

**ITEM 1 – COVER PAGE**

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



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**March 30, 2022**

**This brochure provides information about the qualifications and business practices of Lateral Investment Management, LLC (“LIM”) and its relying adviser Lateral SMA Agent, LLC (“LSMA”), which together operate as a single advisory business (together, “Lateral”). If you have any questions about the contents of this brochure, please contact us at 650-396-2200 or by email at [compliance@lateralim.com](mailto:compliance@lateralim.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, and references in this brochure to LIM as a “registered investment adviser” do not imply a certain level of skill or training.**

**Additional information about Lateral is also available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

**This brochure does not constitute an offer to sell or the solicitation of an offer to purchase interests in funds managed by Lateral. The securities of the funds are offered and sold on a private placement basis under exemptions promulgated under the Securities Act of 1933, as amended (the “Securities Act”), and other exemptions of similar import under U.S. state laws and the laws of other jurisdictions where any offering may be made. Any offer or solicitation will be made solely to qualified investors by means of a private placement memorandum and related subscription materials.**

## **ITEM 2 – MATERIAL CHANGES**

Item 2 of the Brochure identifies and discusses material changes to this Brochure since the last annual update. The last annual update was filed on March 30, 2021. LIM's original filing of this Brochure was December 22, 2017.

There have not been any material changes to Lateral's operations since the last annual update, however, Lateral has made edits to promote clarity in our disclosures.

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## **ITEM 4 – ADVISORY BUSINESS**

### **A. Introduction**

Lateral Investment Management, LLC (“LIM”) and Lateral SMA Agent, LLC (“LSMA”) (together “Lateral”) are private credit and growth equity investment advisers that are organized as Delaware limited liability companies. LIM was founded in 2014 and is majority owned by Mr. Richard de Silva (the “Managing Member” of LIM). LSMA was organized and formed in 2017. LIM, as the filing adviser, and LSMA, as the relying adviser, operate as a single advisory business and together file Form ADV. They (and where appropriate along with their affiliated general partner to each respective fund) are referred to throughout this Brochure as Lateral, unless otherwise appropriate.

Lateral provides discretionary and non-discretionary investment advisory services to private pooled investment funds typically organized as Delaware limited partnerships and limited liability companies, and LIM also serves as a sub-adviser to one private fund (collectively, the “Funds”). The Funds are not registered under the Investment Company Act of 1940, as amended (the “Investment Company Act”), and the securities of the Funds are not registered under the Securities Act of 1933, as amended (the “Securities Act”). Each Fund is governed by a limited partnership agreement or equivalent governing agreement (each, a “Fund Agreement”) that specifies the material terms and conditions of the Fund, including the applicable investment guidelines and investment restrictions, and in some cases confidential private placement memoranda are additionally prepared. The Sub-Advised fund is governed by an advisory agreement that specifies the sub-advisory services to be provided, in accordance with that fund’s investment management guidelines and that fund’s principal advisor. Some of the Funds act as master and feeder fund in a typical master-feeder structure, and some Funds act as co-investment vehicles, investing alongside the main fund in certain investments. Funds are more specifically described in Lateral’s Form ADV Part 1A, Schedule D. Throughout this Brochure, for simplicity, the Funds are categorized into three fund families, the “LUSCOF Funds,” the “Niagara Funds,” and the “Niagara Plus Funds.” Additionally, where appropriate, the Sub-advised Fund and Non-Discretionary vehicles are separately referenced. For ease of clarity, the Sub-advised Fund’s assets are not included in part of the regulatory assets under management (“RAUM”) reported in this Brochure or the related Form ADV Part 1A. Moreover, the Non-Discretionary Funds include, exclusively, the feeder funds (which are pooled vehicles) managed by Lateral. The LUSCOF Funds, Niagara Funds, and Niagara Plus Funds each have three distinct general partner entities (“Affiliated General Partners”) which are organized as Delaware limited liability companies and each further discussed in Item 10.

The investors in the Funds (“Investors”) include, among others, family offices, certain financially sophisticated individuals, trusts, foundations, public pension plans, fund of funds, endowments and charitable organizations.

### **B. Investments**

The Funds’ investments consist of private company securities. Lateral identifies investment opportunities and advises on the acquisition, management, monitoring and disposition of investments for each Fund. The investment strategy primarily consists of providing growth capital to non-sponsored lower middle market companies through the direct origination of short- term senior secured

debt with minority equity stakes. Lateral focuses on lower middle market companies with limited borrowing availability such as owner-operated companies with no private equity sponsor.

