltd.
- Ai Hua Consulting (Beijing) Co., Ltd.
- Bo Yuan Jun He Consulting (Beijing) Co., Ltd.
- IH Services HK Limited
- PT LGR Indonesia

The firm has relationships with the following entities (general partners of private funds that are advised by our investment adviser affiliates and certain entities used to carry on the these affiliates’ businesses) that are “relying advisers” of certain of its investment adviser affiliates:

- Avenue Capital Partners IV, LLC
- Avenue Capital Partners V, LLC
- Avenue Capital Partners VI, LLC
- Avenue International Master GenPar, LLC
- Avenue Partners, LLC
- Avenue Real Estate GenPar, LLC
- Avenue Global Opportunities Fund GenPar, LLC
- Avenue TC GenPar, LLC
- Avenue Blue TC GenPar, LLC
- Avenue SO Capital Partners I, LLC
- Avenue SO Capital Partners II, LLC
- Avenue Energy Opportunities Partners, LLC
- Avenue Aviation Opportunities Partners, LLC
- Avenue COPPERS Opportunities Fund GenPar, LLC
- Avenue PPF Opportunities Fund GenPar, LLC
- Avenue Europe Capital Partners II, LLC
- Avenue Europe Capital Partners, LLC
- Avenue Europe International Master GenPar, Ltd.
- Avenue Europe Investments GenPar, LLC
- Avenue Europe Opportunities Fund GenPar, LLC
- Avenue-SLP European Opportunities Fund GenPar, LLC



- Avenue EPO Partners, LLC
- Avenue Europe Capital Solutions Partners, LLC
- Avenue SGR GenPar, L.P.
- Avenue Europe Iberian Opportunity GenPar, L.P.
- Avenue Strategic Partners Feeder GenPar, LLC
- Avenue Strategic Partners GenPar, LLC

In addition, an affiliate of the firm has relationships with the following entities (sub-advisers to private funds that are advised by the affiliate) that are its “relying advisers”:

- Avenue Europe Management, LLP (authorized by the U.K. Financial Conduct Authority, formerly known as the U.K. Financial Services Authority, since 2004)
- Avenue Germany Management GMBH
- Avenue Luxembourg S.A.R.L.
- Avenue Iberia Asesores, S.L.
- Avenue Italia Advisors S.r.l.

In October 2006, Morgan Stanley became an indirect minority owner of Avenue. From time to time, certain funds may utilize Morgan Stanley for prime brokerage, consulting and other services.

A-III Manager LLC, which is owned fifty percent by Avenue Real Estate Management LLC (which in turn is owned by Marc Lasry) and fifty percent by a third party, serves as the external manager for ACRE Realty Investors Inc. (f/k/a Roberts Realty Investors, Inc.), a real estate investment and operating company. Additional information regarding ACRE Realty Investors Inc. can be found by searching its public filings, available at: <http://www.sec.gov/edgar/searchedgar/companysearch.html>.

Avenue is affiliated with Boulevard Acquisition Sponsor, LLC, the sponsor of a blank check company listed on the NASDAQ (BLVDU) and formed for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or similar business combination with one or more businesses (*i.e.*, a special purpose acquisition company, or SPAC).

Avenue is also affiliated with Amroc Investments, LLC. Marc Lasry and Sonia Gardner, the Senior Principals of Avenue, own Amroc. As of January 1, 2008, all of Amroc’s employees became employees of Avenue entities and there are no commissions or other fees paid to Amroc for sourcing investments. We do not believe that the firm’s relationship with Amroc is material to our ongoing business activities.

FCB Firmen-Credit Bank GmbH (f/k/a Yapi Kredi Bank (Deutschland) AG), a bank located in Frankfurt, Germany, is owned by Avenue Europe Investments, L.P., a Delaware limited partnership, and Avenue Europe Opportunities Fund, L.P., a Delaware limited partnership, each of which is managed by Avenue Europe International Management L.P., an investment adviser that is affiliated with the firm. See disclosure under the heading “Participation or Interest in Client Transactions” in Item 11.

A number of entities with which the firm is affiliated serve as the general partners of private funds whose investment programs are managed by the firm and/or by affiliates of the firm.

## **Other Activities**

Neither Avenue nor any of its affiliates (including the firm), or their respective affiliates, employees, officers, directors, principals, shareholders and members, or affiliates of any such persons or entities is required to manage any of the funds or managed accounts as its sole and exclusive function and each may engage in other business ventures and other activities unrelated to the affairs of the funds or managed accounts. Any Avenue person may become aware of business opportunities in which any fund or managed account is not expected to be given an opportunity to participate.

Except as otherwise set forth in a fund's offering documents, no Avenue person is obligated to devote any specific amount of time to the affairs of the funds or managed accounts. Avenue persons spend substantial time on other business activities, including those related to various existing and future pooled investment vehicles and other client accounts sponsored, formed, offered and managed by Avenue and its affiliates.

Furthermore, the Senior Principals of Avenue, and other officers and employees of Avenue and its affiliates, may, from time to time, serve on the boards of directors, credit committees, or other committees, of one or more entities in which one or more of the Avenue funds or managed accounts has invested. In addition, certain Avenue persons may, from time to time, provide certain services to the firm, the funds, one or more of the firm's other affiliates, and/or one or more of the investments or companies in which the funds invest. As a result, there may be a number of conflicts of interest which may arise, which could adversely affect the funds and/or managed accounts of the firm. Please see the disclosure provided elsewhere in this brochure under Item 8 as well as in the offering documents of the applicable fund.

