

**Fireman Capital Partners LLC**  
**Form ADV Part 2A Investment**  
**Adviser Brochure**

March 2019

**This brochure provides information about the qualifications and business practices of Fireman Capital Partners LLC. If you have any questions about the contents of this brochure, please contact us at (617) 671-0555. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority. Registration as an investment advisor does not imply any level of skill or training.**

**Additional information about Fireman Capital Partners LLC is also available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). You may search this site using either our name or a unique identifying number known as a CRD number; our CRD Number is 152145.**

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## Item 2 – Material Changes

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We describe here the changes in this brochure since our annual updating amendment filed in March 2018:

1. We have updated our disclosures concerning Multiple-investment Funds to refer to Fireman Capital Partners III, L.P. and certain aspects of the terms of that Fund. In that connection we have described in Item 11 our policies with regard to the allocation of investment opportunities among Funds, with a particular emphasis on our Multiple-investment Funds.
2. We have noted that an officer of a Fund's portfolio company may also serve as a consultant to us and related potential conflicts of interest.

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## Item 4 – Advisory Business

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Fireman Capital Partners LLC, a Delaware limited liability company (“FCP,” “us,” “we,” or “our”), is based in Waltham, Massachusetts, and has been in business since 2008. Our owner is Daniel Fireman.

We manage private pooled limited partnership investment vehicles (the “Funds”). Interests in our Funds are marketed primarily to high net worth individuals, trusts, corporations, limited partnerships, and limited liability companies. Those investors purchase interests in our Funds, with investments made at the Fund level, not by individual investors in the Funds. Our only advisory clients are the Funds. As the investment manager of the Funds, we identify investment opportunities, monitor performance and manage the acquisition and disposition of the portfolio company investments of each Fund, and stand ready to deal with issues that may arise with regard to the performance of our Funds’ portfolio companies or the value of our Funds’ investment while a Fund holds the investment. Affiliates controlled by us serve as the general partners (the “GPs”) of each Fund.

The primary focus of our investment management services is researching and managing privately negotiated transactions in operating entities, with a primary focus on non-public middle market companies that market consumer products. Our Funds’ investments are primarily in non-public companies. From time to time, Daniel Fireman, consultants to us or other personnel/employees may serve on a portfolio company’s board of directors or otherwise act to influence control or management of a portfolio company on behalf of the Fund that holds an interest in that company. In addition, officers of a portfolio company may separately serve as consultants to us.

The management services we provide for each Fund are further described in that Fund’s offering memorandum, limited partnership agreement (or an operating agreement if we organize a Fund as a limited liability company), and the management/advisory agreement between us and a Fund (the “Documents”). Certain Funds make a single investment in a single class of securities of a particular portfolio company, which is described in that Fund’s Documents (a “Single-purpose Fund”). Other Funds (including two private investment funds in which investors not affiliated with us invest, vehicles for investment by our employees and vehicles for other parallel investments or co-investments) invest in a variety of portfolio companies without prior specification (“Multiple-investment Funds”).

In accordance with common industry practice, we and the GPs may enter into “side letters” or similar arrangements with certain investors pursuant to which we and the GPs grant an investor specific rights, benefits or privileges that are not made available to investors generally (for example, access to information, ability to transfer interests in a Fund or compliance with specified investment policies, laws or regulations). We will not enter into a side letter if we determine that its provisions would be disruptive to the Fund or its investment program. Disclosure of applicable side letter practices is made to investors prior to their investment in a Fund.

Our Funds’ investments have thus far been in convertible and/or participating preferred stock or convertible debt instruments that carry both a coupon (or pay interest) and have specified participating rights in the portfolio company’s common equity (either by conversion, participation in disposition transactions, or both) or in special classes of common stock, but we reserve the right to organize and offer

interests in additional Funds that will invest in other kinds of securities, such as common stock that carries no special rights. Because the Documents governing our Single-purpose Funds do not permit us to reinvest proceeds generated by that Fund's investments in new investments, income received by a Single-purpose Fund, either from the payment of dividends or interest or upon disposition of all or a portion of the Fund's investment, is either used to pay Fund expenses, held as a reserve against future expenses or distributed to the Fund's investors. Additionally, the Documents detail the remuneration that we and our affiliated GPs receive for managing the Funds.

FCP and our employees are fiduciaries who must take into consideration the best interests of our clients. We will act with competence, dignity, integrity and in an ethical manner when dealing with clients. FCP will use reasonable care and exercise independent professional judgement when conducting investment analysis, making investment recommendations, trading, promoting our services and engaging in other professional activities.

As a fiduciary, we have the obligation to deal fairly with our clients. We have the following responsibilities when working with a client:

- To render impartial advice;
- To make appropriate recommendations based on the client's needs, financial circumstances and investment objectives;
- To exercise a high degree of care and diligence to ensure that information is presented in an accurate manner and not in a way to mislead;
- To have reasonable basis, information and understanding of the facts in order to provide appropriate recommendations and representations;
- Disclose any material conflict of interest in writing; and
- Treat clients fairly and equitably.

FCP does not participate in a Wrap Fee Program.

As of March 2019, we managed approximately \$300 million of assets on a discretionary basis.

## **Item 5 – Fees and Compensation**

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As compensation for our investment management services, we receive from each Fund an annual management fee. In general, the management fees range from 0% - 2% annually of the total capital committed to a Fund by its investors.