### **C. Advisory Services**

Lateral has broad and flexible investment authority per the Fund Agreement and additional governing documents with the exception of the Sub-advised private Fund and Non-Discretionary vehicles. Each Fund's investment objectives and strategy is set forth in the relevant Fund Agreement and, in some instances, also in a confidential private placement memorandum, all of which Investors are urged to carefully review.

The Investors are, to a certain extent, able to negotiate the terms of the applicable Fund Agreement in connection with, and prior to, their investments in a Fund. In certain cases, the Affiliated General Partners have entered into side letter agreements with certain Investors to modify certain rights and privileges which are not available to other Investors (including, without limitation, advisory and performance fee rates, information rights, reporting rights, capacity rights, approval rights and certain other protections and the right to receive certain special allocations) (the "Side Letters").

Once admitted to a Fund, an investor cannot seek additional investment guidelines or restrictions on such Fund, but in certain circumstances can invest in a non-discretionary or "fund of one" vehicle for additional investment opportunities.

As of December 31, 2021, Lateral manages approximately \$564,840,223.26 of assets on a discretionary basis and \$8,993,878.94 on a non-discretionary basis.

### **D. Wrap Fee Programs**

Lateral does not participate in wrap fee programs.

## ITEM 5 – FEES AND COMPENSATION

Lateral is compensated by the Funds through management fees as set forth in each Fund Agreement and, in the case of the Sub-advised Fund, the investment management agreement. In addition, the Affiliated General Partners receive performance-based compensation from the Funds, which is discussed in further detail in Item 6 below. The specific compensation terms vary from Fund to Fund, and the compensation terms for a Fund are set forth in the Fund Agreement for such Fund. For example, certain of the Non-Discretionary Funds pay both management and performance-based fees, while other non-discretionary funds only pay a performance-based fee.

### Fund Management Fees

Generally, Management Fees are payable quarterly. Lateral causes the Management Fee to be deducted directly from the applicable Fund account. Management Fees are not open to negotiation, but Lateral has discretion to waive all or any portion of a management fee in accordance with side letters or similar agreements entered between Lateral, the Funds or certain investors. Where one Fund has invested in another Fund, Lateral does not charge the additional Management Fee. Investors who are affiliates or related persons of LIM are not subject to a Management Fee payable to Lateral.

### Sub-advised Fund and Non-Discretionary Private Fund Fees

Fee arrangements with the Sub-advised Fund and Non-Discretionary Private Funds are individually negotiated with the principal adviser to the Sub-advised Fund or Non-Discretionary Private Fund investors. These fee arrangements are based on assets under management and include performance-based fees. The principal adviser to the Sub-advised fund compensates LIM for LIM's sub-advisory services to that Sub-advised fund on a quarterly basis. The Non-Discretionary Private Fund Manager is also compensated on a quarterly basis.

### Fund Expenses

#### *LUSCOF and Niagara Fund Expenses*

The LUSCOF and Niagara Funds are responsible for all expenses described in the relevant Fund Agreements, including but not limited to, all costs and expenses (including without limitation accountants' and attorneys' fees) incurred prior to such time relating to the organization of the LUSCOF and Niagara Funds, and the offer and sale of interests in the LUSCOF and Niagara Funds; all reasonable costs and expenses relating or readily attributable to or arising out of investments, including without limitation, and as further described in its entirety in the respective Fund Agreements:

- (a) out-of-pocket costs and expenses of the LUSCOF and Niagara Funds, the Affiliated General Partner and LIM in connection with (i) the making of an investment and (ii) the negotiation or preparation of any modification, supplement or waiver of any of the terms of such documents (whether or not consummated and in some cases including co-investment vehicle related expenses); and
- (b) out-of-pocket costs and expenses of the LUSCOF and Niagara Funds, the Affiliated General

Partner and LIM incurred in connection with the evaluation, acquisition, holding, monitoring, refinancing, recapitalization, disposition or proposed disposition of investments.

#### *Co-Investment Vehicle Expenses*

A co-investment vehicle will bear expenses related to its formation and operation. However, in the event that a transaction in which a co-investment was planned is not consummated, the full amount of such unconsummated deal expenses relating to the proposed transaction typically will be borne by the main Fund(s), and not by the potential co-investor(s). Once a potential co-investor has been identified for a particular transaction, the relevant general partner will make a good faith effort to enter into an agreement in which such potential co-investor agrees to bear its pro rata share of broken deal expenses; however, there is no assurance that any such agreement will be made.

#### *Niagara Plus Funds Expenses*

Similar to the LUSCOF Funds and Niagara Funds, the Niagara Plus Funds are responsible for all expenses described in the relevant Fund Agreement and ancillary offering documents. The Niagara Plus Funds will reimburse the general partner for all reasonable and direct expenses incurred in connection with (i) the organization of the fund, the Affiliated General Partner, LIM, as the management company, and related entities and (ii) the preparation of all materials in connection with the offering of the limited partner interests in an amount up to 2.0% of the gross sales proceeds of limited partner interests (“Organization and Offering Expenses”).

