

**PART 2A OF FORM ADV: FIRM BROCHURE**



# OFS Capital Management, LLC

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This brochure provides information about the qualifications and business practices of OFS Capital Management, LLC (“**OFS Management**”) and Orchard First Source Asset Management, LLC (“**OFSAM**,” and collectively with OFS Management, “**we**,” “**us**,” or “**our**”). If you have any questions about the contents of this brochure, please contact us at 847-734-2000 or our Chief Compliance Officer, Eric P. Rubenfeld, at 323-860-9542 or [erubenfeld@ofsmanagement.com](mailto:erubenfeld@ofsmanagement.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (the “**SEC**”) or by any state securities authority.

Additional information about OFS Management is also available via the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). The SEC’s website also provides information about any of our affiliates who are registered, or are required to be registered, as investment advisers.

OFS Management and OFSAM are registered investment advisers under the Investment Advisers Act of 1940, as amended (the “**Advisers Act**”). OFS Management’s and OFSAM’s registration under the Advisers Act does not imply any level of skill or training.

## **Item 2           Material Changes**

Since we filed our annual update to Form ADV, Part 2A on March 31, 2014, the following material changes have been made to this brochure:

- Given the increasing number of CLOs for which we act as collateral manager, we have modified our brochure to discuss our CLO clients generally, rather than discussing each CLO fund individually.
- We have updated and expanded the brochure to reflect recent developments within our business, including the acquisition of a new client, CIM Commercial Trust Corporation.
- Updates have been made to Item 6 to provide additional details regarding our allocation of investments to our CLOs and the allocation of expenses to the BDC and the CLOs.
- Updates have been made to Item 10 to clarify certain conflicts of interest we encounter as a result of our material relationships and industry affiliations.

Our brochure may be requested, free of charge, by contacting our Chief Compliance Officer, Eric P. Rubenfeld (the “**CCO**”), at 323-860-9542 or [erubenfeld@ofsmanagement.com](mailto:erubenfeld@ofsmanagement.com).

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## Item 4            Advisory Business

### **Background**

OFS Management is a Delaware limited liability company that was organized on March 18, 2010. OFS Management has been in business for approximately five years. OFSAM was formed on December 17, 2009 and is the sole member and the manager of OFS Management. The principal owner of OFSAM is Richard Ressler through his interest in Orchard Investments II, LLC. Certain OFSAM subsidiaries and affiliates were organized in 1994.

Neither OFS Management nor OFSAM has any employees. Each of them has entered into a staffing agreement (each a “**Staffing Agreement**”) with Orchard First Source Capital, Inc. (“**OFSC**”), a Delaware corporation and wholly owned subsidiary of OFSAM, which employs or otherwise makes available most of the personnel (including investment professionals) that provide services to each of OFS Management and OFSAM. OFSC also acts as the manager of OFSAM.

OFS Management serves as the investment adviser to OFS Capital Corporation and CIM Commercial Trust Corporation and both OFS Management and OFSAM serve as collateral manager to various “collateralized loan obligation” funds (individually, a “**CLO**” and, collectively, the “**CLOs**”), and in the future may serve as investment adviser and/or collateral manager to other funds including pooled investment vehicles to be formed. OFSAM also serves as the investment adviser to a proprietary fund.

OFS Capital Corporation (the “**BDC**”) is an externally managed, closed-end, non-diversified management investment company that has elected to be regulated as a business development company under the Investment Company Act of 1940, as amended (the “**1940 Act**”). The BDC invests through direct investments managed by OFS Management and through two wholly-owned subsidiaries managed by OFS Management: OFS Capital WM, LLC (the “**Senior Loan Fund**”) and OFS SBIC I, LP (together, as appropriate, with OFS SBIC I GP, LLC as its general partner, the “**SBIC Fund**”).<sup>1</sup>

CIM Commercial Trust Corporation (“**CMCT**”) is a diversified real estate investment trust (“**REIT**”), as defined in the Internal Revenue Code of 1986, as amended, that invests primarily in substantially stabilized real estate and real estate-related assets, including office, hotel and multifamily properties, located in areas targeted for opportunistic investment in the U.S. CMCT also deploys a portion of its capital to its real estate lending platform through a wholly-owned subsidiary that originates and services loans.

Each of OFS Management and OFSAM serves as the collateral manager to one or more of the CLOs, each of which is an exempted company incorporated with limited liability under the laws of the Cayman Islands. All of the ordinary shares of each of the CLOs are held by a licensed trust company incorporated in the Cayman Islands, under the terms of a

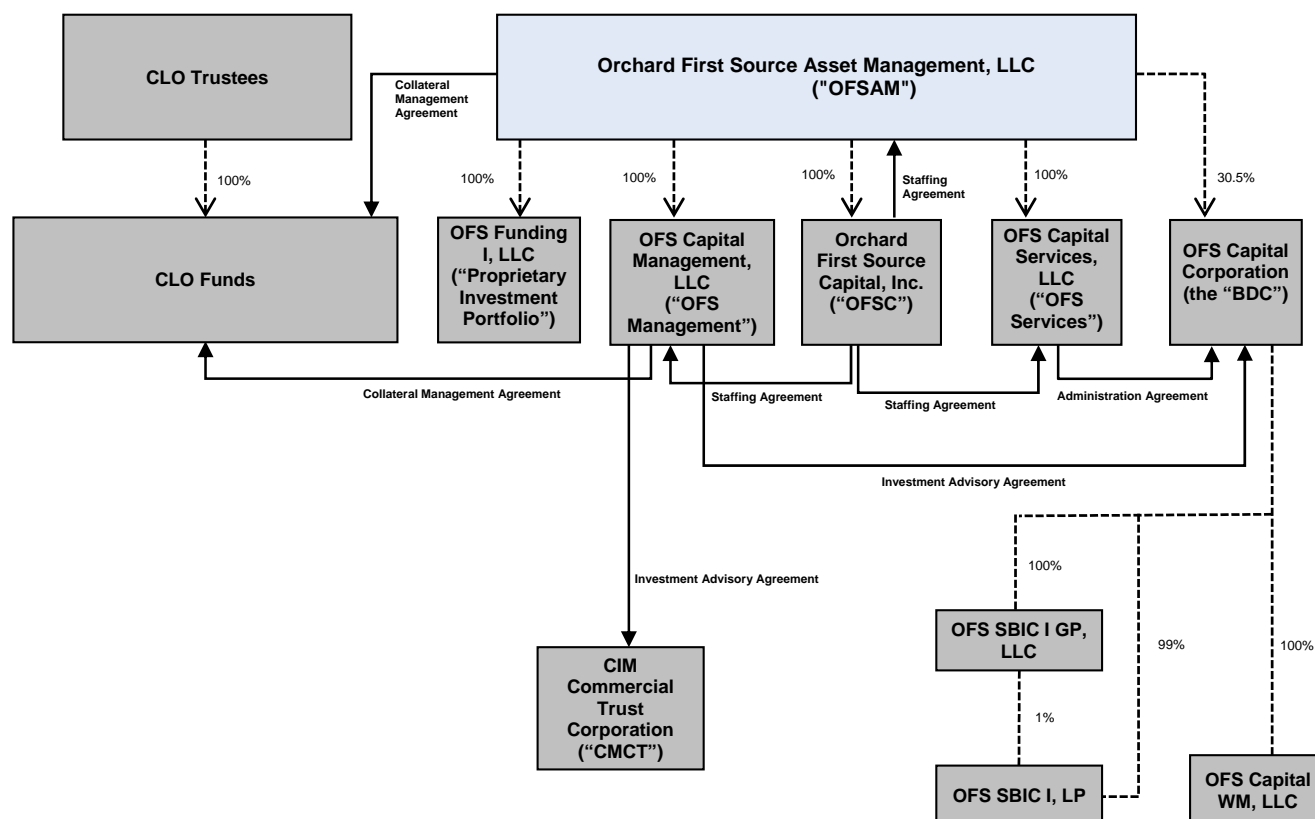
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<sup>1</sup> 99% of OFS SBIC I, LP is held directly by the BDC. The remaining 1% is held indirectly through the BDC’s 100% ownership of OFS SBIC I GP, LLC, its general partner. Day-to-day management of the SBIC Fund is vested in the general partner.

declaration of trust for the benefit of one or more charitable organizations located in the Cayman Islands. Each of the CLOs has issued various classes of notes (collectively, the “**CLO Notes**”).

OFSAM manages its proprietary investments, which we refer to herein as the “**Proprietary Investment Portfolio**.”

The following chart depicts our structure:



## Advisory Services

OFS Management currently provides investment management, advisory and certain administrative services and other related services (collectively, the “**investment advisory services**”) to the BDC and to most of the CLOs. OFS Management also acts as the investment adviser to CMCT and/or its subsidiaries and manages the investment and reinvestment of its loan assets by determining the composition of its loan portfolio; specifically, by determining the loans that CMCT will originate, restructure, retain, or sell in its loan portfolio, directly or through its subsidiaries. OFSAM provides investment advisory services to one of the CLOs and to the Proprietary Investment Portfolio. We refer to each of the funds and accounts advised by us, together with future advisory clients, individually as a “**Client**” or collectively as “**Clients**.” The investment advisory services we provide include sourcing potential investments, conducting research and due diligence

on potential investments and equity sponsors, analyzing investment opportunities, structuring investments, and monitoring investments and portfolio companies.

We have traditionally focused on investments in middle-market and broadly syndicated U.S. loans; however, we provide investment advice to Clients regarding a variety of investments, including other types of debt and equity. We use the term “**Middle-Market**” to refer to companies that may exhibit one or more of the following characteristics: (i) between 150 and 2,000 employees; (ii) revenues between \$15 million and \$300 million; (iii) annual earnings before interest, taxes, depreciation, and amortization (“**EBITDA**”) between \$3 million and \$50 million; (iv) generally, private companies owned by private equity firms or owners/operators; and (v) enterprise values between \$10 million and \$500 million.

### **The BDC**

OFS Management currently provides tailored investment advisory services to the BDC pursuant to an investment management agreement (the “**BDC Management Agreement**”). As a regulated business development company, the BDC is subject to a number of restrictions on its investments, including the requirement that it invest primarily in “eligible portfolio companies,” as defined in the 1940 Act. The BDC invests in senior secured loans, which include first lien, second lien, and unitranche loans, as well as subordinated loans and, to a lesser extent, equity securities, in Middle-Market U.S. companies. The BDC’s strategy is currently implemented through direct investments and through two investment vehicles that are wholly-owned subsidiaries of the BDC.