Avenue persons engage in a broad range of investment management activities, including sponsoring and managing other private funds and/or affiliated special purpose acquisition companies and other activities. Certain Avenue persons also expect to sponsor and operate future pooled investment vehicles and other client accounts that pursue similar investment objectives or other lines of investment activity. Although the relationships and activities of Avenue persons should enable these entities to offer attractive opportunities and services to the funds and investors, such relationships and activities, in the ordinary course of business, may also give rise to circumstances in which the interests of these entities and other affiliates of the Avenue persons conflict with the interests of the funds and investors, including, by way of example but not limitation, competition with other investment vehicles (proprietary or third-party managed) in which investors may also have an interest, purchasing and investments in entities in which investors may have an interest, or taking or advocating positions in certain transactions that may be considered adverse to the interests of investors.

The Avenue persons, the funds, the general partners of such funds (if applicable) or their respective members, officers, directors, employees, principals or affiliates may come into possession of material, non-public information. The possession of such information may limit the ability of the funds to buy or sell a security or otherwise to participate in an investment opportunity.

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

### **Code of Ethics; Personal Trading**

We have adopted a written code of ethics that applies to the firm, our employees and certain related persons. Our code of ethics is administered by our Chief Compliance Officer or his designees.

Employees are given training with respect to our code of ethics when they are hired and annually thereafter. Each client may obtain a copy of our code of ethics by submitting a written request to Eric Ross at 399 Park Avenue, 6th Floor, New York, New York 10022 or by contacting Mr. Ross at (212) 878-3500.

The following general principles and standards of conduct are established by our code of ethics:

- We must operate at the highest level of ethical standards in keeping with our fiduciary duties to clients, and in compliance with all applicable laws.
- We have a duty to place the interests of clients first and to address and/or mitigate conflicts of interest.
- Information about our operations and investment strategies, as well as information about investors in our funds and our managed account clients (other than, possibly, their name), unless otherwise consented to by the investor, is strictly confidential and will not be disclosed to anyone outside the firm and its consultants and agents, unless required by law or a government agency and upon prior notice to the Chief Compliance Officer.
- Our employees may not use any confidential information or otherwise take inappropriate advantage of their position for the purpose of furthering any private interest or as a means of making any personal gain.
- Our employees and their immediate families may not accept any benefit from a client, an investor in one or more of our funds or person who does business with us, except for normal business courtesies and non-cash gifts of nominal value, except as otherwise provided for by our code of ethics.
- Insider trading is prohibited and may expose an employee to stringent penalties.

Our code of ethics deals with a range of topics including, without limitation, the following:

- Categories of persons related to the firm who are covered by the code of ethics.
- Opening of personal securities accounts by covered persons.
- Pre-approval requirement for most personal securities transactions.
- Submission to the firm of information concerning personal securities holdings and transactions.
- Restrictions on trading in securities of particular issuers.
- Gifts, entertainment and investee company promotions (*i.e.*, any discounted or complimentary goods or services provided by an investee company to a firm employee, such as hotel rooms).
- Charitable contributions.
- Political contributions and payments.
- Reporting of violations and our whistle-blower policy.
- How the code of ethics is administered.
- How exceptions to the code of ethics may be granted by our Chief Compliance Officer.

Each covered person is required to acknowledge that he or she has received and reviewed, and understands the Code of Ethics.

## Participation or Interest in Client Transactions

We do not presently intend to engage in principal transactions, but we do have the right to engage in such transactions and may do so in the future. During the most recent fiscal year, the firm did not engage in principal transactions.

A principal transaction occurs when an investment adviser, acting for its own account (or the account of an affiliate) buys a security from, or sells a security to, a client's account. An agency cross trade occurs when a person acts as an investment adviser in relation to a transaction in which such investment adviser, or any person controlling, controlled by, or under common control with such investment adviser, acts as broker for both such advisory client and for another person on the other side of the transaction. The funds have different procedures with respect to completing principal and agency cross transactions that are set forth in each fund's operative documents. Accordingly, the portfolio managers are required to identify any potential principal transaction, and any potential agency cross trade between two or more funds, prior to effecting the transaction and to contact the firm's Chief Compliance Officer. The Chief Compliance Officer, in consultation with outside counsel (if necessary), will determine whether or not the trade would constitute a principal transaction or an agency cross trade, and if so, whether such transaction is permissible and what procedures must be followed to complete the transaction. The firm has the right to cause the funds to engage in agency cross trades, including the purchase or acquisition of participations in originated investments for purposes of rebalancing the portfolios of the funds or for other reasons consistent with the investment and operating guidelines of the funds. These rebalancing transactions, if effected, may or may not be subject to commissions. It is our more customary policy to rebalance funds and accounts by trading in the market rather than by effecting agency cross trades.

The funds may, from time to time, make an investment in a portfolio company in which one or more of Avenue's other clients invests in a different part of the capital structure. There may be instances where such a portfolio company may seek to take an action where the funds' and the other clients' interests in such portfolio company may conflict. Moreover, there may be situations in which a private fund determines to invest in an issuer in which another private fund managed by the firm or its affiliates maintains an investment. Furthermore, a fund may invest in the interests of another fund managed by the firm and/or its affiliate(s). See Item 8 ("Methods of Analysis, Investment Strategies and Risk of Loss – Risks Associated with the Firm's Investment Strategies – Conflicts of Interest – Investments Involving Other Clients"). To the extent that the funds hold securities in a portfolio company with rights, preferences and privileges that are different than those held by other clients in the same portfolio company, Avenue's principals and their representative affiliates may be presented with decisions when the interests of the funds and the other clients are in conflict. It is possible that a fund's interests may be subordinated or otherwise adversely affected by virtue of the other clients' involvement and actions relating to their investment. Avenue has adopted procedures to address and, in some cases, mitigate the actual conflicts of interest that may arise. Exceptions to these procedures must be approved in advance by the Chief Compliance Officer.