The Niagara Plus Funds will also bear all expenses incurred in the operation of the fund and the Limited Partner Advisory Committee, including legal (including all expenses incurred in connection with the continuation of the fund’s offering), accounting (including third-party accounting services), auditing and other professional expenses, administration fees and expenses (including Fund Administrator fees and expenses), investment expenses such as commissions, custodial fees, bank service fees, interest on margin accounts and other indebtedness, borrowing charges on securities sold short and other expenses related to the purchase, sale or transmittal of assets.

Fund expenses pertaining directly to a Fund will be charged to such Fund. If any expenses are associated with two or more Funds, such expenses will be allocated according to the relative aggregate capital commitments of the applicable Funds unless otherwise indicated in LIM’s policy governing the allocation of fees and expenses or if an Affiliated General Partner determines in good faith that a disproportionate allocation would be fair or equitable because the incurrence of such expenses is disproportionately for the benefit of a particular Fund.

*Investors should refer to the relevant Fund Agreement for the Fund in which they are investing for a complete understanding of how expenses, management fees and other compensation are paid to LIM and its affiliates. The information contained herein is a summary only and is qualified in its entirety by the relevant Fund Agreement.*

The foregoing represents LIM’s basic compensation arrangements. However, fees and other compensation are negotiable in certain circumstances and arrangements with any particular Advisory Client or Investor will vary. Please see Item 4.C. for more information regarding Investor Side Letters.

Please also see “Item 12 – Brokerage Practices” in this brochure for further information on brokerage practices and arrangements that relieve LIM from certain costs and expenses.

Neither LIM nor any of its supervised persons accepts compensation for the sale of securities or other investment products.



## **ITEM 6 - PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

Lateral (more specifically, the general partner of the fund or management company) is generally entitled to receive performance-based compensation from the applicable Fund. Potential conflicts exist among Funds with different performance fee arrangements.

The possibility that Lateral can receive performance-based compensation creates a potential conflict of interest in that it is said to create an incentive for Lateral to allocate more time, resources, and/or investment opportunities to clients paying a performance-based fee at a higher rate. The possibility of receiving performance-based compensation can also create incentives for Lateral to make investments on behalf of such clients that are riskier or more speculative than would be the case in the absence of such performance-based compensation.

As is further discussed in the Fund Agreements, it is Lateral's policy to allocate limited investment opportunities that are consistent with the strategies shared by the Funds first to the LUSCOF Funds, and then to the other Funds on a pro rata basis in proportion to the relative amounts of available capital of each Fund, and subject to any restrictions contained in the offering and/or organizational documents of the relevant Fund. The Niagara Funds participate in many investment opportunities through the Niagara Funds' investment in the LUSCOF Funds. After allocating a limited investment opportunity to the LUSCOF Funds, Lateral also maintains sole discretion to allocate limited investment opportunities to other co-investors, such as certain LUSCOF Fund Investors, before other clients, such as the Sub-advised Fund or the Non-Discretionary Funds.

Notwithstanding this approach to the allocation of limited investment opportunities, as a fiduciary, Lateral manages conflicts making investment decisions for each client based on the client's investment objectives, liquidity considerations, investment limitations and other considerations, and in accordance with the Fund documentation. Prior to making an investment, investors are provided with disclosure as to how performance-based compensation is charged and the risks associated with such performance-based compensation. Fund and advisory agreements limit Lateral's ability to establish new Funds, and also contain provisions that set forth investment allocation requirements designed to ensure fair allocation of investment opportunities.

### Fund Performance-Based Fees

#### *LUSCOF Funds Performance-Based Fees*

Each Affiliated General Partner that is the general partner of a LUSCOF Fund will receive a performance-based special allocation on net profit (including both realized and unrealized gains and losses) of that LUSCOF Fund. For each LUSCOF Fund, the applicable Affiliated General Partner will receive a performance-based fee equal to 20% of (a) the Fund's net profit allocated to each limited partner in connection with an 8% compounded annual preferred return on such limited partner's unreturned capital contribution after such preference has been fully paid to the limited partners and (b) any net profits in excess of the preferred return to limited partners and the catch-up described in clause (a). The performance-based fee will be calculated and paid when the applicable Affiliated General Partner authorizes a distribution. Payment of the performance-based fee is subject to interim true-up calculations at the end of each fiscal year and a clawback

mechanism upon the final liquidation (requiring the applicable Affiliated General Partner to return performance-based fees, net of taxes, to the extent that the aggregate performance-based fees exceed 20% of a LUSCOF Fund's net profits).