### **Senior Loan Fund**

The Senior Loan Fund primarily invests in senior-secured “club” loans to Middle-Market companies with an EBITDA generally in the range of \$5 million to \$50 million. The floating rate senior loans are match-funded through a floating rate credit facility. OFS Management engages a third party to assist in the underwriting and due diligence process of the loans in the Senior Loan Fund. These loans are then reviewed and approved by the BDC investment committee prior to becoming an investment in the Senior Loan Fund.

### **SBIC Fund**

The SBIC Fund, a licensed small business investment company (“**SBIC**”), typically originates structured debt and equity investments in Middle-Market companies with an EBITDA generally in the range of \$3 million to \$12 million. The debt investments typically bear a low-teens fixed rate of interest and are complemented in certain instances by equity investments. These investments are financed through long-term, fixed-rate debentures guaranteed by the Small Business Association (“**SBA**”). As an SBIC regulated by the SBA, the SBIC Fund’s investments are limited to loans to and equity securities of “eligible small businesses” under SBA regulations.

## **CMCT**

OFS Management currently provides tailored investment advisory services to CMCT and/or certain of its subsidiaries pursuant to a master investment management agreement dated as of February 13, 2015 (the “**CMCT Effective Date**”) by and among CMCT (together with any subsidiary that becomes a party thereto), OFS Management, and CIM Service Provider, LLC (“**CIM Service Provider**”), a CMCT affiliate that provides or arranges for other service providers to provide management and administration services to CMCT (the “**CMCT Management Agreement**”). CMCT engages in, among other things, the business of originating, structuring, reselling and holding real estate loans, directly or through one or more subsidiaries. OFS Management determines the composition of the loan portfolios of CMCT and/or its subsidiaries, by evaluating loans presented to OFS Management by CIM Service Provider for origination in or purchase by a portfolio, as well as any modifications thereto or restructuring thereof presented by CIM Service Provider. OFS Management’s services are subject to (i) the investment objectives, policies and restrictions for each such loan portfolio that are determined by CMCT’s board of directors from time to time, (ii) the Advisers Act, and (iii) all other applicable federal and state laws, rules and regulations, and the organizational and governance documents.

## **CLOs**

Each of OFS Management and OFSAM currently provides tailored investment advisory services to one or more of the CLOs pursuant to a collateral management agreement between the relevant CLO and either OFS Management or OFSAM, as the case may be (each, a “**CLO Management Agreement**”, and, collectively, the “**CLO Management Agreements**”). The CLO’s portfolios are comprised predominantly of senior secured “club” and syndicated loans made to U.S. companies (both public and private). Each CLO is subject to restrictions on investing in certain companies (or other issuers) and types of securities under the terms of a note indenture (individually, a “**CLO Indenture**”, and, collectively, the “**CLO Indentures**”). The loans and synthetic securities in which the CLOs invest must meet stringent criteria set forth in the CLO Indentures, including, but not limited to (i) a requirement of periodic payments of interest in cash, (ii) a minimum Moody’s Rating, and (iii) numerous other asset and portfolio criteria.

## **Proprietary Investment Portfolio**

OFSAM provides investment advisory services to the Proprietary Investment Portfolio. The Proprietary Investment Portfolio consists primarily of legacy investments that are being harvested and investments in the CLOs. From time to time, OFSAM may make new investments in the Proprietary Investment Portfolio that are not appropriate for our other Clients; however, we do not expect the Proprietary Investment Portfolio to make new investments in companies in which our other Clients invest.

## **Management of Client Assets**

As of December 31, 2014, we had approximately \$1.76 billion of regulatory assets under management on a discretionary basis, and no assets under management on a non-discretionary basis.

## **Item 5            Fees and Compensation**

### **General**

A written investment management agreement governs the terms of compensation and the manner in which we charge fees to each of our non-proprietary Clients. The following discussion provides an overview of our current fee and compensation arrangements.

We typically charge our Clients both a base management fee and a performance-based incentive fee. Our base management and incentive fees vary by Client, and we may negotiate different fee schedules for Clients (or underlying investors) based on a variety of factors, including the nature of the Client's proposed investments. Specifically, we may enter into agreements with certain Clients (or their underlying investors) that may, in each case, provide for investment terms that are more favorable than the terms provided to other Clients (or their underlying investors). Such terms may include the waiver, reduction or sharing of management and/or incentive fees, the provision of additional information or reports, more favorable transfer rights, and more favorable liquidity rights.

Subject to the specific terms of their respective investment management agreements, we typically bill our current Clients directly for their fees. Future Clients, however, may authorize us to directly deduct fees from their accounts, or the underlying investors in such Clients may elect to be billed directly for fees. Typically, we will bill our fees quarterly in arrears. Client accounts initiated or terminated during a quarter may be charged a prorated base management fee and incentive fee. Upon termination of any Client account, we will promptly refund any unearned, prepaid fees and any earned, unpaid fees will remain due and payable.

Clients may incur certain charges imposed by custodians, brokers, and other third parties, including custodial fees, deferred sales charges, odd-lot differentials, transfer taxes, wire transfer and electronic fund fees, and other fees and taxes on brokerage accounts and securities transactions. Our management fees are exclusive of such brokerage commissions, custody fees, fund expenses, transaction fees, and other related costs and expenses. We do not receive any portion of these commissions, fees, and costs and will not receive a brokerage commission or other compensation attributable to the sale of securities or other investment products. For a detailed discussion of the factors that we consider in selecting or recommending broker-dealers for Client transactions and determining the reasonableness of commissions and compensation for such broker-dealers, please see "Item 12 Brokerage Practices – Selection of Broker-Dealers and Reasonableness of Compensation."

An affiliate of OFSAM provides agency services to lenders, including, in some cases, investment advisory Clients. This affiliate typically receives an annual flat fee in connection with these services, but these agency fees constitute a *de minimis* amount relative to our investment advisory fees.



## **BDC Management Agreement**

OFS Management is currently a party to the BDC Management Agreement. The board of directors of the BDC, which includes the independent directors, approves the BDC Management Agreement on an annual basis. Throughout this Brochure, we refer to directors who are not “interested persons” as defined in the 1940 Act as independent directors.

Pursuant to the BDC Management Agreement, in exchange for OFS Management’s investment advisory services, the BDC pays OFS Management a base management fee (the “**BDC Base Management Fee**”) equal to a percentage of the average value of the BDC’s total assets (other than cash, cash equivalents, and the intangible asset and goodwill resulting from the acquisition by the BDC of all the equity interests in the SBIC Fund not then owned by OFS Capital Corporation, but including assets purchased with borrowed amounts and including assets owned by any consolidated entity) at the end of the two most recently completed calendar quarters. The BDC Base Management Fee, which is calculated at an annual rate of 1.75%, is payable quarterly in arrears.

In addition, pursuant to the BDC Management Agreement, the BDC pays OFS Management an incentive fee (the “**BDC Incentive Fee**”). The BDC Incentive Fee has two components. The first part is calculated and payable quarterly in arrears in an amount equal to 20% of that portion of the BDC’s “pre-incentive fee net investment income” (expressed as a rate of return) for the immediately preceding quarter that exceeds 2.5%, and 100% of that portion of the “pre-incentive fee net investment income” that is between 2.0% and 2.5%. The second part is determined and payable in arrears as of the end of each calendar year in an amount equal to 20% of the BDC’s realized capital gains, if any, on a cumulative basis at year-end, net of all realized capital losses and unrealized capital depreciation on a cumulative basis, less the aggregate amount of any previously paid BDC Incentive Fee. The BDC Incentive Fee is determined on a consolidated basis and, as such, applies to the operations of any consolidated entity.

OFS Management provides and pays for the compensation of OFS Management’s investment professionals and OFS Management’s affiliates, to the extent they provide investment advisory services to the BDC, and the compensation and routine overhead expenses of personnel allocable to these services. Pursuant to the terms of the BDC Management Agreement, the BDC is responsible for paying all other costs and expenses incurred in connection with administering the BDC’s business.

In addition, pursuant to the BDC Management Agreement, the BDC bears all out-of-pocket costs and expenses of its operations and transactions, including, without limitation, those relating to calculating the BDC’s net asset value; administrative fees and expenses under the Administration Agreement (as defined below); independent directors’ fees and expenses; and fees and expenses incurred by and payable to unaffiliated third parties in monitoring financial and legal affairs for the BDC, in monitoring the BDC’s investments, and for performing due diligence on prospective portfolio companies or otherwise relating to, or associated with, evaluating and making investments.

Unless terminated earlier, the BDC Management Agreement will remain in effect from year to year as long as the board of directors of the BDC or the holders of a majority of the

outstanding voting securities of the BDC approve such continuation. In addition, a majority of the BDC's independent directors must approve the continuation of the BDC Management Agreement. The BDC Management Agreement may be terminated by either party without penalty with at least 60 days' written notice to the other party. The holders of a majority of outstanding voting securities of the BDC may also terminate the agreement without penalty with at least 60 days' written notice to OFS Management.

The BDC Management Agreement provides that OFS Management is entitled to indemnification by the BDC against any claims or liabilities, including reasonable legal fees and other expenses reasonably incurred, arising out of or in connection with the business and operations of the BDC, or any action taken or omitted on behalf of the BDC, pursuant to authority granted under the BDC Management Agreement, unless OFS Management acts with gross negligence, willful misconduct, bad faith or reckless disregard of its duties.

In addition, the BDC has entered into an administration agreement (the "**Administration Agreement**") with OFS Management's affiliate, OFS Capital Services, LLC ("**OFS Services**"), pursuant to which OFS Services furnishes the BDC with office facilities, equipment, necessary software licenses and subscriptions, clerical, bookkeeping, and recordkeeping services, and certain officers of the BDC together with their staffs. In consideration for such services, the BDC reimburses OFS Services for the BDC's allocable portion of overhead and certain other expenses, including the allocable portion of the salaries and bonuses of the BDC's chief executive officer, chief financial officer, chief compliance officer, chief accounting officer, and their respective staffs. The Administration Agreement may be renewed annually with the approval of OFS Management's board of directors. The Administration Agreement may be terminated by either party without penalty upon 60 days' written notice to the other party.