The firm is an affiliate of FCB Firmen-Credit Bank GmbH (f/k/a Yapi Kredi Bank (Deutschland) AG) ("FCB"), a bank located in Frankfurt, Germany. FCB was originally acquired by a fund that is managed by an affiliate of the firm and thereafter was transferred in part to another fund managed by this affiliate. FCB was acquired because it is believed to be an appropriate investment opportunity and its acquisition will enable the acquiring fund, through FCB, to originate loans across the entire European Union as direct assignments. In connection with pursuing investments sourced by FCB, funds managed by affiliates of the firm will pay certain fees to FCB (and thus indirectly to the funds that own FCB). The amount of fees charged by FCB for providing services to their affiliated entities depends partly on the quality of the underlying assets, as more distressed assets require greater involvement and resources from FCB.

In certain circumstances, the firm and its employees may receive discounted or complimentary goods or services provided from an investee company in which one or more funds invests. The firm's compliance manual addresses such practices in its policy regarding gifts, entertainment and investee company promotions.

The firm may, from time to time, recommend a security in which the firm, directly or indirectly, has an interest. For instance, it may be expected that one or more of the funds may invest capital in another of the funds or in securities of issuers in which one or more of the other funds hold positions. In addition, the general partners of certain of the funds have invested their own capital in their funds. Given the likely frequency of these occurrences, clients and investors in the funds will not be provided with notification of them. This may represent a conflict of interest for the firm.

We will not be engaged as an investment adviser to advise investors as to the appropriateness of investing in the funds or managed accounts we manage. Although we will not receive any compensation for selling interests in the funds, we will receive compensation in our capacity as manager of these funds based in part upon the amount invested in the funds. See Item 14 ("Client Referrals and Other Compensation – Compensation for Client Referrals; Placement Agents for Funds").

Accounts that are beneficially owned by the firm's employees, Principals and affiliates may from time to time transact in trade claims of distressed companies. These transactions will be subject to our personal account trading policy.

## **Item 12. Brokerage Practices**

### **Selection of Brokers**

In effecting securities transactions, the firm generally seeks to negotiate with brokers a combination of the most favorable commission and the best price obtainable on each transaction. Consequently, brokers are selected primarily on the basis of their execution capability and trading expertise consistent with the effective execution of the transaction.

In determining the broker or dealer to be used or the reasonableness of a commission rate or spread, the firm may consider one or more of the following (in addition to the commission rate or spread):

- the utility and reliability of brokerage services,
- execution capability and performance,
- financial condition,
- investment information,
- market insights,
- access to analysts and management, and
- idea generation.

In determining the appropriate broker-dealer to execute a transaction, certain other non-execution related factors, such as access to research and invitations to conferences, may also be included in the decision-making process. However, there is no express dollar amount attributable non-execution benefits provided, nor is there any written or verbal agreement or other *quid pro quo* understanding to provide order flow in exchange for such non-execution related goods and services. As such these are not soft

dollar or commission sharing arrangements (see below). Accordingly, the commissions charged by brokers may be greater than the amount another broker might charge if the firm determines in good faith that the amount of these commissions is reasonable in relation to the value of the brokerage services and research information provided by the brokers. The firm's authority to select the broker or dealer to be used may be limited by legal restrictions such as those imposed under the U.S. Employee Retirement Income Security Act of 1974 (ERISA).

Consistent with the requirements of best execution, brokerage commissions may be directed to brokers in recognition of investment research and information furnished as well as for services rendered in the execution of orders by such brokers. By allocating transactions in this manner, the firm is able to supplement its research and analysis with the views and information of brokerage firms. The funds may also allocate a portion of their brokerage business to brokerage firms whose employees participate as brokers in the introduction of investors to the funds or who agree to bear the expense of capital introduction, marketing or related services by third parties.

The firm may effect securities transactions, to the extent permitted by law, with brokerage firms affiliated with the firm or with investment companies registered under the Investment Company Act of 1940 to which an affiliate of the firm provides advisory services, if it reasonably believes that the quality of execution and the commission are comparable to that available from other qualified firms.

### **Soft Dollar and Directed Brokerage Arrangements**

We do not currently engage in soft dollar arrangements, but we reserve the right to do so in the future. Notwithstanding the foregoing, certain non-execution products and services may be provided by executing brokers, including, without limitation, research, corporate access, and capital introduction events. There is no expectation of order flow or any agreement to "pay up" for these products or services, however, and the firm does not believe that these constitute soft dollar items. To the extent that soft dollars are used, any products or services acquired using soft dollars will be consistent with Section 28(e) of the Exchange Act of 1934.

During the most recent fiscal year, the firm did not use any soft dollar items or engage in directed brokerage transactions.

### **Aggregation of Orders**

If the firm has determined to purchase (or sell) an investment at the same time for more than one investment vehicle or account, the firm will generally place combined orders for all such accounts simultaneously, and if all such orders are not filled at the same price, it will generally average the prices paid. Similarly, if an order on behalf of more than one vehicle or account cannot be fully executed under prevailing market conditions, the firm will allocate (or sell, as applicable) the investments among the different vehicles or accounts on a basis that it considers equitable. Situations may occur where the funds and or managed accounts could be disadvantaged because of the investment activities conducted by the firm for other investment vehicles or accounts. From time to time, the firm may enter trades for funds managed by the firm's affiliated investment advisers and such affiliates may enter trades for funds managed by the firm.

### **Allocation Procedures**

In addition to our responsibilities with respect to the management and investment activities of the funds and the managed accounts, we and our affiliates will have similar responsibilities with respect to various other existing pooled investment vehicles and managed accounts (such clients, together with clients of the

firm, are referred to as “Avenue clients”). The existence of such multiple vehicles and accounts necessarily creates a number of potential conflicts of interest.