#### *Niagara Funds Performance-Based Fee*

Each Affiliated General Partner that is the general partner of a Niagara Fund will receive a performance-based fee on net profits derived from both legacy investments (the "Legacy Investments") from a certain affiliated predecessor fund to that Niagara Fund and new investments of that Niagara Fund (the "Current Investments").

With respect to the Legacy Investments of a Niagara Fund, the applicable Affiliated General Partner will receive a performance-based fee equal to 20% of the net profits in excess of the fixed payments to limited partners allocable to such Legacy Investments (ranging between an annual growth rate of 5-12% as determined pursuant to the applicable Fund Agreement). The Legacy Investments and predecessor fund are described in greater detail in the Niagara Funds' limited partnership agreement and confidential private placement memorandum.

With respect to the Current Investments of a Niagara Fund, the applicable Affiliated General Partner will receive a performance-based fee calculated by applying a notional waterfall for all proceeds from such Current Investments. In that notional waterfall, which is intended to approximate a typical private equity fund waterfall, proceeds are notionally allocated as follows:

- First, to the applicable Niagara Fund until it has received (a) all expenses allocable to the Current Investments, (ii) the cost basis of all Current Investments that have been exited or written down to zero, and (iii) a deemed management fee at the rate of 2% per annum on the cost basis of all Current Investments that have not been exited;
- Second, to the applicable Niagara Fund until it has received a return on the cost basis of all Current Investments that have not been exited at an annual rate equal to 8% (the "Notional Preferred Return");
- Third, to the applicable Affiliated General Partner until it has received 20% of the sum of the Notional Preferred Return allocations and allocations to the applicable Affiliated General Partner at this level of the notional waterfall; and
- Thereafter, 80% to the applicable Niagara Fund and 20% to the applicable Affiliated General Partner.

The allocation of performance-based fees described above does not apply to investments of the Niagara Funds in the LUSCOF Funds.

#### *Niagara Plus Funds - Distributions and Fees*

The Niagara Plus Funds make cash distributions to its limited partners out of net cash flow from operations, net disposition proceeds, and other cash, as determined by the general partner at such times as the general partner shall determine in its sole discretion to be available for distribution ("Distributable Cash"). Distributable Cash will be based on a limited partner's relative "Partnership

Percentages”, as further defined in the Fund’s offering documents, and then distributing the amount tentatively allocated to each limited partner as follows:

- Return of Capital: First, 100% to such limited partner until such limited partner has received cumulative distributions equal to such limited partner’s aggregate Capital Contributions;
- 9% Preferred Return: Second, 100% to such limited partner until such limited partner has received a nine percent (9.0%) cumulative non-compounded annual rate of return on the amount of such limited partner’s aggregate Capital Contributions, taking into account the timing and amounts of previous distributions;
- First Catch-Up: Third, 100% to the general partner until the cumulative distributions made pursuant to this subsection (iii) with respect such limited partner are equal to 20% of the cumulative distributions made pursuant to subsections (ii) and (iii) with respect to such limited partner;
- 20% Carried Interest Split: Fourth, 80% to the limited partner, and 20% to the general partner, until the limited partner has received a twelve percent (12.0%) cumulative non-compounded annual rate of return on the amount of such limited partner’s aggregate Capital Contributions, taking into account the timing and amounts of previous distributions;
- Second Catch-Up: Fifth, 100% to the general partner until the cumulative distributions made pursuant to this subsection (v) with respect to such limited partner are equal to 30% of the cumulative distributions made pursuant to subsections (ii) - (v) with respect to such limited partner; and
- 30% Carried Interest Split: Thereafter, 70% to such limited partner and 30% to the general partner.

## **ITEM 7 – TYPES OF CLIENTS**

As previously described in Item 4, Lateral's clients are the private investment funds. The Funds are open only to certain financially sophisticated institutional and high net-worth individuals and entities.

Lateral does not provide investment advisory services to any of the Investors, and thus the Investors should not be deemed to be clients of Lateral. Nevertheless, Lateral requires each Investor to meet certain eligibility requirements. Specifically, each Investor is required to represent that it is an "accredited investor" (as defined in Regulation D under the Securities Act), a "qualified purchaser" (as defined in Section 2(a)(51)(A) of the Investment Company Act, as amended), and/or as a "qualified client" within the meaning of Rule 205-3 under the Investment Advisers Act of 1940, depending on the respective Fund

Investors whose investments in the Funds are subject to performance-based fees are required to be "qualified clients" within the meaning of Rule 205-3 under the Investment Advisers Act of 1940, as amended (the "Advisers Act"). Investors who are "qualified purchasers" for purposes of the Investment Company Act are automatically deemed to be "qualified clients" for purposes of Rule 205-3.