#### **CMCT Management Agreement**

OFS Management is currently a party to the CMCT Management Agreement. CMCT's board of directors approved the CMCT Management Agreement. Pursuant to the CMCT Management Agreement, in exchange for OFS Management's investment advisory services, CIM Service Provider, an affiliate of CMCT, pays OFS Management an annual management fee equal to \$25,000 per year (the "**CMCT Management Fee**").

The CMCT Management Agreement shall remain in effect for one year after the CMCT Effective Date and may be terminated at any time by any party without penalty with at least 30 days' written notice to the other party. The annual fee for 2015 has been deemed earned, even if the CMCT Management Agreement is terminated for any reason.

#### **The CLO Management Agreements**

As discussed above, OFS Management and OFSAM provide investment advisory services to the CLOs pursuant to the CLO Management Agreements. Pursuant to each CLO Management Agreement, to the extent funds are available in accordance with the priority of payments set forth in the relevant CLO Indenture, the CLO pays OFS Management or OFSAM, as the case may be (the "**Collateral Manager**") (i) a base management fee

ranging from 0.20% to 0.25% per annum, depending on the CLO, and (ii) a subordinated management fee ranging from 0.30% to 0.75% per annum, depending on the CLO, in each case, of the par value of the underlying investments held by the CLO, and (iii) an incentive management fee equal to 20% of the CLO's net principal and interest income after holders of the CLO's residual interest notes have received an annualized internal rate of return ranging from at least 10% to at least 13.5%, depending on the CLO.

The Collateral Manager is responsible for all of its ordinary expenses incurred in the performance of its obligations under each CLO Management Agreement. Where expressly permitted by the CLO Management Agreement, any fees and expenses of any third party employed by the Collateral Manager to perform its obligations under the CLO Management Agreement will be the responsibility of the CLO. In such cases, amounts that are payable by the Collateral Manager shall be reimbursed by the CLO only to the extent funds are available therefor in accordance with and subject to the limitations contained in the CLO Indenture.

Pursuant to each CLO Management Agreement, and the related CLO transaction documents, the CLO is responsible for a negotiated list of costs and expenses incurred by the Collateral Manager on the CLO's behalf, which list typically includes, among others, most or all of the following: (i) fees and expenses payable to rating agencies, consultants, legal counsel, accountants, or other agents, experts, or professionals; (ii) fees and expenses in connection with the acquisition, voting, or disposition of investments; (iii) fees and expenses in connection with the carrying or management of investments; (iv) fees and expenses incurred in connection with the CLO Notes; (v) fees and expenses in connection with trade execution, taxes, transfer fees, insurance, and other similar costs; and (vi) fees and expenses for appraisal, pricing, or valuation services obtained on behalf of the CLO. If permitted by the particular CLO Management Agreement, the CLO's payment of such fees and expenses may include the Collateral Manager's reasonable allocation to the CLO of a portion of the costs and expenses incurred by the Collateral Manager, including in-house personnel.

Each CLO Management Agreement continues in effect until the earlier of the (i) liquidation of all of the assets in the CLO portfolio and the final distribution of the proceeds of such liquidation, and (ii) termination of the Collateral Manager for cause (as defined in the CLO Management Agreement). In addition, the Collateral Manager may resign upon 90 days' written notice to the CLO, the indenture trustee, and the applicable rating agencies. If a CLO Management Agreement is terminated for any reason, or if the Collateral Manager resigns or is removed, the fees and expenses payable by the CLO to the Collateral Manager that have not yet been paid or reimbursed, shall be due and payable following the termination, resignation, or removal.

Each CLO Management Agreement provides that the Collateral Manager is entitled to indemnification by the CLO against any claims or liabilities, including reasonable legal fees and other expenses arising out of or in connection with the CLO Management Agreement unless the Collateral Manager engages in specified activities such as fraud, willful misconduct, bad faith, or gross negligence.

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

We typically enter into investment management agreements with Clients that provide for performance-based or incentive fee arrangements. The exception to this is CMCT, which pays us a flat fee of \$25,000 per year. We do not charge any Clients an hourly fee. The terms and conditions of our fee arrangements are subject to individualized negotiations with each Client, and are structured in accordance with Section 205 of the Advisers Act and the rules promulgated thereunder, which permit performance-based fee arrangements with certain types of clients, including business development companies and “qualified clients.” For a description of our performance-based fee arrangements, please see “Item 5 Fees and Compensation.”

### **Conflicts Relating to Performance Fees**

Performance-based fee arrangements may create an incentive for us to recommend investments that may be riskier or more speculative than those that we may otherwise recommend under a different fee arrangement. Although the 1940 Act generally restricts co-investments by a business development company, such as the BDC, and other pooled investment vehicles advised by the same investment adviser, in the allocation of investment opportunities among our non-BDC Clients, performance-based fee arrangements may also create an incentive for us to favor Clients with performance or incentive fee arrangements over Clients that are not charged a performance fee, or even to favor one Client with incentive fee arrangements over another Client with similar arrangements, depending on the relative performance of such Clients’ investment portfolios.

We have adopted an order aggregation and trade allocation policy (the “**Aggregation and Allocation Policy**”) designed to ensure that all of our Clients are treated fairly and equally and to prevent any form of conflict from influencing the allocation of investment opportunities. In accordance with our Aggregation and Allocation Policy, while each of our Clients may not participate in each individual investment opportunity, on an overall basis, each Client will be entitled to participate equitably with our other Clients.

The Aggregation and Allocation Policy seeks to allocate investment opportunities among our Clients in a fair and equitable manner over time. If an investment opportunity is appropriate for two or more Clients with similar or overlapping investment strategies, such investment opportunity will be allocated based on the provisions governing allocation of such investment opportunities, if any, in the relevant organizational, offering or similar documents, if any, for such Clients. In the absence of any such provisions, our investment committees determine the allocation by considering, among other things, the following factors and the weight that should be given with respect to each of these factors: (i) the investment guidelines and/or restrictions set forth in the applicable organizational, offering or similar documents for the Client; (ii) the Client’s risk and return profile; (iii) the suitability/priority of a particular investment for the Client; (iv) if applicable, the targeted position size of the investment for the Client; (v) the Client’s level of available cash for investment; (vi) the total amount of funds committed to the Client; and (vii) the vintage and remaining term of the Client’s investment period, if any.

If we are unable to obtain the aggregate amount desired of a limited investment opportunity for two or more Clients, we will generally pro-rate the aggregate allocation received among the affected Clients based on the original amount recommended for each such Client (i.e. each Client will get the same percentage of the amount originally sought for such Client). Whenever, in our reasonable business judgment, a non-pro rata allocation is justified, a brief description of how the investment was allocated and the reasoning for such non-pro rata allocation will be included in the documentation pertaining to that investment for the affected Clients. The size of an aggregated order will be based on an estimate of what the Investment Committees expect to be appropriate for each Client. The final allocation of the investment among Clients will be made by the investment personnel for each Client.

Due to the differences in the types of loans in which the CLOs and CMCT invest, no co-investments are expected between CMCT and the CLOs.

### **Conflicts Relating to the BDC Management Fees and Use of Leverage**

In the course of its investing activities, the BDC will pay base management and, potentially, incentive fees to OFS Management. Because the base management fees are based on the BDC's total assets (other than cash, cash equivalents, and the intangible asset and goodwill resulting from the acquisition by the BDC of all the equity interests in the SBIC Fund not then owned by the BDC, but including assets purchased with borrowed amounts), OFS Management stands to benefit when the BDC incurs debt or uses leverage. The BDC's board of directors is charged with protecting the BDC's interests by monitoring how OFS Management addresses these and other conflicts of interests. While the BDC's board of directors is not expected to review or approve each borrowing or incurrence of leverage, the independent directors periodically review OFS Management's services and fees as well as OFS Management's portfolio management decisions and the performance of the BDC portfolio. Additionally, under the 1940 Act, the BDC is limited in the amount of leverage it may incur, such that the value of its assets must always exceed 200% of its debt.

### **Conflicts Relating to the Allocation of Expenses to the BDC or CLOs**

Pursuant to the Administration Agreement, OFS Services, an affiliate of OFS Management and OFSAM, performs, or oversees the performance of, the administrative services necessary for the operation of the BDC. (For a description of the Administration Agreement, please see "Item 5 Fees and Compensation.") The BDC pays its allocable share of OFS Services' cost to provide these services, including its allocable portion of the salary and bonuses of the BDC officers and staff, who may also be OFS Management personnel. Other operational costs and expenses are also payable or reimbursable to OFS Management or OFSAM by the CLOs under their respective investment advisory agreements with OFS Management or OFSAM. These allocations of costs and expenses could create conflicts of interest among OFS Management, OFSAM, OFS Services, the BDC and/or the CLOs if costs are not fairly and accurately allocated. To mitigate and limit the potential for a conflict of interest between OFS Management or OFS Services and the BDC, OFS Management personnel track the amount of time that they work on BDC-related projects, which is provided to OFS Management's accounting department to calculate the salary expenses that will be charged to the BDC. The costs of facilities, equipment and necessary software licenses and subscriptions are also allocated to the BDC by the accounting department,

based on the amount of space and equipment that OFS Management personnel who work on the BDC are using. The allocation of expenses to the BDC are reviewed and approved by the Board of Directors of the BDC on a quarterly basis. Other operational costs and expenses are reviewed by the accounting department and may be billed to the CLOs if permitted by the relevant investment advisory agreement. The expenses allocated to each CLO are submitted to that CLO's independent trustee for payment.

### **Conflicts Relating to the BDC's Investment in Non-Cash Paying Investments**

Pursuant to the BDC Management Agreement, the BDC Incentive Fee is computed and paid on income that the BDC may not have yet received in cash. This fee structure may be considered to involve a conflict of interest for OFS Management to the extent that it may encourage OFS Management to favor debt financings that provide for deferred interest, rather than current cash payments of interest. OFS Management may have an incentive to invest in deferred interest securities in circumstances where it would not have done so but for the opportunity to continue to earn the incentive fee even when the issuers of the deferred interest securities would not be able to make actual cash payments to the BDC on such securities. This risk could be increased because OFS Management is not obligated to reimburse the BDC for any BDC Incentive Fee received even if the BDC subsequently incurs losses or never receives in cash the deferred income that was previously accrued. To mitigate and limit the potential for a conflict of interest, the independent directors of the BDC periodically review OFS Management's advisory services and fees, as well as OFS Management's portfolio management decisions and portfolio performance.