We expect that investments will be allocated between and among Avenue clients, particularly where the investment objectives and policies of the Avenue clients overlap (in whole or in part). There are, or are expected to be, differences between and among the Avenue clients, which may affect how a transaction is allocated with respect to, among other considerations:

- investment objectives,
- investment strategies,
- investment parameters and restrictions,
- portfolio management personnel,
- tax considerations,
- liquidity considerations,
- hedging considerations,
- legal and/or regulatory considerations,
- potential volatility of the investment,
- asset levels,
- fee levels,
- timing and size of investor capital contributions and redemptions,
- cash flow considerations,
- market conditions,
- existing exposures to an investee company’s securities or other instruments, and
- other criteria we deem relevant (the nature and extent of the differences will vary from client to client).

In addition, certain investments may be purchased in odd lots, or there may exist stub amounts, either of which are not readily allocable to multiple clients. Notwithstanding the differences between and among Avenue clients, and the possible existence of hard to allocate investments, there may be circumstances where some or all of the Avenue clients participate in an aggregated order where we believe it is in the best interest of all Avenue clients participating in such order. In all such instances, we will assess whether the investment should be allocated on a *pro rata* basis (based on available cash as determined by us or on a targeted net asset basis or, in the case of the closed-end registered investment company managed by Avenue Capital Management II, L.P., an affiliate of the firm, on a total asset basis) or other basis.

The firm will not always allocate aggregated orders among Avenue clients on a *pro rata* basis. There will be circumstances where:

- only some of the Avenue clients participate in the aggregated order;
- the level of participation between and among the Avenue clients in the aggregated order is not on a *pro rata* basis; and/or
- investment transactions between and among the Avenue clients vary in other respects.

Such non-*pro rata* allocations of aggregated orders between and among the Avenue clients will be made in the discretion of Avenue when deemed:

- appropriate given the differences between the clients involved,
- appropriate because the target holdings of the particular investment that Avenue has established with respect to the clients involved differ from client to client, and/or
- otherwise to be in the best interests of the clients involved.

As mentioned above, from time to time we may review Avenue clients' exposure to certain investments and determine exposure net asset value targets for clients or, in the case of the closed-end registered investment company managed by Avenue Capital Management II, L.P., on a total asset basis. Where the exposure targets are used prior to entering a transaction, the firm may prepare a report that sets forth (i) the target exposures, on a net or total, as applicable, asset value basis, for certain clients with respect to specific investments and (ii) a consistent methodology for the allocation of transactions in these investments among these clients. After that, until the applicable asset value exposure targets are achieved or modified, purchases or sales, as applicable, in the relevant investments (which will generally be made on an aggregated basis) will be allocated to Avenue clients in the amounts (expressed as a percentage of the aggregate amount purchased or sold) determined pursuant to the report rather than on a *pro rata* basis.

It is our general policy that no Avenue client will receive inappropriate preferential treatment or otherwise be treated unfairly; and we will seek to uphold this policy when making decisions regarding investment allocations.

In certain cases, opportunities during a particular period and up to a certain size may be offered only to one or more funds and not to other Avenue clients.

In connection with certain funds' investment programs, the funds (along with other Avenue clients) have made and will make investments through special purpose entities domiciled in Luxembourg. The private funds' offering documents provide that the funds shall bear all investment expenses. Each fund shall bear its allocable share of special purpose entity expenses associated with employees' salaries and office space rent in Luxembourg in accordance with the firm's expense allocation policy.

The public funds managed by an affiliate of the firm may invest in securities that are similar to investments that may be held by private funds managed by the firm and its affiliates. Where a particular investment would, notwithstanding the overlap restrictions on a public fund's investments discussed below, be otherwise eligible for investment both by a public fund and a private fund managed by the firm and/or its affiliates, or by both public funds, prior to purchasing such investment, the firm and its affiliates will prepare a report that sets forth the target exposures, on a net or total, as applicable, asset value basis, for the applicable public and private funds with respect to the identified investments (as determined for each fund by such fund's portfolio manager). Thereafter, until the applicable asset value exposure targets are achieved or modified, purchases or sales, as applicable, in the relevant investments (which will generally be made on an aggregated basis) will be allocated to the applicable public and/or private funds in the amounts (expressed as a percentage of the aggregate amount purchased or sold) proportionate to each fund's applicable asset value exposure target. When both public funds or a public fund and private fund participate in an aggregated trade on an investment with a net or total asset value target, to the extent such investments are allocated non *pro-rata*, such allocations must be approved, in advance, by the Chief Compliance Officer.

In allocating investments between the public funds and private funds managed by the firm and its affiliates, the public funds will adhere to a policy pursuant to which, at the time an investment is made by a public fund, each public fund's portfolio will have no more than 20% overlap, on a market value basis,



at the security specific level with the portfolio securities held by private funds managed by the firm and its affiliates (in the aggregate) (*i.e.*, no more than 20% of a public fund's portfolio securities will be identical to the securities held by private funds managed by the firm and its affiliates in the aggregate) (the "20% overlap limit"). The 20% overlap limit does not limit the amount a public fund may invest in instruments of an entity or group of affiliated entities in which Avenue Capital's private funds are invested that are different from those held by a public fund. The 20% overlap limit will be measured as a percentage of: (a) the aggregate market value of the specific securities in the public fund that are owned by, and overlap at the security specific level with, private funds managed by the firm and its affiliates (in the aggregate), divided by (b) the market value of the public fund's total or managed assets, as applicable. For purposes of the 20% overlap limit, investments held by private funds pursuing a CLO investment strategy or as a result of hedging transactions will not be included in the immediately foregoing calculation. Investment opportunities appropriate for both the public funds and private funds managed by the firm and its affiliates generally will be allocated between the public funds and such private funds in a manner that the firm and its affiliates believe is fair and equitable under the circumstances (including, but not limited to, aggregating orders), in accordance with its trade allocation policies. The application of the 20% overlap limit may result in a public fund being unable to make investments that it otherwise would have made, which could negatively affect the performance of the public fund.