The amount of the management fee varies for each Fund, is determined at the time the Fund is formed and generally is not changed thereafter. The management fee is generally invoiced quarterly in arrears or advance and is generally subject to waiver or reduction by us in our sole discretion, including in connection with investment made by our affiliates or our own personnel. If a Fund's management fees are invoiced in advance and the Fund is dissolved before the conclusion of the period covered by the advance payment, the unearned management fees are returned to the Fund in connection with its dissolution. In the case of our Multiple-investment Funds for investors not affiliated with us, Fireman Capital Partners II, L.P. ("FCP II") and Fireman Capital Partners III, L.P. ("FCP III"), after the end of their

investment period (i.e., the period within which FCP II or FCP III can draw down capital or redeploy the proceeds of dispositions or other realization events to invest in new portfolio companies), the management fee is calculated based on capital contributions.

In certain circumstances, the management fee may be higher and charged once based on the total capital committed to a Fund by certain investors. Our GP affiliates also generally receive a performance allocation, described further below under Item 6, "Performance-Based Fees and Side-By-Side Management," based on the returns achieved on a Fund's investments.

We also typically receive (1) a closing fee in connection with our Funds' acquisition transactions that is paid by either the portfolio company in which that Fund invests, the Fund itself, or both, and (2) a management services fee from the portfolio companies in which a Fund invests. In the case of a Multiple-investment Fund, we or a Fund's GP may also receive a fee in connection with an unconsummated transaction. Those fees vary in amount (but may be significant and exceed the management fee paid to us by the investing Fund). In the case of our Single-purpose Funds, closing fees paid by a portfolio company are not shared with the Fund that made the related investment. In the case of FCP II, closing, unconsummated transaction and management service fees paid by a portfolio company (or a contemplated portfolio company) are shared equally with FCP II through a management fee reduction. Please see our discussion of related conflicts of interest below under Item 14, "Client Referrals and Other Compensation." Our receipt of closing and management service fees may give rise to a conflict of interest between us a Fund, to the extent that the fee in question is not used to offset fees that we would otherwise collect from that Fund, because we could have an incentive to engage in investment transactions that are not in a Fund's best interest in order to collect those fees. As described below in Item 8, however, we believe we rigorously evaluate each potential Fund investment in order to determine that it is in the investing Fund's best interest.

The Funds generally invest on a long-term basis. Accordingly, unless otherwise provided in a Fund's Documents, we generally expect our investment management fees and management services fees to be paid over the entire life of a Fund. Our affiliated GPs' performance compensation is generally paid after a Fund's disposition of an investment although performance compensation may also be payable after a partial disposition. In the case of FCP II and FCP III, performance compensation on earlier dispositions may be subject to "claw back" to compensate investors for subsequent losses (if incurred). Investors in a Fund generally are not permitted to withdraw or redeem interests in the Fund in which they invest prior to that Fund's dissolution.

To the extent provided in the Documents relating to a Fund, we pay out of our management fees, closing fees and management service fees certain operating expenses, including expenses on account of rent, utilities, office supplies, office equipment, travel, entertainment, compensation of our managers, consultants and employees and other routine administrative expenses related to the services and facilities that we provide to the Funds. Subject to any special provisions contained in its Documents, each Fund bears all other expenses of its operation to the extent not borne by its portfolio companies (which may bear expenses relating to the management services we provide). This includes organizational and offering costs, legal, accounting, insurance, consulting, research, brokerage (including investment banking) and finders' fees (if any), custody, transfer, registration, advisory board, interest, taxes, extraordinary expenses

and other items. With regard to brokerage and investment banking fees, please see the discussion below under Item 12, “Brokerage Practices.”

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

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The Documents generally provide for a distribution waterfall pursuant to which the net proceeds realized by one of our Funds (both dividend or interest payments and proceeds from dispositions of a Fund’s investments) are shared between the GP and the limited partners after the limited partners have been paid back their contributed capital and have received a preferred return. The preferred return to the limited partners may vary from Fund to Fund but generally has been 8% per annum; our affiliated GPs are generally entitled to receive a total performance fee, or “carried interest,” ranging from 0% to 30% of a Fund’s income and gains although the GPs’ actual full receipt of that carried interest depends on the level of income received and gains achieved by the applicable Fund after taking into account the limited partners’ preferred returns and, in the case of FCP II and FCP III, may be subject to a claw back. As with our management fee, our affiliated GPs may waive or reduce the carried interest that they receive in connection with investments by a particular limited partner.

When our Funds invest in the securities of different portfolio companies, we believe the payment of performance-related fees does not give rise to conflicts of interest between our Fund clients. However, because, as discussed further below under Item 8, “Methods of Analysis, Investment Strategies and Risk of Loss,” follow-on investments may be made in the same portfolio company by either a new Single-purpose Fund or FCP II or FCP III and our related persons may have differing levels of interest in the Funds that invest in the same portfolio company, it is possible that we could be subject to a conflict of interest between Funds that invest in the same portfolio company, even though our affiliated GPs are entitled to a carried interest in all such Funds. Such a conflict of interest could occur because each such Fund may invest in a different class of the portfolio company’s securities, having different priorities of payment and participation in the portfolio company’s results of operation or in a disposition or redemption transaction with respect to those securities. Although we consider it unlikely, in such a case, it is possible that actions of the portfolio company in question or in relation to a disposition or redemption with respect to one Fund’s securities could be disadvantageous in relation to the securities held by another Fund. If such a situation were to occur, we intend to evaluate the circumstances separately with respect to each such Fund and to act independently in each Fund’s best interests.