Each Fund requires a significant minimum capital commitment from an Investor in such Fund, which can be waived at the discretion of Lateral.

## ITEM 8 – METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS

### A. Methods of Analysis

Lateral performs its own analyses on prospective investments utilizing an in-house team of individuals with varying degrees of experience in both industry and private equity investing. As noted in Item 4, Lateral will primarily target short-term credit financing to owner-operated or family- owned middle market companies.

Prior to making an investment, Lateral conducts comprehensive due diligence on potential portfolio companies. Lateral's investment process includes analyses of business and industry trends, appraisal of management, assessment of financial results, projections, growth prospects, and competitive advantages, a determination of appropriate transaction and capital structures, and an evaluation of potential appropriate exits. Post-acquisition, Lateral provides ongoing support to portfolio companies by assisting with major strategic, operational and financial initiatives.

### B. Risk Factors

*An investment in the Funds involves a significant degree of risk. There can be no assurance that the Funds' investment objectives will be achieved or that there will be any return of capital. The environment for private equity investments is increasingly competitive and an Investor should only invest in the Funds if the Investor can withstand a total loss of its investment.*

No guarantee or representation is made that the Funds' investment programs will be successful.

The following are some, but not all, of the additional material risks associated with an investment in the Funds:

**Limited Operating History.** Lateral and the Funds have limited operating history on which investors can evaluate the potential performance of the Funds.

**Nature of the Funds' Investments.** A substantial portion of the Funds' investments will be in equity or equity-related investments that by their nature involve business, financial, market and legal risks. While such investments offer the opportunity for significant capital gains, they also involve a high degree of risk that may result in substantial losses.

**Illiquidity of Portfolio Investments.** The Funds' investment portfolios will consist primarily of investments in private companies. The securities in which the Funds will invest may be among the most junior in a portfolio company's capital structure, and thus subject to the greatest risk of loss. It is unlikely that there will be a readily available market for the Funds' investments and most of the Funds' investments will be difficult to value. The Funds will generally not be able to sell their respective securities publicly unless their sale is registered under applicable securities laws or unless an exemption from such registration requirement is available. It is highly speculative as to whether and when a portfolio company will be able to register its securities so that the securities become eligible for trading in public markets. In addition, in some cases, the Funds may be prohibited by contract or legal or regulatory reasons from selling securities for a period of time.

There can be no assurance that the Funds will be able to realize such investments at attractive prices or otherwise be able to affect a successful realization or exit strategy. Consequently, dispositions of such investments may require a lengthy time period or may in the future, result in distributions in kind to the Investors.

**ESG Related Risks.** As the SEC continues to promote environmental, social, and corporate governance (“ESG”) and climate-related issues in its examination and review priorities with respect to registered investment advisors, Lateral intends to implement within its overall investment strategy, for some clients, ESG related principles. Lateral and its management team will make reasonable efforts to consider ESG issues when making investment and investment-related decisions. To that end, Lateral has recently become a signatory to the UN Principles for Responsible Investment (PRI). Additionally, ESG evaluations are often subjective, and an investor’s or buyer’s perception can differ from Lateral’s evaluations of ESG metrics, including third party analysis and scores, which Lateral at times will utilize.

**Uncertainty of Financial Projections.** Financial and other information concerning the Funds’ investments may only be available through certain sources, including the portfolio companies themselves. Such involvement of portfolio companies and sources such as third-party advisors or consultants may present risks primarily relating to reduced control of the functions that are outsourced. There may be no consistent means of confirming the accuracy of information.

**Competition.** The business of investing in leveraged acquisitions, venture capital opportunities and other private equity situations is highly competitive. Identification of attractive investment opportunities by Lateral is difficult and involves a high degree of uncertainty.

**Lower Middle-Market and Middle-Market Companies.** While investments in lower middle-market and middle-market companies may present greater opportunities for growth, such investments may also entail larger risks than are customarily associated with investments in large companies.

**Market and Credit Risks of Debt Securities.** Portfolio companies with debt securities are subject to credit and interest rate risks. “Credit risk” refers to the likelihood that an issuer will default in the payment of principal or interest on an instrument.

**Investment in Distressed Securities.** The Funds will be authorized to invest in the securities and obligations of distressed and bankrupt portfolio companies, including debt obligations that are in covenant or payment default. Such investments generally are considered speculative. The repayment of defaulted obligations is subject to significant uncertainties.

**Bankruptcy.** The Funds may make investments in portfolio companies that are in or subsequently enter into the bankruptcy process. There are a number of significant risks inherent in the bankruptcy process.