### **Trade Errors**

We have adopted a policy for the purpose of addressing trade errors that may arise, from time to time, with respect to the securities transactions of the private funds and the managed accounts. An example of a trade error is the sale of a security when it should have been purchased. Pursuant to the policy, we will seek to identify and correct any trade errors in an expeditious manner. Trade errors that result in losses for a private fund or managed account that are the result of our gross negligence or willful misconduct, as determined by us, will be reversed, and we will be responsible to make the affected funds and managed accounts whole. Trade errors that result in losses for a fund or managed account that are not the result of our gross negligence or willful misconduct, as determined by us, will be reversed and we may, but are not required to, bear such losses in whole or in part. Any such losses we do not bear will be borne by the affected funds and/or managed accounts. Gains from trade errors will be credited to the affected funds or managed accounts. Gains from trade errors may not be used to offset losses from trade errors. "Soft dollars" or "client commissions" will not be used, either directly or indirectly, to correct trade errors. We document each trade error and maintain a trade error file. The determination of whether or not a trade error has occurred will be in our sole discretion.

### **Item 13. Review of Accounts**

Each fund and managed account is maintained, supervised and reviewed on a regular basis by its respective investment principles. Matters reviewed include specific investments held, the percentage of assets in various types of asset classes and the relative and absolute performance of each account. The investment principles for each Avenue fund are listed in that fund's confidential offering memorandum.

With respect to the private funds for which the firm serves as the investment manager, each investor receives annual audited financial statements of each such fund. In addition, investors in the private funds receive additional financial statements and reports as described in the confidential offering memorandum for each private fund.

With respect to other clients for whom we serve as the investment manager on a managed account or sub-advisory basis, we will provide such clients with reports and statements, the content and frequency of which will be as agreed.

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

### **Compensation for Client Referrals; Placement Agents for Funds**

The firm may in the future retain the services of one or more placement agents in connection with the solicitation of prospective investors. The firm does not presently retain any third-party placement agents.

## **Item 15. Custody**

We have custody, as defined in Rule 206(4)-2 under the Investment Advisers Act of 1940, of the assets of the private funds as a result of the service of certain of our affiliates as general partners of some of the private funds we manage and our ability to remove the independent directors of some of the private funds we manage. The private funds are audited annually and deliver audited financial statements to their investors within 120 days of the applicable fiscal year-end.

## **Item 16. Investment Discretion**

Item 4 includes a description of the investment discretion that we exercise.

## **Item 17. Voting Client Securities**

We have policies and procedures in place for the voting of proxies, processing of corporate actions and participating in class action lawsuits and related settlements on behalf of the funds and managed accounts we advise. The proxy policy is designed to ensure compliance with the proxy voting, disclosure and record keeping requirements under SEC Rules 206(4)-6 and 204-2 adopted under the Investment Advisers Act of 1940. Our policies and procedures are also designed to ensure that all proxy and corporate action proposals are thoroughly reviewed and voted in the best interest of each fund, provide disclosure to fund investors and ensure that certain documentation is retained. As a general matter, clients may not direct our vote in a particular solicitation.

The Firm's objective is to ensure that its proxy voting and corporate action activities on behalf of the funds are conducted in a manner consistent, under all circumstances, with the best interest of the funds.

### **Proxy Voting**

With respect to certain proxy proposal issues, we vote in accordance with predetermined "for" or "against" designations, except when we determine the best interests of the client require a contrary vote. We vote other proxy proposals on a "case by case" analysis in the best interests of the client.

In the event that the firm votes contrary to the proxy voting guidelines, we will document the basis for our contrary voting decision.

In addition, the firm may choose not to vote proxies in certain situations or for certain funds, such as (i) where a fund has informed the firm that it wishes to retain the right to vote the proxy, (ii) where the firm deems the cost of voting would exceed any anticipated benefit to the fund, (iii) where the proxy is received for a fund that has been terminated, or (iv) where a proxy is received by the firm for a security it no longer manages on behalf of a fund. The firm will document the basis for the decision not to vote.

We may be subject to conflicts of interest in the voting of proxies. If at any time the firm becomes aware of an actual conflict of interest relating to a particular proxy proposal, the firm will handle the proposal as follows:

- If the proposal is designated in the proxy voting policies as “For” or “Against,” the proposal will be voted by the firm in accordance with the proxy voting policies; or
- If the proposal is designated in the proxy voting policies above as “Case by Case” (or not addressed in the proxy voting policies), if it is clear how to vote in the best interest of the funds entitled to vote then the vote may proceed, otherwise, Avenue’s Conflicts Committee will attempt to resolve the conflict of interest and will seek to resolve the conflict pursuant to the procedures set forth in “Conflict Resolution in Proxy Voting and Corporate Actions” below.

Each investor in a private fund and each managed account client may obtain information on how we voted with respect to the securities of such fund or managed account, as applicable, and obtain a copy of proxy voting policies and procedures by submitting a written request to Eric Ross at 399 Park Avenue, 6th Floor, New York, New York 10022 or by contacting Mr. Ross at 212-878-3500.

### **Corporate Actions**

Avenue has adopted procedures to address and, in some cases, mitigate the conflicts of interest that may arise with respect to corporate actions and proxy voting where multiple funds hold different securities of the same issuer. In cases where either a specific right, such as a vote with respect to a security or the grant of a waiver, or an ongoing right, such as an opportunity to serve on a creditor’s committee or otherwise engage in discussions with an issuer, arises, and Avenue does not identify a conflict of interest, the following procedures will apply:

- Avenue will be responsible for determining whether the course of action that is in the best interest of the relevant fund is clear;
- Avenue will exercise the right or ongoing right in the best interest of the relevant fund(s); and
- The Chief Compliance Officer will be notified prior to the exercise of the right.