FCP II’s and FCP III’s Documents generally restrict our right to form other multi-investment Funds until FCP II or FCP III has achieved a defined level of investment, but do not restrict our right to form Single-purpose Funds. In that connection the defined level of investment by FCP II has already occurred.

## **Item 7 – Types of Clients**

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As described above under Item 4, “Advisory Business,” we currently provide investment management services only to our existing Funds and in the future anticipate that we will provide investment management services only to those Funds and other private equity Funds. We do not have a pre-

established limit on the size of the Funds that we form and manage. We generally require a minimum capital commitment of \$1,000,000 by limited partners who are not affiliated with us, subject to waiver by a Fund's GP.

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

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

Our Funds have thus far invested in either convertible (and/or participating) preferred stock, convertible debt securities or special classes of common stock of operating portfolio companies in negotiated transactions. Our Funds make both control and non-control investments and generally require significant continuing ownership by company management. A Fund may engage in a joint transaction with other unaffiliated private equity funds or investors.

Prior to making each Fund investment, we carry out an extensive analysis of a target portfolio company's current operations, management, competitive position, financial strength, plans and prospects. A vital element of this analysis is the development of an operating plan that, if the investment is consummated, will provide the basis for the portfolio company's operating targets. Our due diligence analysis generally includes at least the following:

#### *Target company, market, product and brand position and prospects*

A critical part of our analysis of investment opportunities involves defining and understanding the target portfolio company's competitive advantages and whether or not those advantages can be sustained or enhanced. We examine the market definition of the target's products and competing products and companies that make them, as well as the dynamics of customer behavior. A key to our strategic due diligence is a thorough analysis of each competitor's market share, products, intellectual property, management, financial capability and implicit future strategy. This includes a review of the distinctive capabilities of the target company that can set it apart from other participants in its industry. These capabilities include brand franchise, current product set and pipeline, marketing and distribution strength. Due diligence also often includes a third-party market study.

#### *Management*

We evaluate the members and depth of the target's management team, work to ensure that management's economic incentives post-closing are aligned with the target's business plan and the best interests of our investing Fund and, if we decide an investment is advisable, take (together with other participants, if any, in the investment transaction) the steps we consider necessary to support the management team. If required, our professionals will temporarily fill operating positions while one or more high quality managers are recruited, and we may separately contract with a person hired by a portfolio company for that person to provide consulting services to us with respect to other matters.

#### *Regulatory, Environmental, Tax, Legal, Accounting*

We and an experienced team of outside professionals perform a full review of potential regulatory,



environmental, tax, legal, and accounting contingencies, as needed, prior to making an investment.

#### *Exit Analysis*

Before making a Fund investment, we thoroughly explore the alternative options for future liquidity. In considering the price that we consider acceptable for an investment, we discount more heavily securities that we believe our investing Fund is likely to have limited opportunities to sell.

#### *Risks of Loss*

The task of identifying investment opportunities and managing such investments is difficult and involves a substantial degree of risk. There can be no assurance that our Funds will be able to realize any particular investment return or be able to generate returns for their investors. A Fund may lose all or a substantial portion of its investment. Each Fund's investment (or, in the case of FCP II or FCP III, investments) may be subject to the following risks in addition to other risks relating to a specific investment that are described in a particular Fund's offering materials:

#### *Nature of Investments Generally*

Our Funds' investments consist almost entirely of securities issued by privately held companies whose operating results are frequently difficult to predict. Such investments involve a high degree of business and financial risk, which can result in substantial losses. Among those risks are the general risks associated with investing in companies in the expansion and/or recently profitable stage. The Funds' portfolio companies typically have obtained capital in the form of equity and/or debt to expand rapidly and develop new products, new markets, or both. These activities generally entail significant changes in the portfolio company's operations that can give rise to significant management and financial issues relating to sales, manufacturing, distribution and general administration. The management of each portfolio company is the responsibility of that company's management team. While we will monitor and oversee that management to the extent we can, our authority to do so may be limited and may depend on the agreement and cooperation of other investors. Thus, the success of our Funds' investments will depend in part on our and our co-investors' ability to select and retain good and talented managers and to oversee their performance, as to which there can be no assurance.

Additionally, the past performance of our Funds' investments is not a guarantee of future results, either by that Fund or other Funds, and there can be no assurance that any Fund's investments will perform as well as past investments. While the Funds generally have similar investment foci, management of each Specific-purpose Fund's investment can be expected to differ since each Specific-purpose Fund invests in a different security, usually issued by a different portfolio company. Risks that are unique to FCP II and FCP III, as opposed to our Specific-purpose Funds, are pointed out separately below.

#### *Illiquidity of Investments; Liabilities in Connection with Dispositions*

Many of the Funds' investments have been, and are expected to continue to be, highly illiquid because of the nature of the investment in question (including valuation difficulties), the lack of a public secondary market and legal or contractual restrictions on the investment's transfer. As a result, typically no assurance can be given that the value of a Fund's investments can be realized on any particular schedule. In addition, even if a public secondary market is available, a Fund's ability to realize on its investments depends to

our decision as to whether or not the Fund should sell those investments. There may also be no readily available non-public market for the Funds' investments, many of which will be difficult to value and, as previously noted, may be subject to legal or contractual restrictions on resale. In some instances, the sale of securities owned by a Fund may require lengthy negotiations.