**Investments with Third Parties.** The Funds are permitted to co-invest with third parties. The co-investment commitment to a portfolio company may be substantial. Such investments may involve risks not present in investments where third parties are not involved, including the possibility that a co-investor of the Funds may experience financial, legal or regulatory difficulties, may at any

time have economic or business interests or goals which are inconsistent with those of the Funds, may take a different view from Lateral as to the appropriate strategy for an investment or disposition of an investment, or may be in a position to take action contrary to the Funds' investment objectives. In addition, the Funds may in certain circumstances be liable for the actions of their third-party co-investors. In those circumstances where such third parties involve a management group, such third parties may receive compensation arrangements relating to the investment, including incentive compensation arrangements. Some of the third parties or partners with whom the Funds may co-invest have pre-existing investments with target portfolio companies, and the terms of such pre-existing investments may differ from the terms upon which the Funds invest in such portfolio company.

**Co-Investments and Other Transactions with Other Funds.** The Funds may co-invest with other managed funds or accounts. Any such co-investments or related transactions may raise potential conflicts of interest, particularly if the Funds and such other managed accounts invest in different classes or types of securities of the same portfolio company. In that regard, actions may be taken by such other funds that are adverse to the Funds. In addition, it is possible that in a bankruptcy proceeding, the Funds' interests may be subordinated or otherwise adversely affected by virtue of such other funds' involvement and actions relating to their investment. Lateral may cause Funds or accounts managed directly or indirectly by it, including the Funds and other managed accounts in which Lateral or an affiliate may own an interest, to enter into transactions with each other.

**Investment Environment and Market Risk.** Many factors affect the appeal and availability of the types of investments targeted by the Funds. Although the Funds see changes in these factors indicating a trend towards increased opportunities and value creation, there can be no assurance that such changes will continue. There can be no assurance that the Funds will be able to accurately predict market price movements and, as such, there may be a significant degree of market risk.

**Risk of Absence of Exit Opportunity.** Investments are subject to the risk that the Funds will be unable to dispose of such investments by sale or other disposition at attractive prices or otherwise be unable to complete a realization or an "exit" strategy. It is likely that many of the investments made by the Funds will be in securities for which there is no public market. The Funds may also be prohibited by contractual or legal requirements from selling such securities for a period of time, or the investments themselves may be of such a type as to require a substantial length of time to liquidate.

**Risks in Effecting Operating Improvements.** In some cases, the Funds' investment strategies will depend, in part, on the ability of the Funds to restructure and improve the operations of a portfolio company. The activity of identifying and implementing restructuring programs and operating improvements at portfolio companies entails a high degree of uncertainty. There can be no assurance that the Funds will be able to successfully identify and implement such restructuring programs and improvements.

**Concentration.** If a Fund is a co-investment vehicle, such Fund's investment is typically concentrated in a single portfolio company. Even when a Fund is not a co-investment vehicle, such Fund typically has the ability to concentrate a meaningful portion of its investments in a single portfolio company. Although concentration may benefit a Fund if the investment or investments in which it is concentrated generate strong returns, such concentration also may

magnify the losses suffered by a Fund if such investment or investment perform poorly when compared to a more diversified portfolio.

**Follow-On Investments.** The Funds may be called upon to provide follow-on funding for their portfolio companies or have the opportunity to increase their investment in portfolio companies. There can be no assurance that the Funds will wish to make such follow-on investments or that the Funds will have sufficient capital to do so. In particular, Funds that are co-investment vehicles typically only have raised funds sufficient to make a specific investment and typically do not have the ability to call additional capital for follow-on investments.

**Leverage.** Although the Funds have certain limitations on the ability to borrow, portfolio companies may borrow without limitation. A Fund makes use of leverage by incurring or having a portfolio company incur debt to finance a portion of its investment in a given portfolio company. Leverage generally magnifies both such Fund's opportunities for gain and its risk of loss from a particular investment. The use of leverage also will result in interest expense and other costs to such Fund that may not be covered by distributions made to such Fund or by appreciation of its investments. The use of leverage also imposes restrictive financial and operating covenants on a company, in addition to the burden of debt service, and may impair its ability to operate its business as desired and/or finance future operations and capital needs. The leveraged capital structure of portfolio companies will increase the exposure of a Fund's investments to any deterioration in a company's condition or industry, competitive pressures, an adverse economic environment or rising interest rates, and could accelerate and magnify declines in the value of such Fund's investments in the leveraged portfolio companies in a down market. In the event any portfolio company cannot generate adequate cash flow to meet its debt service, a Fund can suffer a partial or total loss of capital invested in the portfolio company, which could adversely affect the returns of such Fund. Furthermore, should the credit markets be limited or costly at the time a Fund determines that it is desirable to sell all or a part of a portfolio company, the Fund may not achieve an exit multiple or enterprise valuation consistent with its forecasts. Moreover, the companies in which a Fund invest generally are not rated by a credit rating agency. A Fund may also borrow money or guaranty indebtedness (such as a guaranty of a portfolio company's debt) or otherwise be liable therefore, and, in such situations, it is not expected that such Fund would be compensated for providing such guarantee or exposure to such liability.