### **Conflict Resolution in Proxy Voting and Corporate Actions**

If Avenue identifies a conflict of interest with respect to corporate actions and proxy voting where multiple funds hold different securities of the same issuer, then Avenue will notify the Chief Compliance Officer and convene its Conflicts Committee to attempt to resolve the conflict. If the Conflicts Committee cannot do so, Avenue will follow the procedures set forth in each fund’s organizational documents. The funds’ organizational documents generally provide that an advisory committee established by the fund or independent representative appointed to handle such matters or, if permitted under the fund’s organizational documents, an independent third-party, may vote on behalf of the fund.

### **Class Actions**

Avenue has adopted a policy with respect to the participation of its clients in class action lawsuits and related settlements. Avenue employs a third party that provides a list of outstanding class actions. Avenue’s Compliance Department, along with the applicable Senior Portfolio Manager, review an internal report showing all Avenue investments for which Avenue clients may participate in a class action in order to determine whether participation in the class action is in the best interest of the Avenue clients.

Avenue may determine that it may not be in Avenue clients' best interest to participate in a class action if, among other reasons:

- The Avenue clients have appointed a person to an interested party's Board of Directors;
- The Avenue clients are negotiating or may seek to negotiate a transaction with an interested party; or
- The level of resources that would need to be allocated to the class action effort is disproportionate to the perceived potential benefit to the Avenue clients.

In the event of a conflict of interest between or among Avenue clients in connection with a class action matter, the firm (and its affiliates, if applicable) will analyze the interests of the pertinent Avenue clients in order to determine the appropriate course of action (*e.g.*, allowing the class action to proceed with respect to similarly situated Avenue clients and/or declining to participate in a class action on behalf of other similarly situated Avenue clients).

## **Item 18. Financial Information**

We have included herewith a balance sheet for our most recent fiscal year.

**AVENUE ASIA CAPITAL MANAGEMENT, L.P.**  
**STATEMENT OF FINANCIAL CONDITION**  
**DECEMBER 31, 2014**

# **AVENUE ASIA CAPITAL MANAGEMENT, L.P.**

## **TABLE OF CONTENTS** **December 31, 2014**

---

<b>Independent Auditor's Report</b>	<b>1</b>
<b>Statement of Financial Condition</b>	<b>2</b>
<b>Notes to Statement of Financial Condition</b>	<b>3 - 8</b>



## **Independent Auditor's Report**

To the General Partner of Avenue Asia Capital Management, L.P.:

We have audited the accompanying statement of financial condition of Avenue Asia Capital Management, L.P. (the "Partnership") as of December 31, 2014.

### ***Management's Responsibility for the Statement of Financial Condition***

Management is responsible for the preparation and fair presentation of the statement of financial condition in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the statement of financial condition that is free from material misstatement, whether due to fraud or error.

### ***Auditor's Responsibility***

Our responsibility is to express an opinion on the statement of financial condition based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the statement of financial condition is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the statement of financial condition. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the statement of financial condition, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Partnership's preparation and fair presentation of the statement of financial condition in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Partnership's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the statement of financial condition. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### ***Opinion***

In our opinion, the accompanying statement of financial condition presents fairly, in all material respects, the financial position of Avenue Asia Capital Management, L.P. at December 31, 2014 in accordance with accounting principles generally accepted in the United States of America.

*PricewaterhouseCoopers LLP*

March 31, 2015

# AVENUE ASIA CAPITAL MANAGEMENT, L.P.

## STATEMENT OF FINANCIAL CONDITION

**December 31, 2014**

### ASSETS

Cash and cash equivalents	\$	1,664,939
Property and equipment, net		5,663,090
Due from affiliates		586,028
Prepaid expenses and other assets		67,937
<b>Total Assets</b>	<b>\$</b>	<b>7,981,994</b>

### LIABILITIES AND PARTNERS' DEFICIENCY

Current maturities of notes payable - bank	\$	300,000
Long-term portion of notes payable - bank		4,765,229
Due to affiliates		4,893,788
Compensation payable to employees		139,026
Accounts payable, accrued expenses and other liabilities		618,365
<b>Total Liabilities</b>		<b>10,716,408</b>
Commitments and contingencies		
Partners' Deficiency		(2,734,414)
<b>Total Liabilities and Partners' Deficiency</b>	<b>\$</b>	<b>7,981,994</b>



# AVENUE ASIA CAPITAL MANAGEMENT, L.P.

## NOTES TO STATEMENT OF FINANCIAL CONDITION DECEMBER 31, 2014

---

### 1. ORGANIZATION

Avenue Asia Capital Management, L.P. (the “Partnership”) is a Delaware limited partnership formed on June 30, 2005 to provide investment advisory services to certain investment funds (the “Funds”). The general partner of the Partnership is Avenue Asia Capital Management GenPar, LLC (the “General Partner”), a Delaware limited liability company. The Partnership is a registered investment adviser with the U.S. Securities and Exchange Commission under the Investment Advisers Act of 1940.

The Funds’ activities consist predominantly of investing and trading in Asian public and private equities, debt obligations or other indebtedness of Asian companies undergoing financial distress, a turnaround in business operations or companies which management believes are undervalued because of a discrete extraordinary event.

At December 31, 2014, the Partnership has a partners’ deficiency in the amount of \$2,734,414 in the statement of financial condition. To the extent cash flows from the Partnership’s operations are insufficient to meet the needs of its ongoing business operations, additional capital support will be provided by an affiliate of the Partnership.

### 2. SIGNIFICANT ACCOUNTING POLICIES

This statement of financial condition has been prepared in conformity with accounting principles generally accepted in the United States of America (“U.S. GAAP”), which require the use of estimates and assumptions by management that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the statement of financial condition. Actual amounts and results could differ from such estimates and such differences could be material.

**Cash and Cash Equivalents** – Cash and cash equivalents include cash at a bank and short-term investments with an original maturity of three months or less when purchased. At December 31, 2014, all cash and cash equivalents balances were held at Citigroup, Inc.