Although we have thus far never done so, we and our related GPs may cause the securities of a Fund's portfolio company or companies to be distributed to the Fund's limited partners, valued at the time of distribution in our good faith judgment. Because the valuation we place upon such distributed securities would affect the amount of our carried interest, we would have a conflict of interest in such a situation. In addition, the limited partners in such a Fund could then be subject to the same kinds of difficulties in disposing of the distributed securities that the Fund would have been subject to had it continued to hold the securities.

In connection with the disposition of an investment in a portfolio company, a Fund may be required to make representations about the business and financial affairs of the portfolio company that are typical in connection with the sale of a business. The disposing Fund may be required to indemnify the purchasers to the extent that any such representations prove to be inaccurate. These arrangements may require the establishment of escrows or result in the incurrence of contingent liabilities for which the Fund's GP may determine a need to establish reserves. As a result, distributions may be delayed or withheld until the applicable escrow period expires or the reserve is no longer needed.

Our Funds may at times hold minority equity stakes in public companies, such as might occur if a portfolio company is taken public or merged with a public company in a transaction in which a Fund receives as consideration publicly traded stock. As is the case with non-controlling minority holdings in general, such a minority stake is likely neither to have the control characteristics of majority, or controlling minority, ownership nor carry the valuation premiums accorded majority or controlling stakes, and it may be difficult to determine the most advantageous timing to sell our Funds' interests.

#### *Concentration of Investments*

Our Single-purpose Funds have invested in one investment in one portfolio company. As a result, any particular Single-purpose Fund's investment results are determined by the performance of a single investment. In the case of FCP II or FCP III, a small number of investments make up the portfolio and poor performance by just one or a limited portion could result in a significantly adverse effect on FCP II's or FCP III's performance.

#### *Need For Follow-On Investments and Related Conflicts of Interest*

Following a Fund's initial investment in a given portfolio company, follow-on investments may be necessary to assure the portfolio company's financial stability or to allow it to take advantage of business opportunities. Because our Single-purpose Funds raise money only to engage in a particular investment, our affiliated GP for those Funds has no right to call upon limited partners to provide funding for a further investment. Historically, if we have considered a further investment to be advisable, we have formed a new Single-purpose Fund to make that investment, interests in which have been offered both to limited partners in the Single-purpose Fund holding an existing investment in the portfolio company

and to other investors. However, to the extent that they have the resources to do so, FCP II and FCP III may engage in follow-on investments, and going forward we may also form a new Multiple-investment Fund that could engage in follow-on investments. As noted above in Item 6, “Performance-Based Fees and Side-By-Side Management,” because a new investment may be in different securities with different rights, utilization of a different Fund to make a follow-on investment may give rise to conflicts of interest between the Funds in question. In addition, the terms of such a new investment could be adverse, or even highly adverse, to existing portfolio company investors, including our Fund that holds a current investment in the portfolio company. Such adverse consequences could also be caused by a follow-on investment by a third party.

In addition, even if we were to determine that a further investment in a Fund’s portfolio company was critically required and that it was advisable for us to arrange such an investment, we can give no assurance that we could successfully offer such interests in a new Single-purpose, that FCP III or an additional Multiple-investment Fund would have the resources to make such an investment or that the portfolio company could obtain such an investment from a third party. An inability by the portfolio company to obtain follow-on investments could have a substantial negative impact on it, its operations and its investors, including our investing Fund or Funds.

#### *Controlling Interests*

Certain of our Funds, either alone or together with one or more of our other Funds, hold controlling interests in their portfolio companies, and we anticipate other Funds that we form will also hold controlling interests. Our exercise of such control on behalf of a Fund, which may entail the appointment of directors and participation in the selection of officers, may result in additional risks of liability for product defects, failure to supervise management, environmental damage, violation of governmental regulations (including securities laws) or other types of liability in which the limited liability generally applicable to the business ownership may be ignored. If any of these liabilities were to arise, the investing Funds could suffer significant losses. In addition, even if a Fund with a controlling interest prevailed against such a claim for liability, that Fund could incur significant costs of defending itself against the claim. The Funds generally indemnify us and the GPs for liabilities incurred in connection with the Fund’s operations, subject to certain exceptions, and fulfillment of such indemnification and other liabilities could give rise to substantial expense.

#### *Non-Controlling Interests; Related Conflicts of Fiduciary Duties*

A Fund may also hold a non-controlling interest in the portfolio company (or companies) in which the Fund invests, and, therefore, we may have a limited ability to protect the Fund’s position in the portfolio company. As a condition for causing a Fund to make a non-controlling investment, we typically seek to obtain appropriate rights to protect the Fund’s investment, but it may not be possible to obtain such rights in all cases and, even if protective rights are obtained, circumstances may arise in which the protections provided may be circumvented or ineffective. As a result, if a Fund does not have a controlling position or other rights that are sufficient to protect its interests, it is possible that a portfolio company or its controlling persons could take actions that negatively impact the value of the Fund’s investment.

Our employees and affiliated person who serve as directors or officers of a portfolio company that our Funds do not entirely own may be required to make decisions that consider the best interests of that portfolio company and its investors, not just the interests of our investing Funds (for example, in situations involving bankruptcy or near-insolvency of a portfolio company), with the result that actions that may be in the best interests of the portfolio company may not be in the best interests of our Funds (and vice versa). Accordingly, there may be conflicts of interests between such a director or officer's duties to our Funds and his or her duties to the portfolio company and its investors as a whole.