**Managerial Assistance, Control and Board Participation.** The Funds often will designate directors (and non-executive chairmen) to serve on the boards of directors of the Funds' portfolio companies. A board member designated by the Funds will have fiduciary duties to persons other than the Funds. The designation of directors and other measures contemplated could expose the assets of the Funds to claims by a portfolio company, its security holders and its creditors for breaches of fiduciary duties, securities claims and other director-related claims. The exercise of control over a company imposes additional risks of liability for environmental damage, product defects, failure to supervise management, violation of governmental regulations and other types of liability for which the limited liability generally characteristic of business ownership may be ignored.

**Risks of Derivative Transactions.** The Funds are permitted to engage in certain derivative transactions, including swaps, short sales, forward contracts or options (together, the "Derivative Instruments") or hedging transactions which are intended to reduce the Funds' equity, debt, currency or interest rate exposure, however there is no obligation to enter into any such



transactions. The use of Derivative Instruments, even when used with the intent to reduce the risks associated with the Funds' investments, involves additional expenses as well as risks that are different than those of the Funds' direct or indirect investments. Unanticipated changes in securities prices, interest rates or currency exchange rates may result in a poorer overall performance for the Funds than if they had not entered into any such derivative transaction.

**Outside Activities.** Officers and employees may work on outside projects that do not relate to the Funds. Conflicts of interest may arise in allocating opportunities, management time, services or functions among the respective officers and employees.

**Service Providers.** Certain service providers or their affiliates (including any accountants, administrators, lenders, brokers, attorneys, consultants and investment or commercial banking firms) may be investors in the Funds and/or sources of investment opportunities and co-investors or counterparties therewith. This may influence the Affiliated General Partners in deciding whether to select such a service provider. In certain circumstances, service providers or their affiliates may charge different rates or have different arrangements for services provided to the Affiliated General Partners, Lateral or their affiliates (other than the Funds) as compared to services provided to the Funds or their portfolio companies, which may result in more favorable rates or arrangements than those payable by the Funds or such portfolio companies.

**Investor Advisory Board Approvals.** Certain Fund Agreements contain certain protections for Investors against conflicts of interest faced by the Affiliated General Partners, but will not purport to address all types of conflicts that may arise. As applicable, under the Fund Agreements certain transactions that involve conflicts of interest between the Affiliated General Partners and the Funds may be submitted to the investor or limited partner advisory board for evaluation. However, the investor or limited partner advisory board will not necessarily represent the interests of all the Investors and the members of the investor advisory board may themselves be subject to various conflicts of interest.

**Reliance on Key Management Personnel.** The success of the Funds will depend, in large part, upon the skill and expertise of the management of Lateral. In the event of the death, disability or departure of Lateral's Managing Members, Lateral's business and the performance of the Fund may be adversely affected.

**Business, Terrorism and Catastrophe Risks.** Clients will be subject to the risk of loss arising from exposure that such Clients may incur, indirectly, due to the occurrence of various events, including hurricanes, earthquakes, and other natural disasters, terrorism and other catastrophic events such as a pandemic. These catastrophic risks of loss can be substantial and could have a material adverse effect on the Firm's business and Clients' portfolios including investments made by the Firm.

**Cybersecurity Risks.** Recent events have illustrated the ongoing cybersecurity risks to which operating companies are subject. To the extent that a portfolio company is subject to cyber-attack or other unauthorized access is gained to a portfolio company's systems, such portfolio company may be subject to substantial losses in the form of stolen, lost or corrupted (i) customer data or payment information; (ii) customer or portfolio company financial information; (iii) portfolio company software, contact lists or other databases; (iv) portfolio company proprietary information or trade secrets; or (v) other items. In certain events, a portfolio company's failure or deemed

failure to address and mitigate cybersecurity risks may be the subject of civil litigation or regulatory or other action. Any of such circumstances could subject a portfolio company, or the relevant Fund, to substantial losses. In addition, in the event that such a cyber-attack or other unauthorized access is directed at Lateral or one of its service providers holding its financial or investor data, Lateral, its affiliates or the Funds may also be at risk of loss, despite efforts to prevent and mitigate such risks under Lateral's policies.