**Property and Equipment** – Property and equipment are recorded at cost less accumulated depreciation and amortization. Depreciation and amortization are calculated on a straight-line basis over the estimated useful life as described in Note 3.

**Management Fees** – Management fees are recorded on an accrual basis in accordance with the various investment management agreements.

**Income and Expense** – All items of income and expense are recorded when earned and incurred, respectively.

**Operating Lease Expense** – Rental expense on an operating lease is charged to income on a straight-line basis over the term of the lease.

**Foreign Currency** – The functional and reporting currency of the Partnership is the U.S. dollar. Assets and liabilities of the Partnership denominated in foreign currencies are translated into U.S. dollar amounts on each measurement date. Income and expense items denominated in foreign currencies, if any, are translated into U.S. dollar amounts on the respective dates of such transactions. Such fluctuations are recorded through net income/ (loss) and are reflected in partners’ deficiency in the statement of financial condition.

**Income Taxes** - No provision is made in the statement of financial condition for liabilities for federal, state or local income taxes, other than New York City unincorporated business taxes, since such liabilities are the responsibility of the individual partners of the Partnership.

## AVENUE ASIA CAPITAL MANAGEMENT, L.P.

### NOTES TO STATEMENT OF FINANCIAL CONDITION DECEMBER 31, 2014

---

The Partnership uses the liability method to account for New York City unincorporated business taxes in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) 740, *Income Taxes*. Under this method, deferred tax assets and liabilities are recognized for the expected future tax consequences of differences between the carrying amounts of assets and liabilities and their respective tax bases using currently enacted tax rates for the years in which the temporary differences are expected to reverse.

As of December 31, 2014, the Partnership has cumulative net operating losses amounting to approximately \$22,700,000 which expire from 2026 to 2029. As of December 31, 2014, the Partnership recorded a deferred tax liability related to a temporary difference between the carrying amount of an airplane and its tax basis amounting to approximately \$186,000. The Partnership also recorded deferred tax assets relating to net operating losses and compensation payable aggregating \$958,000. The deferred tax assets and the deferred tax liability have been offset and a full valuation allowance has been recognized against the deferred tax asset remaining after the offset in the statement of financial condition.

Interest and penalties, if any, assessed under the relevant tax law are recognized as incurred and are included in other liabilities in the statement of financial condition.

The Partnership follows the authoritative guidance for uncertainty in income taxes included in ASC 740, which requires the Partnership to determine whether a tax position of the Partnership is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation process, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax position recognized in the statement of financial condition is measured as the largest benefit that is greater than fifty percent likely of being realized upon ultimate settlement with the relevant taxing authority. At December 31, 2014, there were no tax positions required to be accrued in accordance with the criteria set forth above.

The Partnership files tax returns in the U.S. federal jurisdiction, various state jurisdictions, and New York City jurisdiction. As of December 31, 2014, the tax years that remain subject to examination by such jurisdictions under the statute of limitations are 2011 and thereafter.

***Representations and Warranties*** - In the normal course of business the Partnership enters into arrangements with third parties that may contain representations and warranties, and may include indemnifications. The Partnership’s maximum exposure under these arrangements is unknown. However, the Partnership expects the risk of material loss to be remote and no amounts have been recorded as liabilities relating to such arrangements at December 31, 2014.

# AVENUE ASIA CAPITAL MANAGEMENT, L.P.

## NOTES TO STATEMENT OF FINANCIAL CONDITION DECEMBER 31, 2014

### 3. PROPERTY AND EQUIPMENT

Property and equipment are carried at cost and consist of:

		Estimated useful life
Airplane	\$ 8,247,045	20 years
Computer network and equipment	32,220	3 years
Computer software	895,181	3 years
Furniture and fixtures	202,260	5 years
Leasehold improvements	721,507	Shorter of lease term or useful life
Less accumulated depreciation and amortization	<u>(4,435,123)</u>	
Net	<u>\$ 5,663,090</u>	

Capitalized computer software consists of various licenses, implementation and other software costs. Internal use software costs are recorded in accordance with ASC 350, *Intangibles – Internal-Use Software*.

### 4. RELATED PARTY TRANSACTIONS

During 2014, the Partnership provided investment advisory services to various Funds pursuant to various investment management agreements.

The Partnership and several affiliated investment managers share office space, employees and other overhead expenses. Direct expenses attributable to the Partnership performing its duties for the entities it manages are charged directly to the Partnership. All other allocable overhead expenses are shared pro-rata with affiliated investment managers based on management fees of the respective underlying Funds being managed. Included in due to affiliates is \$1,002,272 resulting from the allocation of these expenses. Additionally, direct expenses owed by the Partnership to these affiliated investment managers of \$336,817 are included in due to affiliates in the statement of financial condition. Substantially all shared and direct expenses were repaid subsequent to year-end.

Additionally, pursuant to various service agreements with several international affiliates which provide certain auxiliary and preparatory investment advisory services, the Partnership is obligated to fund expenses on a cost plus basis related to the affiliates' activities. At December 31, 2014, \$3,554,699 was accrued and included in due to affiliates in the statement of financial condition. Substantially all expenses were repaid subsequent to year-end.

The Funds described above pay certain costs directly on behalf of the Partnership and are reimbursed by the Partnership. Included in due to affiliates is \$597,064 of such costs at December 31, 2014. Subsequent to year-end the entire balance was paid to the Funds.

The Partnership also pays certain costs directly on behalf of the Funds described above and is reimbursed by the Funds. Included in due from affiliates is \$578,230 of such costs at December 31, 2014. Approximately \$94,000 was received subsequent to year-end.

In February 2015, the FASB issued Accounting Standards Update No. 2015-02 – *Consolidation (Topic 810): Amendments to the Consolidation Analysis* (the "ASU"). The amended guidance modifies the analysis that companies must perform in order to determine whether a legal entity should be consolidated.