### **Conflicts Relating to the Valuation of BDC Investments**

Many of the BDC's portfolio investments are not publicly traded. As a result, in accordance with Section 2(a)(41) of the 1940 Act, the BDC's board of directors determine the fair value of these investments in good faith. In connection with that determination, investment professionals from OFS Management provide the BDC's board of directors with portfolio company valuations based upon the most recent portfolio company financial statements available and projected financial results of each portfolio company. In addition, the members of the BDC's board of directors who are not independent directors have a substantial indirect pecuniary interest in OFS Management through their ownership interests in OFSAM, which is OFS Management's parent. The participation of OFS Management's investment professionals in the BDC's valuation process, and the indirect pecuniary interest in OFS Management by those members of the BDC's board of directors who are not independent directors, could result in a conflict of interest since the BDC Base Management Fee and the BDC Incentive Fee are based, in part, on the value of the BDC's total assets. To mitigate this potential conflict, the BDC has adopted a valuation policy to ensure that valuations are properly and consistently determined.

In connection with each of the conflicts associated with the fees payable to the BDC, the board of directors of the BDC, including the independent directors, continuously monitor OFS Management's investment advisory services, portfolio management decisions and the BDC's portfolio performance in order to determine whether the BDC Base Management Fee, BDC Incentive Fee and OFS Management's other expenses remain appropriate.

## **Item 7           Types of Clients**

OFS Management currently provides investment advisory services to the BDC (in accordance with the requirements of the 1940 Act), which includes an SBIC, to CMCT, a REIT, and/or its subsidiaries, and to most of the CLOs. OFSAM currently provides services to one CLO and to the Proprietary Investment Portfolio. Investors in the BDC and CMCT, which include OFSAM and its affiliates, are believed to be individual retail and institutional investors of all types and kinds. Investors in the CLOs are believed to be banks, insurance companies, and other institutions, as well as government or private pension funds.

The minimum account size necessary to open and maintain an account with OFS Management or with OFSAM varies by the type of client. The BDC's and CMCT's common stock is traded on NASDAQ (NASDAQ: OFS and NASDAQ: CMCT, respectively) and there are no minimum investment requirements or investor accreditation requirements to invest in the BDC or in CMCT.

The CLO Notes have not been registered under the Securities Act or any state securities laws and may only be purchased (i) outside the United States by persons that are not U.S. Persons pursuant to Regulation S of the Securities Act and (ii) within the United States by "qualified institutional buyers" pursuant to Rule 144A of the Securities Act. Certain tranches of CLO Notes may be sold to "accredited investors" as defined in Rule 501(a) of Regulation D of the Securities Act. Both qualified institutional buyers and accredited investors must also be "qualified purchasers" as defined in the 1940 Act.

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

Our investment strategy focuses primarily on debt investments in Middle-Market and large corporate U.S. companies.

### **Methods of Analysis**

The portfolio investments we make on behalf of our Clients typically originate from the following sources:

- Our proprietary database of borrowers and intermediaries;
- Private equity sponsors;
- Lending institutions, including agent and investment banks; and
- Financial intermediaries.

Potential investments undergo a detailed review by our credit personnel, which includes a consideration of the following factors, as appropriate:

- Client eligibility;
- Competitive strengths/weaknesses of the borrower;
- Purpose of the loan/use of funds;
- Financial performance (historical and projected) of the borrower;
- Overall business of the borrower, including products, services, management, sponsor, industry, and competition;
- Enterprise and collateral value;
- Transaction and corporate structure;
- Exit alternatives; and
- Any other identified weaknesses/risks and potential mitigating factors.

From time to time, we may engage third parties, including certain of our affiliates, to assist in the underwriting and due diligence process.

Investments that satisfy our underwriting criteria are submitted to the relevant investment committee (depending on the Client), which must approve the investment. Investments in the SBIC Fund are approved by two separate investment committees; the SBIC investment committee and the BDC investment committee, prior to becoming an investment in the BDC. Once an investment is acquired, is it reviewed on an ongoing basis as appropriate by the relevant investment committee(s). This review generally includes the following:

- Receipt and review of periodic borrower financial statements and other deliverables;
- Ongoing communication with senior management; and
- Regular review of any “watchlist” credits; i.e. those that fall below designated internal and external credit quality ratings.

All portfolio companies in which the BDC invests are offered significant managerial assistance in compliance with the BDC’s regulatory requirements. In certain cases, our



investment personnel may provide significant guidance and counsel concerning the management, operations or business objectives and policies of a borrower and may, as necessary, participate as board members or observers, members of creditors' committees, or consultants, or in other managerial roles with respect to the portfolio companies in which our Clients invest.

### **Risk of Loss**

Investing in securities involves risk of loss that Clients should be prepared to bear. More specifically, investing in debt instruments issued by Middle-Market and larger corporate entities may involve, among other things, the following material risks:

**Investments in Leveraged Companies.** The debt investments we make for our Clients consist primarily of non-investment-grade loans to leveraged companies. Investment in leveraged companies involves a number of significant risks. Leveraged companies in which we invest on behalf of our Clients may have limited financial resources and may be unable to meet their obligations under their debt securities that our Clients hold. Such developments may be accompanied by a deterioration in the value of any collateral and a reduction in the likelihood of our Clients realizing on any guarantees that may have been obtained in connection with their investment. Any default on the debt is likely to result in substantial and protracted negotiations or restructuring that may result in a reduction in the interest rate, write-down of principal, or changes to the terms, conditions or covenants with respect to the investment.

Although a large portion of our Clients' investment portfolios consist of senior secured loans, our Clients also invest in subordinated loans, which are generally unsecured, and, to a lesser extent, equity securities. As such, other creditors may rank senior to our Clients in the event of an insolvency. Smaller leveraged companies also may have less predictable operating results and may require substantial additional capital to support their operations, finance their expansion or maintain their competitive position. Such investments typically result in a higher amount of risk than senior secured loans, as well as volatility or loss of principal. Investments in portfolio companies made on behalf of our Clients may be highly speculative and aggressive, and therefore, an investment with us or in our Clients may not be suitable for someone with lower risk tolerance.

**Investments in Private and Middle-Market Companies.** Investment in private and Middle-Market companies involves a number of significant risks. Generally, little public information exists about these companies, and we expect to rely on the ability of our investment professionals to obtain adequate information to evaluate the potential returns from investing in these companies. If we are unable to uncover all material information about these companies, we may not make a fully informed investment decision, and our Clients may lose money on these investments as a result. Middle-Market companies may have limited financial resources and may be unable to meet their obligations under their debt securities that our Clients hold. Such developments may be accompanied by a deterioration in the value of any collateral and a reduction in the likelihood of realizing any guarantees that may have been obtained in connection with the investment. In addition, such companies typically have shorter operating histories, narrower product lines and smaller market shares than larger businesses, which tend to render them more vulnerable

to competitors' actions and market conditions, as well as general economic downturns. Additionally, Middle-Market companies are more likely to depend on the management talents and efforts of a small group of persons. Therefore, the death, disability, resignation or termination of one or more of these persons could have a material adverse impact on the portfolio company and, in turn, on our Clients. Middle-Market companies also may be parties to litigation and may be engaged in rapidly changing businesses with products subject to a substantial risk of obsolescence.

**Illiquid Investments.** Our Clients' assets are frequently invested in illiquid securities, and a substantial portion of our Clients' investments in leveraged companies are subject to legal and other restrictions on resale or are otherwise less liquid than more broadly traded public securities. The illiquidity of these investments may make it difficult to sell such investments if the need arises. In addition, if we are required to liquidate all or a portion of a Client portfolio quickly, this Client may realize significantly less than the value at which we have previously recorded the Client's investments. We may also face other restrictions on our ability to liquidate an investment in a Client portfolio company to the extent that we or any of its other affiliates have material nonpublic information regarding such portfolio company.

**Portfolio Concentration.** Although we believe our Clients' portfolios are well-diversified across companies and industries, Client portfolios may in the future be concentrated in a limited number of portfolio companies and industries. While certain Client portfolios may be subject to asset diversification requirements, such as the BDC's (associated with the BDC's qualification as a regulated investment company under the Internal Revenue Code) and the CLOs' (pursuant to the requirements of the CLO indentures), we do not have fixed guidelines for diversification. As a result, the aggregate returns we realize for Clients may be significantly adversely affected if a small number of investments perform poorly or if there are write downs to the value of any one investment. Additionally, while we are not generally targeting any specific industries, our Clients' investments may be concentrated in relatively few industries. As a result, a downturn in any particular industry in which we are invested on behalf of our Clients could also significantly impact the aggregate returns we realize.

**Effect of Bankruptcy.** Although we generally do not make investments on behalf of our Clients in companies or securities that we determine to be distressed investments, our Clients may hold debt securities of leveraged companies that may, due to the significant volatility of such companies, enter into bankruptcy proceedings or experience similar financial distress. The bankruptcy process has a number of significant inherent risks. Many events in a bankruptcy proceeding are the product of contested matters and adversary proceedings and are beyond the control of the creditors. A bankruptcy filing by an issuer may adversely and permanently affect the issuer. If the proceeding is converted to a liquidation, the value of the issuer may not equal the liquidation value that was believed to exist at the time of the investment. The duration of a bankruptcy proceeding is also difficult to predict, and a creditor's return on investment can be adversely affected by delays until the plan of reorganization or liquidation ultimately becomes effective. The administrative costs in connection with a bankruptcy proceeding are frequently high and would be paid out of the debtor's estate prior to any return to creditors. Because the standards for classification of claims under bankruptcy law are vague, our influence with respect to the

class of securities or other obligations owned by our Clients may be lost by increases in the number and amount of claims in the same class or by different classification and treatment. In the early stages of the bankruptcy process, it is often difficult to estimate the extent of, or even to identify, any contingent claims that might be made. In addition, certain claims that have priority by law (for example, claims for taxes) may be substantial.

**Non-Controlling Investments.** Our Clients generally do not hold controlling equity positions in the portfolio companies in which we invest. As a result of not holding controlling equity interests in these portfolio companies, our Clients are subject to the risk that a portfolio company may make business decisions with which we disagree, and that the management and/or stockholders of a portfolio company may take risks or otherwise act in ways that are adverse to the interests of our Clients. Due to the lack of liquidity of the debt and equity investments that our Clients may hold in portfolio companies, we may not be able to dispose of these investments in the event we disagree with the actions of a portfolio company and our Clients may therefore suffer a decrease in the value of these investments.