#### *Material Non-Public Information*

Although unlikely, by reason of their responsibilities in connection with their other activities, certain of our principals or executives could acquire information that might be used to benefit a Fund or its portfolio companies but that cannot be so used because of legal or contractual obligations of confidentiality owed to a third party. We may not be free to act upon any such information for the benefit of a Fund, with the result that the Fund might not be able to initiate a transaction that it otherwise might have initiated or to sell an investment that it otherwise might have sold.

#### *Foreign Investments*

We may decide to form or cause a Fund to invest in portfolio companies organized and/or primarily operating outside the United States. Such an investment may be subject to certain additional risks due to, among other things, foreign economic, political and legal climates, including favorable or unfavorable changes in currency exchange rates, exchange control regulations (including currency blockage), expropriation of assets or nationalization, imposition of taxes on dividends, interest payments or capital gains, the need for approval by government or other authorities to make investments and possible difficulty in obtaining and enforcing judgments against foreign entities. Furthermore, an offshore portfolio company may be subject to different, less comprehensive accounting reporting and disclosure requirements than domestic portfolio companies.

While we anticipate that a Fund that invests in such a portfolio company would have the power to enter into currency hedging transactions to protect it against adverse movements of the relevant currency or currencies against the U.S. dollar, the Fund's utilization of currency hedging would be in our discretion, and there can be no assurance that, even if currency hedging transactions were utilized, they would be sufficient to offset the effect of adverse currency movements. Furthermore, currency hedging transactions entail costs that may not be fully recovered, or recovered at all, through favorable movements in the hedge position that is entered into on a Fund's behalf.

#### *Indemnification*

A Fund will be generally be required under its Documents to indemnify its GP, us and our and a Fund's GP's partners, shareholders, members, directors, officers, employees, agents and affiliates, as well as any other person who serves at the request of the Fund's GP or on behalf of the Fund as an agent of the Fund or as an officer, director, partner, employee or agent of any other entity, for liabilities incurred in connection with the affairs of the Fund. Those liabilities may be material. For example, in their capacity as directors or officers of portfolio companies, the members, managers or affiliates of a Fund's GP or of

ours may be subject to certain claims. The indemnification obligations of a Fund would be payable from the assets of the Fund, including, in the case of FCP II or FCP III, unfunded commitments of limited partners.

#### *Changes in Environment*

Our Funds' investments in their portfolio companies are intended to extend over a period of years, during which the business, economic, political, regulatory and technology environment within which each portfolio company operates may undergo substantial changes, some of which may be adverse to a Fund's investment. We have the exclusive right and authority (within limitations set forth in a Fund's Documents) to determine the manner in which the investing Fund will respond to such changes. General economic conditions beyond our control can be expected to affect the performance of the Funds. Interest rates, general levels of economic activity, performance of the public securities markets and participation by other investors in the financial markets may affect the value of the portfolio companies or companies being considered for prospective investments. Legal, tax and regulatory changes could occur during the term of a Fund that may adversely affect that Fund, the portfolio company (or companies) in which it invests and the Fund's limited partners.

#### *Leveraged Investments; Loans to Portfolio Companies; Bridge Loans*

While our Funds do not directly incur indebtedness, some of our Funds may invest in portfolio companies that have significant debt (in relation to their size and equity capitalization) or other senior securities (typically preferred stock) at the time of the Fund's investment. In addition, a portfolio company may incur significant debt or issue significant amounts of other senior securities (including to our investing Fund) in connection with the Fund's investment. Such indebtedness or senior securities, or "leverage," generally magnifies both the opportunities for gain by investors in more junior interests in the portfolio company and the risk of loss from a particular investment (particularly if that investment does not hold the most senior position in a portfolio company's capital structure). The use of leverage typically also results in interest expense, preferred dividend payment obligations and other costs to the portfolio company that may not be offset by the company's operating performance, particularly in difficult economic environments. It is possible that a leveraged portfolio company in which a Fund invests will not have sufficient cash flow to pay its current debt service obligations as they become due or will not be able to refinance its outstanding indebtedness on favorable terms, or at all, upon maturity. It is possible that one or more of our Funds' portfolio companies will have outstanding variable rate debt. An increase in interest rates could impact such portfolio companies' ability to meet current debt service obligations or lead to failures to satisfy applicable financial covenants, and the portfolio company's lenders typically will have the ability to exercise a variety of remedies under the relevant credit documents, including foreclosure on the assets of the portfolio company that are used to secure the underlying debt. Any rights of a Fund as an equity investor (including as an investor in preferred stock) will be junior to the rights of the portfolio company's lenders, whether the underlying debt is secured or not. If a portfolio company is liquidated or sold, there may be no assets remaining for preferred or common equity holders after the portfolio company creditors are paid and there may be no assets remaining for holders of common stock after holders of preferred stock obtain all or part of their preferred return.

In addition, a Fund may lend money to one of its portfolio companies, either on a short or long-term basis,

on an unsecured or subordinated basis. Such loans typically are convertible into common equity or otherwise have participation rights in equity transactions, with the result that part of the value of the Fund's investment is anticipated to derive from the business success of the portfolio company. If the portfolio company is liquidated or sold, the repayment of such a loan may be subordinated to a loan made on a secured or more senior basis by another lender and the value of the Fund's investment in such a loan, even if the loan is repaid after provision is made for the payment of secured or senior debt, may be significantly diminished because of a total or partial loss of value of the Fund's right to participate in equity returns.