**NOTES TO STATEMENT OF FINANCIAL CONDITION  
DECEMBER 31, 2014**

---

The amended guidance also simplifies previous consolidation rules by reducing the number of consolidation models and eliminating the risk that a reporting entity may have to consolidate a legal entity solely based on a fee arrangement. In addition, the ASU places more weight on the risk of loss in order to identify the primary beneficiary and decreases the number of instances in which related party guidance needs to be applied upon identifying such party. As permitted by the ASU the Partnership early adopted this standard and such adoption did not have a material effect on the Partnership's statement of financial condition.

The ASU provides guidance on the consolidation of certain entities in which equity investors do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support from other parties ("VIEs"). In the normal course of business, the Partnership enters into a variety of transactions with VIEs. At December 31, 2014, the Partnership has determined that certain Funds are VIEs. The exposure of the Partnership to these VIEs is limited to its receivable for management fees, if any, on the statement of financial condition.

The Partnership determines whether it is the primary beneficiary of a VIE by performing a qualitative analysis of each VIE that includes a review of, among other factors, its capital structure, contractual terms, related party relationships, the Partnership's fee arrangements and the design of the VIE. As of December 31, 2014, the Partnership has concluded that the Partnership was not the primary beneficiary of these VIEs and therefore did not consolidate them.

#### **5. EMPLOYMENT AGREEMENTS**

Pursuant to various employment agreements, the Partnership is obligated to pay certain senior employees their share of incentive allocations, if any, earned by certain of the Partnerships' affiliated Funds. These amounts are included in compensation payable to employees in the statement of financial condition totaling \$96,718 as of December 31, 2014. Amounts payable under employee agreements for these Funds are accrued based on the respective employees' percentage of cumulative incentive allocations earned from these Funds and are paid pursuant to the terms of the Funds' partnership agreements and respective employment agreements. Amounts are accrued annually, and are subject to reversal in subsequent years based on the performance of these Funds.

#### **6. LINE OF CREDIT**

The Partnership and two affiliates share a \$10,000,000 line of credit with a bank that expires on August 31, 2016. Pursuant to terms of the agreement, the Partnership cannot have more than \$1,500,000 of the line of credit outstanding at any time. Interest is payable monthly on outstanding borrowings at a rate of LIBOR plus 2.25% per annum, or the Alternate Base Rate, as defined in the agreement, plus 0.25% per annum. At December 31, 2014, the Partnership did not have any borrowings outstanding.

One of the affiliates is contingently liable for \$2,898,688 on a standby letter of credit in connection with one of its office space leases as of December 31, 2014. The other affiliate has drawn \$250,000. No other amounts have been drawn down or used from the line of credit.

The Partnership and the two affiliates are jointly and severally liable to repay their respective obligations under this arrangement.

# AVENUE ASIA CAPITAL MANAGEMENT, L.P.

## NOTES TO STATEMENT OF FINANCIAL CONDITION DECEMBER 31, 2014

### 7. NOTES PAYABLE - BANK

The Partnership and two affiliates obtained a loan to purchase an airplane through a trust during 2007. As part of a refinancing entered into by the Partnership and two of its affiliates in December 2011, the original note was fully repaid and replaced by a secured note ("Note (i)") and an unsecured note ("Note (ii)"), and together with Note (i), the "Notes"). In 2014 Note (ii) was extended under the same terms to mature at December 15, 2016. The principal terms of the Notes are summarized below:

	Total principal amount outstanding at December 31, 2014	Partnership's share of principal amount outstanding at December 31, 2014	Interest rate (per annum)	Maturity
Note (i)	\$ 10,100,000	\$ 2,525,000	LIBOR + 1.15%	December 15, 2016
Note (ii)	10,160,916	2,540,229	LIBOR + 2%	December 15, 2016
Total	<u>\$ 20,260,916</u>	<u>\$ 5,065,229</u>		

The Partnership and the two affiliates are jointly and severally liable to repay their respective borrowings plus accrued interest. In addition, the Note (i) is secured by the airplane. The carrying amounts of the notes payable approximate fair value at December 31, 2014.

The applicable LIBOR for the notes payable - bank at December 31, 2014 is 0.162%.

Current and long-term maturities of the Partnership's share of the Notes are as follows:

Year Ending December 31,

2015	\$ 300,000
2016	<u>4,765,229</u>
Total	<u>\$ 5,065,229</u>

Under the notes payable, the Partnership and the two affiliates are subject to various joint covenants including compliance with debt servicing ratio and minimum assets under management for the Funds they advise. At December 31, 2014, the Partnership and the two affiliates were in compliance with those covenants.

### 8. RECENT ACCOUNTING DEVELOPMENTS

In May 2014, the FASB and the International Accounting Standards Board (collectively, the "Boards") issued their joint revenue recognition standard that is intended to improve and converge the financial reporting requirements for revenue from contracts with customers. The core principle of the standard is that an entity shall recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. The Boards developed a five-step model and related application guidance, which replaces most existing revenue recognition guidance in U.S. GAAP and International Financial Reporting Standards. For non-public business entities, the new standard is effective in fiscal years beginning after December 15, 2017, and interim periods in fiscal years subsequent to that year. The Partnership is currently evaluating the impact of the standard.

# AVENUE ASIA CAPITAL MANAGEMENT, L.P.

## NOTES TO STATEMENT OF FINANCIAL CONDITION DECEMBER 31, 2014

---

### 9. SUBSEQUENT EVENTS

The Partnership has evaluated subsequent events through March 31, 2015, the date the statement of financial condition was authorized for issue and has concluded that no events occurred from the date of the statement of financial condition through the date the statement of financial condition was authorized for issue that would require disclosure in the statement of financial condition, except as mentioned below.

Subsequent to December 31, 2014 the Partnership received a contribution from a limited partner for approximately \$3,000,000.