**Effects of Default.** A portfolio company's failure to satisfy financial or operating covenants imposed by us on behalf of our Clients or other lenders could lead to defaults and, potentially, termination of its loans and foreclosure on its assets. This could trigger cross-defaults under other agreements and jeopardize such portfolio company's ability to meet its obligations under the debt or equity securities held by our Clients. We may incur expenses on behalf of our Clients to the extent necessary to seek recovery upon default or to negotiate new terms, which may include the waiver of certain financial covenants with respect to a defaulting portfolio company.

**Subordination Risk.** We may invest a substantial portion of our Clients' capital in second lien and unitranche loans issued by portfolio companies. These portfolio companies may be permitted to incur other debt that ranks equally with, or senior to, the debt securities in which our Clients invest. By their terms, such debt instruments may provide that the holders are entitled to receive payment of interest or principal on or before the dates on which our Clients would be entitled to receive payments in respect of the debt securities in which we invest on their behalf. Also, in the event of insolvency, liquidation, dissolution, reorganization or bankruptcy of a portfolio company, holders of debt instruments ranking senior to our Client's investment in that portfolio company would typically be entitled to receive payment in full before our Clients would receive any distribution in respect of our investment. After repaying senior creditors, the portfolio company may not have any remaining assets to use for repaying its obligation to our Clients. In the case of debt ranking equally with debt securities in which our Clients invest, our Clients would have to share any distributions on an equal and ratable basis with other creditors holding such debt in the event of an insolvency, liquidation, dissolution, reorganization or bankruptcy of the relevant portfolio company.

Second lien loans we invest in on behalf of our Clients are typically secured on a second-priority basis by the same collateral securing first lien secured debt of a portfolio company. The first-priority liens on the collateral will secure the portfolio company's obligations under any outstanding senior debt and may secure certain other future debt that may be permitted to be incurred by the portfolio company under the agreements governing the

loans. The holders of obligations secured by first-priority liens on the collateral will generally control the liquidation of, and be entitled to receive proceeds from, any realization of the collateral to repay their obligations in full before our Clients. In addition, the value of the collateral in the event of liquidation will depend on market and economic conditions, the availability of buyers and other factors. There can be no assurance that the proceeds, if any, from sales of all of the collateral would be sufficient to satisfy the loan obligations secured by the second-priority liens after payment in full of all obligations secured by the first-priority liens on the collateral. If such proceeds were not sufficient to repay amounts outstanding under the loan obligations secured by the second-priority liens, then our Clients, to the extent not repaid from the proceeds of the sale of the collateral, will only have an unsecured claim against the portfolio company's remaining assets, if any.

The rights our Clients may have with respect to the collateral securing the loans made to portfolio companies with senior debt outstanding may also be limited pursuant to the terms of one or more intercreditor agreements entered into with the holders of such senior debt. Under a typical intercreditor agreement, at any time that obligations that have the benefit of the first-priority liens are outstanding, any of the following actions that may be taken in respect of the collateral will be at the direction of the holders of the obligations secured by the first-priority liens:

- the ability to cause the commencement of enforcement proceedings against the collateral;
- the ability to control the conduct of such proceedings;
- the approval of amendments to collateral documents;
- releases of liens on the collateral; and
- waivers of past defaults under collateral documents.

We may not have the ability to control or direct such actions, even if the rights of our Clients are adversely affected.

Our Clients may also invest in unsecured subordinated loans to portfolio companies, meaning that such loans will not benefit from any interest in collateral of such companies. Liens on such portfolio companies' collateral, if any, secure the portfolio company's obligations under its outstanding secured debt and may secure certain future debt that is permitted to be incurred by the portfolio company under its secured loan agreements. The holders of obligations secured by such liens generally control the liquidation of, and are entitled to receive proceeds from, any realization of such collateral to repay their obligations in full before our Clients. In addition, the value of such collateral in the event of liquidation will depend on market and economic conditions, the availability of buyers and other factors. There can be no assurance that the proceeds, if any, from sales of such collateral would be sufficient to satisfy the unsecured loan obligations of our Clients after payment in full of all secured loan obligations. If such proceeds were not sufficient to repay the outstanding secured loan obligations, then our Clients' unsecured claims would rank equally with the unpaid portion of such secured creditors' claims against the portfolio company's remaining assets, if any.

Subordinated investments may be subject to greater risk of loss than senior obligations as a result of adverse changes in the financial condition of the obligor or in general economic conditions. If we make a subordinated investment on behalf of our Clients in a portfolio company, the portfolio company may be highly leveraged, and its relatively high debt-to-equity ratio may create increased risks that its operations might not generate sufficient cash flow to service all of its debt obligations.

**Contingent Liabilities.** A material portion of our Clients' investments involve private securities. In connection with the disposition of an investment in private securities, we may be required to make representations on behalf of our Clients about the business and financial affairs of the portfolio company typical of those made in connection with the sale of a business. Our Clients may also be required to indemnify the purchasers of such investment to the extent that any such representations turn out to be inaccurate or with respect to potential liabilities. These arrangements may result in contingent liabilities that ultimately result in funding obligations that must be satisfied through our Clients' return of previously-made distributions.

**Competitive Environment.** We operate in a highly competitive market for investment opportunities, which could reduce returns and result in losses for our Clients. A number of entities compete with us to make the types of investments that we seek on behalf of our Clients. We compete with public and private funds, commercial and investment banks, commercial financing companies and, to the extent they provide an alternative form of financing, private equity and hedge funds. Many of these competitors are substantially larger and have considerably greater financial, technical and marketing resources than we or our Clients do. For example, we believe some of these competitors may have access to funding sources that are not available to our Clients. In addition, some of these competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of investments and establish more relationships than our Clients. The competitive pressures we face may have a material adverse effect on the business, financial condition and results of operations of our Clients. As a result of this competition, our Clients may not be able to take advantage of attractive investment opportunities from time to time, and we may not be able to identify and make investments on their behalf that are consistent with their investment objectives.

The success of our Clients will depend on our ability to originate, recommend, structure, identify and consummate suitable investments in a highly competitive environment, to improve the operating performance of portfolio companies, and to satisfactorily exit the investments. The activity of identifying, completing and realizing attractive debt investments involves a significant degree of uncertainty, and our Clients compete with the public debt and equity markets and with other investors, including our other Clients, other funds, private equity funds, direct investment firms and merchant banks, for investment opportunities. There can be no assurance that we will be able to locate and complete investments that satisfy our Clients' rate of return objectives or realize upon their values or that we will be able to invest fully commitments made by our Clients.

**Leverage.** We may also borrow money on behalf of our Clients to make certain investments and address certain working capital needs. In connection with incurring any such borrowings, our Clients may be required to provide capital commitments or

investments as collateral and agree to certain restrictions with respect to future indebtedness or other corporate actions. Payments of interest and fees incurred in connection with the borrowings will reduce any income that would otherwise have been available, which may reduce our Clients' profitability, and may prevent our Clients from taking advantage of attractive investment opportunities. The income and net assets of a leveraged entity will tend to increase or decrease at a greater rate than if borrowed money were not used. The use of leverage, combined with negative performance may result in a loss of principal for our Clients.

**Lender Liability.** A number of judicial decisions have upheld judgments of borrowers against lenders on the basis of various evolving legal theories, collectively termed "lender liability." Generally, lender liability is founded on the premise that a lender has violated a duty (whether implied or contractual) of good faith, commercial reasonableness and fair dealing, or a similar duty owed to the borrower or has assumed an excessive degree of control over the borrower resulting in the creation of a fiduciary duty owed to the borrower or its other creditors or shareholders. Because our Clients typically act as lenders to the portfolio companies in which they invest, and may, directly or through us, engage in certain managerial activities with respect to smaller Middle-Market borrowers, our Clients could become subject to allegations of lender liability. Such allegations may subject our Clients to the risk of becoming involved in litigation by third parties. This risk may be greater where we or our Clients exercise control or significant influence over a portfolio company's direction.

**Interest Rate Risk.** Although we generally attempt to match the interest rates our Clients pay to finance their portfolio investments against the interest paid by the investments themselves, variations in interest rates may result in a "mismatch" that would lower the overall profitability of our Clients' investment programs. In addition, portfolio investments that bear interest at a rate tied to a particular index will pay a lower interest rate when the index falls. Although many of the variable-rate debt instruments we purchase on behalf of our Clients may bear a minimum "floor" rate of interest to mitigate interest rate risks, this may not always be the case.

**Cov-Lite Loans.** Although certain of the loans in which we invest on behalf of our Clients are governed by loan agreements that include ongoing financial covenants, or promises, by the borrower – for example, to maintain a minimum interest coverage ratio or maximum leverage ratio – we also invest in "Cov-Lite loans" on behalf of our Clients. Cov-Lite loans typically lack such financial covenants or impose them only upon the occurrence of certain events, such as dividend payments, incurrence of incremental indebtedness, mergers or acquisitions, share purchases, or when the borrower borrows on a revolving loan past a certain threshold, etc. To the extent that this delays or forestalls the lenders' ability to foreclose, force a restructuring, or take other action to protect their investment in a portfolio company, Cov-Lite loans may involve a materially higher risk of loss, lower liquidity, and higher price volatility than other debt investments.

**Assignments vs. Participations.** Typically, when we acquire interests in third-party loans on behalf of our Clients, these interests are acquired directly by way of an assignment from the lending institution. The purchaser of an assignment of an interest in a loan typically succeeds to all the rights and obligations of the assignor and becomes a lender under the

loan agreement. We may, however, purchase loan interests for our Client in the form of participations. Loan participations involve a number of significant risks. A participation results in a contractual relationship only with the selling institution, not with the borrower. In the case of a participation, the investor will generally have the right to receive payments of principal, interest and any fees to which it is entitled only from the seller and only upon receipt by the seller of such payments from the borrower. The investor generally will have no right to enforce compliance by the borrower with the loan agreement and may not directly benefit from the collateral supporting the loan. As a result, the investor will assume the credit risk of both the borrower and the institution selling the participation.