Furthermore, a Fund may lend to a portfolio company on a short-term, unsecured basis in anticipation of a future issuance of equity or long-term debt securities. Such "bridge loans" would typically be convertible into a more permanent, long-term security; however, for reasons not always in our control, such long-term securities may not be issued, with the result that the bridge loan may remain outstanding. In that event, the interest rate and other terms of the bridge loan may not reflect the risk associated with the unsecured position taken by the lending fund.

#### *Reliance on Management*

Subject to restrictions in a Fund's Documents, we make all decisions with respect to the management of each Fund. Therefore, the success of our Funds depends on our due diligence, the perspicacity of our initial investment decision, our ability to monitor and influence the operating performance of our Funds' portfolio companies and our judgment as to the timing and terms of the disposition or other realization of our Funds' investments. The loss of services of one or more members of our professional staff or of Daniel Fireman could have an adverse impact on our ability to realize a Fund's investment objective. In addition, our officers and employees responsible for managing a particular Fund have responsibilities with respect to our other Funds or their portfolio companies. Thus such persons will have demands made on their time for the investment, monitoring, exit strategy and other functions of other Funds or portfolio companies. Furthermore, our personnel may be engaged in substantial activities other than on behalf of the Funds, may have differing economic interests in respect of those activities and may have conflicts of interest in allocating their time and energy between the Funds and other undertakings.

#### *Conflicts of Interest among Investors*

The investors in a Fund may have conflicting investment, tax and other interests with respect to their Fund investments in connection with decisions concerning the Fund's management, including with respect to the nature or timing of dispositions of investments and exit strategies. In making our decisions, we will consider the investment and tax objectives of a Fund and its investors as a whole, not the investment, tax or other objectives of any investor individually. As a result, our decisions may be more beneficial to one investor than another.

#### *Freedom of Information Disclosures*

Under "freedom of information," "sunshine," "public records" and similar laws, certain governmental or

other regulated entities, such as public universities and pension funds, may be required to publicly disclose confidential information regarding a Fund or its portfolio companies, notwithstanding contractual obligations to the contrary. Any such disclosure could have a material adverse effect upon that Fund or its portfolio companies and could even expose the Fund, its GP or our employees to claims for damages brought by portfolio companies or persons related to them. Nevertheless, the Documents will not prohibit entities that may be subject to such obligations from being admitted to a Fund.

## **Item 9 – Disciplinary Information**

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We have no legal or disciplinary events covered by this item to disclose.

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

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FCP is not registered as a broker-dealer, and none of its management persons are registered representatives of a broker-dealer.

FCP is not registered and does not have an application pending as a securities broker-dealer, futures commission merchant, commodity pool operator or commodity trading advisor.

We hold a controlling interest in Windrose Advisors, LLC (“Windrose”), which is registered as an investment adviser with the SEC and primarily provides nondiscretionary investment advice to high net worth families and their related charities. Windrose’s business is in all respects conducted independently of ours, and we believe Windrose’s activities and ours do not conflict. While individual Windrose clients may invest in our Funds, Windrose refers neither our Fund offerings to its clients nor its clients to us as potential Fund investors, and Windrose has advised us that it will not advise its clients concerning an investment in our Funds. Daniel Fireman, our founder, owner and Managing Partner, is also a founder of Windrose.

As noted in Item 4, we manage private pooled limited partnership investment vehicles. Some of our related persons serve as the General Partner or Managing Member for these Funds. In addition, officers of a portfolio company may separately serve as consultants to us. Some of our Funds may hold interests with differing characteristics and priorities in the same portfolio company; in that connection, see the discussions above in Item 6 and under “Need For Follow-On Investments and Related Conflicts of Interest” under “Risk Factors” in Item 8. Our Funds have purchased directors’ and officers’ insurance for the benefit both of the persons managing the Funds and of persons who serve as directors or officers of portfolio companies for the benefit of the Funds, with the premiums for that insurance shared by the Funds in proportion to their net asset values.

We do not have any other financial industry affiliations, including business relationships with other investment advisers that may create a material conflict of interest.

We do not recommend or select other investment advisors for our clients.

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

### **Code of Ethics**

Our supervised persons must comply with our Code of Ethics, which includes, among other things, a set of policies and procedures to prevent insider trading. The Code describes our high standards of business conduct and our fiduciary duty to our Clients and contains a number of specific requirements and prohibitions. The Code's key provisions include:

- Statement of general principles
- Policy on and reporting of personal securities transactions
- Policy on and reporting of certain political contributions
- A prohibition on insider trading and related policies and procedures
- Restrictions on the acceptance of significant gifts
- Procedures to detect and deter misconduct and violations
- Requirement to maintain confidentiality of client information

Our access persons (i.e., persons with access to confidential information concerning our Funds' investments) must acknowledge the terms of the Code of Ethics at least annually and report to us all of their holdings and transactions in securities, including interests held by immediate family members (except for holdings and transactions in certain securities with respect to which reporting is not required by the SEC's Rule 204A-1 under the Investment Advisers Act of 1940 (the "Advisers Act"), which requires us to adopt and enforce a code of ethics that includes such reporting requirements). Russell Kazorek, Vice President and Chief Compliance Officer, reviews all securities trades by our access persons each quarter. All investments in private placements and initial public offerings by our access persons must be preapproved by our Chief Compliance Officer. Any individual not in compliance with the Code of Ethics may be subject to disciplinary sanctions, including termination.

Clients and prospective clients can obtain a copy of our Code of Ethics by contacting Russell Kazorek at (617) 671-0555.

### **Participation or Interest in Fund Transactions**

As noted above under Items 5 and 6, "Fees and Compensation" and "Performance Based Fees and Side-By-Side Management," Daniel Fireman and certain of our employees, consultants and other access persons may invest in a Fund on the basis described in the Fund's Documents. The fee arrangements and carried interests paid by those persons typically vary from those paid by other limited partners. We do not permit those persons to acquire an interest in our Funds' portfolio companies other than through an investment in the investing Fund or another Fund that invests in the same portfolio company. We note, however, that Daniel Fireman or our other access persons may hold larger interests in one Fund that invests in a portfolio company than they do in another Fund that invests in the same company, and that such differing interests could be deemed to give rise to motivation on their part to favor the Fund in which they hold a larger interest over a Fund in which they hold a smaller interest. If such a situation arises, we intend to form differing teams to manage the two Funds' investments and will seek to rigorously assure that we act in the best interests of each Fund.



A Fund could also invest in a portfolio company in which one of our access persons holds a preexisting financial interest at the time of the Fund's investment. If such a situation occurs, we would implement procedures designed to provide assurance that the financial interest in question does not influence our investment or management decisions with respect to the portfolio company in question, such as by excluding the person[s] who hold the interest in question from our decisions concerning that portfolio company.

### **Allocations of Investment Opportunities among Funds**

Our Multiple-Investment Funds, FCP II and FCP III, may at times have the capacity to invest or make follow-on investments in the same portfolio company, and a Single-purpose Fund may be formed to make an investment that could also be made by a Multiple-Investment Fund. FCP II has completed its investment period (i.e., the period during which it may draw down capital or redeploy the proceeds of dispositions or other realization events to invest in new portfolio companies), but FCP II retains the ability to make follow-on investments in its existing portfolio companies. FCP III has not yet completed its investment period, and FCP III's Documents forbid us to establish a new Multiple-investment Fund until the earlier of the termination of FCP III's investment period and the drawdown of a specified portion of FCP III's capital commitments. Separately, the Multiple-investment Funds' Documents permit the establishment of Single-purpose Funds, including a Single-purpose Fund in which a Multiple-investment Fund may be an investor. As a result, conflicts of interest could occur in the allocation of investment opportunities between one Multiple-investment Fund and the other and between the Multiple-investment Funds and Single-purpose Funds formed after the establishment of a Multiple-investment Fund. We seek to allocate investment opportunities between the Multiple-investment Funds in a fair and equitable manner, bearing in mind, among other things, a Fund's size, investment objectives, terms, investment restrictions and available capital, and intend to establish a new Single-purpose Fund to make an investment that could be made by a Multiple-investment Fund only when we consider that to be in the best interests of that Multiple-investment Fund. In doing so, we may refer an investment decision to a Multiple-investment Fund's advisory committee to seek the committee's views concerning the allocation of a particular investment. We will not under any circumstances make allocation decisions based on anticipated profits or compensation to us, our controlling persons, affiliates or employees.

### **Item 12 – Brokerage Practices**

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As noted above under Item 5, "Fees and Compensation," we typically receive all or a portion of a closing fee from the portfolio companies in which our Funds invest, from the investing Fund itself, or both, in connection with the closing of Fund investment transaction. Our Funds generally do not pay brokerage, investment banking or finders' fees to third parties in connection with their initial investment in a portfolio company. However, the portfolio company itself typically pays an investment banking fee to a brokerage firm that was retained by the portfolio company to find potential investors and assist the portfolio company in negotiating the terms of our investment transaction, and the portfolio company may also pay a finder's fee to other persons. In addition, in connection with a transaction relating to the sale or

redemption of a Fund investment or of the portfolio company's assets or businesses, the portfolio company may engage an investment banking firm, and perhaps other consultants, to advise it in connection with the transaction, with the related fees paid by the portfolio company or, depending on the kind of transaction, the investing Fund. We do not participate in a portfolio company's selection and retention of such a broker or finder or the determination of the related fees in our Funds' acquisition transactions, but we may participate in the choice, and in determining the terms of retention, of investment banking and other advisers in connection with sale or disposition transactions. If we do so participate, we make our decisions on the basis of our assessment of the professional qualifications of the advisers in question and of the fees they propose to charge.

The method of disposing of a Fund investment could involve an initial public offering of securities owned by that Fund or securities into which securities owned by the Fund are convertible. In such a transaction we could have influence over the selection of the managing underwriters in the public offering, which obtain their compensation by receiving brokerage fees or a "dealers' spread" that are deducted from the proceeds of the sales made in the offering. In addition, the portfolio company securities owned by our investing Fund might not be entirely sold, or sold at all, in the initial public offering, in which event our Fund would typically have the right, after the passage of an underwriters' "lock-up period," to sell the Fund's securities on the applicable public secondary market. In such a case we would be responsible for choosing the brokers through which such sales would take place, including the level of brokerage commissions paid. In selecting such brokers, our focus would be on obtaining best execution for the Fund's sales; we would not necessarily choose the brokers that charged the lowest commissions if in our judgment the use of brokers charging higher commissions would result in the best net price to the selling Fund.