**Foreign Investments.** Although our investments on behalf of our Clients are primarily in portfolio companies in the U.S., a portion of these investments may from time to time consist of obligations of non-U.S. obligors. Investing outside the United States may involve a significant number of risks, which may include: less publicly available information; varying levels of governmental regulation and supervision; difficulties in enforcing legal rights or interpretation of laws; possible expropriation; or political, economic, or social instability. Even U.S. borrowers may be subject to these risks when they engage in substantial overseas investments or operations.

For a more complete discussion of the risks associated with investing with us, potential investors should refer to the BDC's registration statement on Form N-2, CMCT's registration statement on Form 8-A, and their respective periodic reports filed with the SEC, the offering memorandum of each of the CLOs, and other Client transaction documents.

## **Item 9            Disciplinary Information**

To the best of our knowledge, there are no legal or disciplinary events that we believe would be material to our Clients' or our prospective Clients' evaluation of our advisory business or the integrity of our management.



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

### **Conflicts Relating to Material Relationships and Allocation of Investment Opportunities**

Our relationships and arrangements with certain of our affiliates and principals are material to our advisory business. For example, all of OFSAM's principals currently serve as senior officers of OFS Management and/or serve on its investment committees, and may in the future manage other investment funds, accounts, or other investment vehicles with investment objectives similar to those of our current and future Clients, or serve or may serve as officers, directors, or principals of entities that operate in the same, or a related, line of business as our Clients. These Clients may have similar or overlapping investment objectives with one another. To address conflicts of interest (actual and apparent) and to fulfill our fiduciary duties to each of our Clients, among other things, we allocate investment opportunities in a manner that is fair and equitable over time and is consistent with our Aggregation and Allocation Policy so that no Client is disadvantaged in relation to any other Client. For a detailed discussion of our Aggregation and Allocation Policy, please see "Item 6 Performance-Based Fees and Side-by-Side Management—Conflicts Relating to Performance Fees."

OFSAM provides investment advisory services to the Proprietary Investment Portfolio. The Proprietary Investment Portfolio consists primarily of legacy investments that are being harvested, and investments in the CLOs. From time to time, OFSAM may make other investments in the Proprietary Investment Portfolio that are not appropriate for our other Clients. We do not expect the Proprietary Investment Portfolio to make any new investments in companies in which our other Clients invest.

### **Conflicts Relating to Time and Resources of Investment Professionals and the Staffing Agreement**

Our senior management, affiliates, and investment professionals will devote as much of their time to our respective Clients as we deem reasonably required to perform our duties to our Clients pursuant to our investment management agreements and in accordance with reasonable commercial standards. As noted in "Item 4 Advisory Business" above, neither OFS Management nor OFSAM have any employees. Rather, each has entered into a Staffing Agreement with OFSC, a wholly owned subsidiary of OFSAM, which employs most of the investment professionals that provide services to OFS Management and OFSAM. Under these Staffing Agreements, OFSC provides experienced investment professionals and other resources to us, including members of our investment committees.

In addition, our investment professionals or other personnel may engage in outside business activities unrelated to their employment by an affiliate, such as serving on the board of a not-for-profit entity or acting as trustee for a family trust. Service with these organizations may raise regulatory concerns, including creating potential conflicts of interest and providing access to material non-public information. As a result, our personnel are prohibited by our Code of Ethics from accepting such appointments or assuming such duties without prior approval of our CCO in consultation with senior management. Approval is granted on a case-by-case basis, subject to proper consideration and resolution

of potential conflicts of interest. Outside activities are approved only if any conflict of interest issues (actual or apparent) can be satisfactorily mitigated or resolved.

### **Conflicts Relating to our Chairman and our CCO**

Our Chairman (and indirect owner) is employed by Orchard Capital Corp., a consulting and advisory services firm wholly owned by our Chairman, and our CCO is employed by CIM Group, L.P., a real estate firm under common control with us. Neither is an employee of OFSC, and both perform other roles for our affiliates, including CMCT and affiliates unrelated to our business that engage in lending, private equity, real estate and capital markets-oriented investment activities. We pay Orchard Capital Corp. and CIM Group, L.P., respectively, for services performed by our Chairman and CCO pursuant to services agreements between OFSC and the relevant providers. While each of our Chairman and CCO are performing their respective roles with and for our affiliates, it could create conflicts of interest due to competing priorities and allocation of time and responsibilities.

### **Conflicts Relating to the BDC Officers that are also Officers and Principals**

The Chief Executive Officer of the BDC and the Chief Financial Officer of the BDC also serve as officers and principals with OFS Management, OFSAM, and certain of our affiliates. They will devote as much of their time to the BDC, our other Clients, or our affiliates as they deem reasonably required to perform their duties to the BDC or to our other Clients pursuant to our investment management agreements. Each of the BDC's Chief Executive Officer's and Chief Financial Officer's performance of their respective roles with or for the BDC and with or for our other Clients or affiliates could create conflicts of interest due to competing priorities and allocation of time and responsibilities.

### **Conflicts Relating to Material Non-Public Information**

Our senior management, members of the investment committees, and our affiliates' investment professionals may serve as directors of, or in a similar capacity with, companies in which we invest or in which we are considering making an investment. Through these and other relationships with a company, these individuals may obtain material non-public information that might restrict our ability to buy or sell the securities of such company under our policies, the policies of the relevant company, or applicable law. In order to mitigate and limit the instances in which we will be subject to these restrictions, we have adopted a confidentiality policy that establishes and maintains controls with respect to the acceptance, use, and handling of confidential information by our personnel.

### **Conflicts Relating to Our Financial Interests in Our Clients and Management of Our Proprietary Investment Portfolio**

In many cases, we and/or our personnel invest in our Clients. For instance, OFSAM owns 30.5 % of the BDC, and invests the Proprietary Investment Portfolio in the CLOs. In addition, our personnel may, and in some cases do, purchase the publicly-traded shares of the BDC or CMCT; however, such purchases may occur only during open trading windows announced by the CCO, and then only with the express pre-approval of the CCO. Further, as noted above, the type and amount of fees paid to us also differs among Clients. The

differences in the financial interests we and our personnel have in our Clients and the Proprietary Investment Portfolio may give rise to conflicts of interest when allocating investment opportunities between and among Clients. We have adopted the Conflicts Procedures (as hereinafter defined) and Aggregation and Allocation Policy to address such conflicts. For a detailed discussion of our Aggregation and Allocation Policy, please see “Item 6 Performance-Based Fees and Side-by-Side Management—Conflicts Relating to Performance Fees.”

### **Conflicts Relating to Investments in Different Parts of the Capital Structure**

We may invest in different classes of securities of companies on behalf of our Clients based upon the particular investment objectives and strategies of such Clients. If Clients hold different classes of securities of a company and that company encounters financial problems, decisions over the terms of any workout or reorganization may raise conflicts of interest. For example, a senior debt holder may be better served by a liquidation of the company in which it will be paid in full, whereas a junior debt holder might prefer a reorganization that could create value for the junior debt holder. We have adopted the Conflicts Procedures to address these types of conflicts.

### **Conflicts Relating to Service by Our Personnel to Portfolio Companies**

We may be requested or required to participate in the management or direction of certain portfolio companies in which our Clients invest, or on committees formed by creditors to negotiate the management of financially troubled borrowers that may or may not be in bankruptcy. Pursuant to the Code of Ethics, with the permission of our CCO, our personnel may serve as directors or in other capacities with, and receive compensation from, these portfolio companies. In acting in such capacities, we may be deemed to have duties to the portfolio company’s shareholders or other creditors, which duties could conflict with our obligations to protect the interests of our Clients and expose us or our Clients to liability to such shareholders or other creditors. We have adopted the Conflicts Procedures to address these types of conflicts. For a discussion of our requirement to assist certain portfolio companies and potential liability resulting therefrom, please see “Item 8 Methods of Analysis, Investment Strategies and Risk of Loss—Methods of Analysis, and Risk of Loss, Lender Liability.”

### **Conflicts Relating to Our Loan Origination Services**

Our Clients may invest in loans originated by us or one of our affiliates and in which we or an affiliate may serve as an administrative agent. Our role as originator and administrative agent on a loan generates fees and creates duties which may conflict with the interest of our Clients. We have adopted the Conflicts Procedures to address these types of conflicts.

### **Conflicts Procedures**

We have adopted various policies and procedures to address potential conflicts among our various Clients, which we refer to as the “**Conflicts Procedures**.” These policies and procedures, which may be modified from time to time at our sole discretion, may require

prior review or approval of certain transactions by our CCO or members of senior management. Relevant policies and procedures for addressing conflicts with respect to a particular Client may be described in greater detail in the governing documents or offering materials for that Client. With respect to affiliate transactions or other matters giving rise to conflicts of interest, the relevant governing documents may provide for, among other things, consultation regarding or approval of such transactions by a person or body such as a trustee, a board of directors, an advisory committee comprised of certain of the underlying investors in a pooled investment vehicle, or, in the case of the BDC, by the independent directors, and in the case of the CLOs, the board of directors or the trustee. Our policies and procedures for addressing such potential conflicts, together with the provisions of relevant governing documents concerning such potential conflicts, may limit our ability to buy or sell a security for a Client or otherwise participate in an investment opportunity for a Client, or to take other actions that we might consider in the best interests of a Client and its investors.

For a discussion of additional conflicts of interest and our procedures for addressing those conflicts, please see “Item 6 Performance-Based Fees and Side-by-Side Management.”

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

We mandate the highest standards of ethical conduct and care from all of our employees, officers, and directors. Our officers and directors and the OFSC employees that provide services to us through the Staffing Agreements described above, whom we collectively refer to as our “personnel,” must abide by this basic business standard and must not take inappropriate advantage of their position. Our personnel are under a duty to exercise their authority and responsibility for the benefit of our Clients and our firm, and may not have outside interests that inappropriately conflict with the interests of our Clients and our firm. Our personnel must avoid circumstances or conduct that adversely affect, or that appear to adversely affect, our Clients or us.

### **Code of Ethics**

Pursuant to Rule 204A-1 of the Advisers Act and Rule 17j-1 of the 1940 Act, we have jointly adopted a Code of Ethics with the BDC to establish applicable policies, guidelines, and procedures that promote ethical practices and conduct by all of our personnel and that prevent violations of the federal securities laws, including the Advisers Act and the 1940 Act. Our Code of Ethics is predicated on the principle that we owe a fiduciary duty to our Clients. It consists of several policies primarily designed to address potential conflicts of interest, including a Personal Investment Policy, an Inside Information Policy, and a Gifts, Entertainment, Political Contributions and Outside Activities Policy.