We do not receive "soft dollars," research or any other service from brokers, and we believe we would not have conflicts of interest with our selling Fund in selecting, or participating in selecting, brokers and underwriters for these purposes.

We do not receive client referrals from broker/dealers, engage in directed brokerage transaction or, because of the nature of our investments, generally engage in aggregated or block trades. However, if two of our Funds came to hold the same class of publicly traded securities, we might consider engaging in aggregated or block trades in order to gain the best possible price and execution in transactions disposing of those securities.

### **Item 13 – Review of Accounts**

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We closely monitor our Funds' investments. Our investment professionals continually review and analyze existing investments to attempt to identify issues early on and to take action when necessary and meet periodically to update each other on such investments and related matters. Our Investment Committee, which has supervisory authority over all decisions concerning our Funds' investments, is comprised of Daniel Fireman, Managing Partner; Paul Fireman, Chairman; Christopher Akelman, Vice President; and Wes Mendenhall, Principal. As previously noted, our Funds' investments are managed in accordance with the investment objectives and restrictions set forth in a Fund's Documents.

We provide the following reports to limited partners in each Fund:

- Tax information for the completion of tax returns (annual)
- Audited financial statements (annual)
- Capital account summaries (quarterly and annual)
- Portfolio company overviews (quarterly and annual)

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

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As described above under Item 5, “Fees and Compensation,” we typically receive closing fees and management service fees from Single-purpose Fund portfolio companies in which the Fund does not share. In the case of FCP II, closing and management services fees paid by a portfolio company are shared with the Fund through a reduction in FCP II’s management fees. In addition, Fund portfolio companies typically pay certain expenses of our personnel or consultants who are involved in our provision of management services to the portfolio company. Our receipt of these fees may present a conflict of interest because the fees paid by the portfolio company may, in economic substance, be paid in part by our investing Fund through its interest in the portfolio company. However, based on our experience in the private equity market, we believe the fees we receive from and our expenses that are paid by our Funds’ portfolio companies, which are subject to the approval of a portfolio company’s management, reflect the fair market value of the services we provide. In addition, the fees we receive from, and the expenses that are paid by, our Funds’ portfolio companies are described in our Funds’ offering materials and other Documents.

In connection with offering interests in our Funds, we may engage one or more placement agents to contact potential investors. In such a case, we pay the placement agent’s fees, generally by sharing with the placement agent a portion of the management fees and/or performance allocations that we or our affiliated GPs receive from a Fund. Such placement agent fees, if any, are not charged to Fund investors and do not have the effect of increasing the management fees paid to us by the Fund or the performance allocations received by our affiliated GPs.

## **Item 15 – Custody**

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Because our affiliated GPs are the general partners of all our Funds, we are deemed under Advisers Act Rule 206(4)-2 to have custody of the Funds’ assets. We comply with that rule by utilizing the so-called “audit approach” and are therefore not required to arrange for a qualified custodian, as defined in the rule, to send quarterly account statements to Fund investors. Each Fund is audited annually and upon its termination, with its audited financial statements sent to its limited partners within 120 days of the Fund’s fiscal year end or promptly after the completion of a final audit.

## **Item 16 – Investment Discretion**

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Our affiliated GPs have discretionary authority over our Funds' assets pursuant to the applicable partnership agreement, and we have been delegated discretionary authority by our Funds pursuant to investment management agreements between us and each Fund (acting through our affiliated GPs).

## **Item 17 – Voting Client Securities**

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We usually have the ability to influence on the management, operations and strategic direction of portfolio companies in which our Funds invests through holding a controlling interest, an ability to appoint officers and directors, or both, and endeavor to exercise that influence in the best interests of the investing Funds. As a result, we are likely to support of voting recommendations made by a portfolio company's board of directors but do not inevitably do so. To the extent matters arise that call for the vote or consent of the holders of the securities held by our Funds, we exercise those rights on behalf of the Fund in question. We endeavor to do so solely in the best interests of the applicable Fund. Because the circumstances in which we may be called upon to exercise a Fund's voting or consent rights cannot be specified in advance, we do not have pre-established policies on how to vote on particular matters or in particular circumstances; rather, in each case, we act in accordance with our Investment Committee's best judgment concerning the best interests of the investing Fund. Because our performance fees depend on the success of our management of our Funds and the companies in which we invest are not otherwise affiliated with us, we believe we generally do not have conflicts of interest in exercising the Funds' voting and consent rights. However, as noted above under Items 6 and 8, "Performance-Based Fees and Side-by-Side Management" and "Methods of Analysis, Investment Strategies and Risk of Loss," Funds that hold differing interests in the same portfolio company may have conflicting interests in particular circumstances, and Daniel Fireman or our other access persons could have differing levels of investment interest in such Funds. In that connection, please see the discussions of our conflict of interest policies under those items.

Clients may contact Russell Kazorek, Vice President and Chief Compliance Officer, at (617) 671-0555 for further information about our voting and consent policies and procedures and the manner in which we have exercised the Funds' voting and consent rights.

## **Item 18 – Financial Information**

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We are not subject to any financial condition that impairs our ability to meet contractual and fiduciary commitments to clients.

We do not require prepayment of fees of both more than \$1,200 per client and more than six months in advance, and therefore are not required to provide an audited balance sheet to our clients.