Our personnel must observe the applicable standards of care set forth in our Code of Ethics and may not seek to evade the policies and procedures set forth therein in any way, including through indirect acts by family members or other associates. We also maintain various Compliance Policies to assure our compliance with other relevant provisions of the Advisers Act. Further, all activities involving the BDC are subject to the 1940 Act and the policies and procedures adopted by the BDC as set forth in the BDC’s Rule 38a-1 Compliance Manual. The obligations set forth in our Code of Ethics are in addition to, and not in lieu of, the policies and procedures set forth in our various Compliance Policies, the Rule 38a-1 Compliance Manual, OFSC’s Employee Handbook, or any other policies and procedures we adopt in respect of the conduct of our business. Our personnel must certify at least annually that they have read, understand, are subject to, and have complied with our Code of Ethics, the various Compliance Policies and the Rule 38a-1 Compliance Manual. Our personnel must comply with applicable federal securities laws and must report violations of our Code of Ethics to our CCO.

We will provide a copy of our Code of Ethics, free of charge, to any Client or investor or any prospective Client or prospective investor upon request. Our Code of Ethics may be requested by contacting our CCO, Eric P. Rubinfeld, at 332-860-9542 or [erubinfeld@ofsmanagement.com](mailto:erubinfeld@ofsmanagement.com).

### **Participation or Interest in Client Transactions**

Conflicts of interest may occur when we, our affiliates, or our personnel invest in the same investments, trade in the same investments at or about the same time, or have a material

financial interest in the same investments that we recommend to our Clients. For example, we or our personnel may invest in the BDC, CMCT, or the CLOs, and, therefore, such persons may hold an indirect interest in the same investments as other investors in the BDC, CMCT, or CLOs. In addition, our personnel may own investments in their personal accounts or through their interests in the Proprietary Investment Portfolio that are the same as or substantially similar to those we also have recommended to our Clients. Our Code of Ethics and the policies and procedures set forth therein have been designed to limit conflicts of interest in cases where we or any of our personnel, buy, sell, or otherwise have a direct or indirect interest in, investments that we have recommended to our Clients.

### **Cross Trades**

Cross-trades are transactions between two clients of the same investment adviser, regardless of whether a broker-dealer is engaged to effect the transaction. We may utilize cross-trades to address account funding issues or for other bona fide portfolio management reasons. Under our policies and procedures, any proposed cross-trade must be advantageous to each of the Clients involved in the transaction. The applicable investment committees must seek the approval of our CCO in advance of the trade and must provide information such as the size of the trade, confirmation that the positions are freely tradable, documentation regarding the price of the transaction, and an assertion that the transaction is advantageous to each Client involved. Any cross-trades involving the BDC must be made in accordance with the policies adopted by the BDC and the requirements of the 1940 Act.

### **Principal Transactions**

In a principal transaction, an adviser, acting for its own account, buys an investment from, or sells an investment to, a client. In addition, a transaction between our Clients and an entity in which we own more than 25% of the equity ownership, such as the BDC (to the extent we retain an ownership interest in excess of 25%), may be considered a principal transaction. Further, transactions between the Proprietary Investment Portfolio and our Clients would also constitute principal transactions. Section 206(3) of the Advisers Act requires an investment adviser to provide written disclosure to a client and obtain the client's consent prior to settlement of any principal transaction. Prior to execution of a principal transaction, the investment committee member recommending the trade must prepare a brief memorandum setting forth the reasons that the transaction is in the best interests of the Client involved, explaining how the transaction will be priced and demonstrating compliance with the relevant provisions of the Advisers Act relating to such type of transaction, including the client consent requirement of Section 206(3). In the case of the CLOs, the approval of the board of directors or another review board or entity may constitute Client consent. The 1940 Act prohibits principal transactions with the BDC. Any permissible principal trade must also be pre-approved by our CCO.

### **Personal Trading Policy**

As discussed above, our personnel must abide by our Code of Ethics. As a general matter, our personnel owe an undivided duty of loyalty to our Clients. Our personnel may not use their knowledge concerning a trade, pending trade, or contemplated investment by any of

our Clients, to profit personally as a result of such transaction, including by purchasing or selling such investments.

As required by Rule 204A-1 of the Advisers Act and Rule 17j-1 of the 1940 Act, our Code of Ethics contains a Personal Investment Policy which mandates that our personnel disclose their personal securities holdings and transactions made in a “Reportable Security,” as defined in our Code of Ethics. Further, our personnel are generally prohibited from purchasing or selling, for any personal accounts, securities or other obligations of companies or issuers that, at that time, are listed on our “Restricted List,” which contains a list of companies or other issuers: (i) about which we may possess material non-public information, (ii) to which we may owe a fiduciary obligation, or (iii) in which our Clients own or intend to purchase an interest. Additionally, our personnel may not invest in an initial public offering or a private placement without the prior written approval of our CCO.

In addition, our Code of Ethics also contains policies and procedures to prevent the misuse of material non-public information by our personnel, including the misuse of material non-public information about our investment recommendations and Client investments and transactions. Our Code of Ethics describes what constitutes “material” and “non-public” information, and outlines the penalties that our personnel are subject to if they trade on such information.

Moreover, our personnel may not engage in “front running.” Front running is an illegal practice in which an investment professional takes a position in an investment in advance of an action he or she knows will predictably affect the price of the investment. The Restricted List and the prohibition on front running are intended to prevent us and our personnel from buying or selling investments contemporaneously with our Clients.

## **Item 12            Brokerage Practices**

We typically have discretionary authority to buy and sell investments for our Clients and to determine the amount of such investments to be bought or sold, consistent with each Client's investment objectives and the restrictions set forth in each Client's investment management agreement and other governing documents. In addition, we may determine, without client consultation or consent, the broker-dealers through which investments are bought and sold and the commission rates or dealer spreads at which transactions are effected. Because our Clients typically acquire and dispose of the majority of their investments in privately-negotiated transactions, many of the transactions in which they engage will not require the use of brokers or the payment of brokerage commissions.

### **Selection of Broker-Dealers and Reasonableness of Compensation**

A material portion of our Clients' investments are in illiquid debt issued by private companies for which there are a limited universe of trading counterparties, and, therefore, we frequently transact directly with the company or an agent bank without the use of a broker-dealer. We do nevertheless effect certain investments through agents and broker-dealers and have adopted a best execution policy and corresponding procedures in respect of our duty to obtain "best execution" for our Clients' investment transactions.

Our objective in selecting broker-dealers and executing transactions is to seek to obtain the best combination of price and execution. We consider the full range and quality of a broker-dealer's service in selecting broker-dealers to meet best execution obligations. The determinative factor is whether the transaction represents the best overall qualitative execution for our Clients. As a starting point, we consider the trade price and imputed mark-up/mark-down. These things being equal or fairly equal among broker-dealers, the following qualitative factors, among others, may be considered: (i) liquidity of the securities traded and current market conditions; (ii) ability to maintain the confidentiality of trading intentions; (iii) ability to place trades in difficult market environments; (iv) quality and value of the research services provided; (v) execution facilitation services provided; (vi) timeliness of execution and trade confirmations; (vii) allocation of limited investment opportunities; (viii) custody services provided; (ix) frequency and correction of trading errors and fairness in resolving disputes; (x) ability to access a variety of market venues; (xi) expertise as it relates to specific investments; (xii) intermediary compensation (dealer spreads); (xiii) financial condition and business reputation; (xiv) gross compensation paid to each broker-dealer; (xv) order flow sent to the broker-dealers; and (xvi) willingness to commit capital.

As discussed above, privately-placed investments may be purchased directly from the issuer or its placement agent on terms we negotiate. Terms subject to such negotiation may include, but are not limited to, the frequency and amount of dividends and other distributions; debt limitations; permitted investments, sales of assets, consolidations and mergers; transactions with affiliates; subordination provisions; representations and warranties; rights of inspection; and events of default. Our ability to negotiate terms as part of a private placement may depend upon the amount of an offering to be bought or sold.



### **“Soft-Dollar” Arrangements**

Currently, we do not have any formal “soft-dollar” arrangements, under which we would direct portfolio brokerage commissions to a specific broker-dealer in return for brokerage or research services. Although we may receive research from broker-dealers and counterparties with whom we transact, such research is typically free of charge to all market participants.

When we receive research or related products or services from broker-dealers, it could potentially cause a conflict of interest as we may have incentive to select broker-dealers based on our interest in receiving these services, rather than receiving the most favorable execution for client trades. However, we generally do not consider access to research or brokerage services when considering broker-dealers with which to place trades. In addition, the types of investments we make for our Clients do not typically generate commissions. Nevertheless, when receiving research or brokerage services from broker-dealers with whom we deal, we receive a benefit because we do not have to produce or pay for such services ourselves.

In the last fiscal year, we acquired the following types of research and related products or services from broker-dealers with whom we did business: written information and analyses concerning specific securities, companies or sectors; market, financial and economic studies and forecasts, as well as discussions with research personnel; financial and industry publications; and statistical and pricing services. These products and services were not provided in exchange for execution or trade fees.

### **Brokerage for Client Referrals**

In selecting or recommending broker-dealers, we do not consider whether we, or any of our affiliates, receive Client or investor referrals from a broker-dealer or other third party.

### **Directed Brokerage**

We do not engage in any directed brokerage arrangements at this time.

### **Aggregation**

Although the 1940 Act limits our ability to make co-investments between the BDC and our other affiliates or Clients, our non-BDC Clients may invest in a manner that requires order aggregation and allocation (i.e. investing simultaneously in multiple Client accounts). We have adopted an Aggregation and Allocation Policy to ensure that these Clients are afforded fair and equitable treatment when aggregating and allocating Client trade orders as well as expenses incurred in such transactions. In certain cases, an investment opportunity that is suitable for multiple Clients may not be capable of being shared among some or all of such Clients due to the limited availability of the opportunity or other factors, including, in the case of the BDC, regulatory restrictions imposed by the 1940 Act, and in the case of the CLOs, restrictions set forth in the CLO Indentures. In situations where co-investment among multiple Clients is not permitted or appropriate, we need to decide which Client(s) will participate in the investment. We make these determinations based on

our Aggregation and Allocation Policy, which generally requires that such opportunities be offered to eligible Clients on a basis that is fair and equitable over time. For a detailed discussion of our Aggregation and Allocation Policy, please see “Item 6 Performance-Based Fees and Side-by-Side Management—Conflicts Relating to Performance Fees.” As a general principle, we will only aggregate transactions when we believe that such an aggregation is lawful and consistent with our duty to seek best execution for our Clients, and is consistent with the pertinent Clients’ offering documents and any other obligation we may have undertaken with respect to each participating Client. In such cases, individual investment advice and treatment will be accorded to each Client, and we will not receive any additional compensation or remuneration of any kind as a result of the proposed aggregation.

## **Item 13          Review of Accounts**

### **Periodic Review of Client Accounts**

We have adopted a Portfolio Management Review Policy and corresponding procedures, as described in Item 8 Methods of Analysis, Investment Strategies and Risk of Loss – Methods of Analysis (the “**Portfolio Management Review Policies**”), which govern the manner in which we consider, approve, document, and monitor our investments. To ensure effective supervision and management oversight of our investment activities, we continuously monitor the composition and quality of our Clients’ investment portfolios as appropriate, utilizing constant and regular interaction with our investment staff. Among other things, we may review a variety of portfolio reports, which may include weekly balance reports, portfolio summaries and other periodic reports containing detailed information regarding the portfolio and investments under consideration.

In accordance with our Portfolio Management Review Policies, our investment committees are primarily responsible for ensuring that the investments held by our Clients are consistent with the respective Client’s investment objectives and applicable investment guidelines and restrictions. We maintain expert investment committees that serve each of our Clients, comprised of members designated by our senior management. The applicable investment committee, in consultation with our CCO, will periodically review our Clients’ portfolios, performance, and prospects to identify irregularities or inappropriate positions.

### **Further Review of Client Accounts**

Certain of our personnel have oversight and monitoring responsibilities set forth in our Portfolio Management Review Policies. Additionally, our CCO, in consultation with members of our senior management and professional advisers, as appropriate, conducts periodic reviews to review investment performance and confirm compliance with our Clients’ investment objectives and our policies.

### **Contents and Frequency of Account Reports to Clients**

As required by the Exchange Act, each of the BDC and CMCT files with the SEC written periodic, quarterly, and annual reports regarding the composition of its portfolios and fund performance and, if requested, will provide more frequent reports to the board of directors, as it may reasonably request. In the case of the CLOs, holders of the Notes receive monthly written reports regarding composition of the portfolio and investment performance from the indenture trustee.

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

### **Economic Benefits for Providing Services to Clients**

Except for the payment of our advisory fee for services to CMCT by CIM Service Provider, we do not receive economic benefits from third parties for providing investment advice or other advisory services to our Clients.

### **Compensation to Non-Supervised Persons for Client Referrals**

We have in the past and may in the future enter into solicitation agreements with third parties, including placement agents, pursuant to which we may compensate persons who are not our supervised persons for introductions to persons who become investors in pooled investment vehicles we manage; i.e. our Clients. We may make cash payments to such solicitors. We take the position that Rule 206(4)-3 under the Advisers Act, the so-called “Cash Solicitation Rule,” does not apply to an adviser who engages a person (i.e., a placement agent) to solicit investors for pooled vehicles advised by such adviser. However, we have adopted a “Solicitors and Placement Agents Policy” to ensure that placement agents and other “solicitors” disclose the nature of their relationship and compensation to investors referred to our Clients for investment.

We will only pay a cash fee, directly or indirectly, to a solicitor of investors for a Client pursuant to a written agreement. Our CCO, or his designee, oversees these solicitation arrangements, including the formation of new relationships. We typically will only engage registered broker-dealers to conduct solicitation activities on our behalf. The CCO determines the eligibility of prospective solicitors and will ensure that each solicitor complies with the terms of the written solicitation agreement.

We do not make any indirect payments to marketing intermediaries such as pension consultants for the referral of investors, and will comply in all respects with applicable “pay to play” legislation and rule-making. Such payments would include, but are not limited to, direct payments for products/services offered by consultants and utilizing a consultant’s affiliated broker-dealer for securities transactions.

Placement agents that solicit or refer potential investors to us are subject to a conflict of interest because they will be compensated in connection with their solicitation activities.

## **Item 15      Custody**

Rule 206(4)-2 of the Advisers Act (the “**Custody Rule**”) (and certain related rules and regulations under the Advisers Act) imposes certain obligations on registered investment advisers that have custody or possession of any funds or securities in which any client has any beneficial interest. An investment adviser is deemed to have custody or possession of client funds or securities if the adviser directly or indirectly holds client funds or securities or has the authority to obtain possession of them (regardless of whether the exercise of that authority or ability would be lawful).

As a business development company, the BDC has adopted a custody policy in order to comply with Section 17f of the 1940 Act and the rules adopted in connection therewith, and the accounts of registered investment companies are specifically exempted from the Custody Rule. The BDC prepares audited financial statements and make such audited financial statements publicly available within 75 days of the BDC’s fiscal year end in accordance with its Exchange Act reporting requirements.

In addition, OFSAM and OFS Management are not deemed to have custody of the funds and securities of the CLOs or CMCT, and therefore are not subject to the requirements of the Custody Rule with respect to the CLOs or CMCT.

## **Item 16            Investment Discretion**

At the outset of an advisory relationship, we typically receive discretionary authority from a Client to select the investments to be purchased and sold by the Client. In all cases, we exercise this investment discretion in a manner consistent with the stated investment objectives and governing documents of the particular Client.

When selecting investments, we observe the investment limitations and other restrictions of the Clients we advise, as well as our Portfolio Management Review Policies. Our Clients may place limitations on our investment authority in their investment management agreement or other governing documents. In the case of the CLOs, the CLO Indentures and the CLO Management Agreements place significant restrictions on our ability to buy or sell investments on their behalf. For example, proper investments for the CLOs must meet, among other restrictions, certain credit rating and other risk criteria, and reinvestment may only occur during prescribed time periods. Additionally, the BDC is subject to certain federal securities and tax laws, including the 1940 Act, as well as SBA regulations, which limit the types of investments that can be made. In the case of CMCT, our evaluation of investments is limited to those presented to us by CIM Service Provider.

Our Clients must provide us with investment guidelines and restrictions in writing. Additionally, we require that Clients execute a power of attorney in our favor, when necessary.

For a complete discussion of our advisory business and the services we provide to our Clients, please see “Item 4 Advisory Business.”

## Item 17      Voting Client Securities

Although the investments in our Clients' portfolios do not typically involve proxy voting, we have accepted, and in the future will continue to accept, discretionary authority to vote any Client proxy ballots we may receive. As such, we have adopted a Proxy Voting Policy (the "**Proxy Voting Policy**") and corresponding procedures to comply with Section 206 of, and Rule 206(4)-6 under, the Advisers Act and with our fiduciary obligations. The Proxy Voting Policy applies to voting securities held by our Clients and has been designed to ensure that we vote proxies in the best interest of our Clients.

When voting proxies, our primary objective is to make decisions in the best interest of our Clients. In fulfilling our obligations to our Clients, we will act in a prudent and diligent manner to enhance the economic value of the underlying investments held by each of our Clients. In acting upon these matters on behalf of our Clients, we will seek to avoid material conflicts of interest between our interests and the interests of our Clients.

An officer or employee designated by us will be responsible for making voting decisions with regard to all of our Clients' proxies. In addition, our Proxy Voting Policy permits a director level employee to cast votes on requests for certain types of waivers and amendments related to loan documents. When voting proxies, some, but not all, of our considerations include:

- the view and opinion of management of the portfolio company in which our Client holds a position and the effect of management's position on the value of our Client's investment;
- with regard to corporate governance matters, the purpose underlying the Client's investment position, including the investment horizon and the current or planned ownership position and degree of our involvement, on behalf of our Client, in management;
- with regard to proposals related to stock option plans and other management compensation issues, the portfolio company's need to recruit and retain highly qualified individuals in competitive labor markets and the relevant industry standards and practices; and
- with regard to proposals related to social and corporate responsibility, we will generally defer to company management, but will not support any proposals that may conflict with the portfolio company's ability to maximize long-term profits or may have an adverse effect on our Client's investment.

The BDC has delegated the exercise of its proxy voting rights to OFS Management. Although the board of directors of the BDC has reviewed and approved our Proxy Voting Policy and would review any proxy votes where a material conflict of interest was identified, the BDC cannot direct how OFS Management votes on a particular solicitation or request. None of the CLOs can direct how OFSAM or OFS Management votes on a particular solicitation or request.

When deciding how to vote proxies certain conflicts of interest may arise. For example, portfolio companies in which different Clients are invested may be competing for or involved in similar transactions, investments, lines of business, or types of research. Voting a proxy with

regard to one Client's portfolio company may adversely affect the prospects or business of another Client's portfolio company. In the past our Clients, and our Clients and we, have co-invested with each other and may continue such co-investment, unless doing so is impermissible based on existing regulatory guidance, applicable regulations, or our Aggregation and Allocation Policy. Because we serve as investment advisors to multiple Clients, a proxy vote in any instance may benefit one Client and adversely affect another Client. In acting upon these matters on behalf of our Clients, we will seek to avoid or mitigate material conflicts between and among our Clients and ourselves. We have adopted procedures for addressing such conflicts of interest. For a detailed discussion of these procedures, please see "Item 10 Other Financial Industry Activities and Affiliations—Conflicts Procedures."

We will maintain proper records in connection with our Proxy Voting Policy and as required under the Advisers Act. Our Clients can obtain a copy of our Proxy Voting Policy, voting procedures and information about how we have voted proxies, by contacting us at 847-734-2000 or our CCO, Eric P. Rubenfeld, at 323-860-9542 or [erubenfeld@ofsmanagement.com](mailto:erubenfeld@ofsmanagement.com).



## **Item 18      Financial Information**

### **Balance Sheet**

We do not require or solicit any prepayment of fees six months or more in advance and, therefore, are not required to provide a balance sheet for our most recent fiscal year.

### **Contractual Commitments to our Clients**

We have no financial condition that is reasonably likely to impair our ability to meet contractual and fiduciary commitments to our Clients.

### **Bankruptcy Petitions**

We have never been the subject of a bankruptcy petition.