Lateral has adopted a business continuation strategy to maintain critical functions in the event of a technical problem affecting applications, data centers or networks. The recovery strategies are designed to limit the impact on the Funds from any business interruption or disaster. Nevertheless, our ability to conduct business may be curtailed by a disruption in the infrastructure that supports our operations. In general, cyber incidents can result from deliberate attacks or unintentional events. Cyber security failures or breaches by a third-party service provider have the ability to cause disruptions and impact business operations, potentially resulting in financial losses, the inability to transact business, and violations of applicable privacy and other laws.

**Valuation Risk.** Lateral receives management fees from most Advisory Clients. The management fees are payable without regard to the overall success or income earned by the Advisory Clients and therefore may create an incentive on the part of Lateral to raise or otherwise increase assets under management with respect to the Funds to a higher level than would be the case if Lateral were receiving a lower or no management fee.

**Related General Partners and Potential Conflicts of Interest.** The Affiliated General Partners, which are owned by the Managing Members are related persons to Lateral, serve as the general partners of the Funds. Certain Affiliated General Partners also commit capital to the Funds, and as a result every investment made by a Fund involves a purchase of securities whereby related persons of Lateral indirectly acquire an indirect interest in such securities. Also, the Managing Member and certain employees of Lateral have invested and, in the future, may invest directly in certain of the Funds.

The fact that the Managing Members and certain employees of Lateral may have financial ownership interests in Funds creates a potential conflict in that it could cause Lateral to make different investment decisions than if such parties did not have such financial ownership interests. However, Lateral believes that these financial interests align Lateral and the Affiliated General Partners' incentives with the other Investors in such Funds.

Lateral seeks to address these potential conflicts through regular monitoring of the Advisory Clients' portfolios for consistency with objectives, strategies, and target capacity. As stated in Item 11, the Code (as is later defined) provides guidelines for identifying and addressing conflicts of interest and requires Access Persons to place the interests of the Advisory Clients over their own or those of Lateral, and all Access Persons are required to acknowledge their receipt and understanding of the Code.

The foregoing list of risk factors does not purport to be a complete enumeration of the risks involved in an investment in a Fund. Prospective investors should read the entire private placement memorandum before deciding whether to invest in a Fund.

## **ITEM 9 – DISCIPLINARY INFORMATION**

Lateral has no legal or disciplinary information to disclose at this time that are material to a client's or prospective client's evaluation of our advisory business or the integrity of our management.

## **ITEM 10 – OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

LIM and LSMA, which are together filing this single Form ADV are affiliates of each other. They are investment advisers under common control and operating as a single advisory business. Additionally, affiliates serve as the general partners of the LUSCOF, Niagara Funds, and Niagara Plus Funds (the “Affiliated General Partners”); and certain personnel of Lateral also comprise the Affiliated General Partners, such that affiliates are controlled by or under common control with the advisory vehicles LIM and/or LSMA. The Affiliated General Partners include Lateral Credit Opportunities, LLC, Niagara Credit Advisors, LLC, and Niagara Plus Advisors, LLC. Lateral does not believe that these relationships, which are traditional in the private fund space, are or will become a conflict of interest as they are all a part of a single advisory business with the purpose of serving the Funds’ best interests.

As described elsewhere in this Brochure, Lateral seeks to make significant investments in portfolio companies. Lateral seeks substantial minority positions in portfolio companies, with board representation and customary shareholder rights. Certain of LIM’s investment professionals serve on the board of certain of the portfolio companies of the Funds. LIM tracks all such board positions and monitors for conflicts. LIM does not believe that such directorships pose a material conflict of interest.

Neither LIM nor its management persons are registered or have an application pending to register as a futures commission merchant, commodity trading advisor, or an associated person of the foregoing entities. Neither LIM nor any of its management personnel has any relationships or arrangements with other financial services companies that are material to LIM’s advisory business or that create material conflicts of interest with LIM’s clients.

## **ITEM 11 – CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

### **A. Code of Ethics**

LIM's Code of Ethics (the "Code") is designed to meet the requirements of Rule 204A-1 under the Advisers Act. The Code applies to LIM's "Access Persons." Currently, all LIM employees are deemed to be Access Persons, and LIM will and does deem other individuals to be Access Persons at LIM's discretion.

LIM requires that Access Persons' transactions in certain "reportable securities" (as defined in Section 202(a)(18) of the Advisers Act) be pre-cleared with the Chief Compliance Officer. Further details are available in the Code, which is available to Investors upon request.

The Code also describes LIM's duty to protect material non-public information about securities/investment recommendations provided to (or made on behalf of) Advisory Clients. Underlying these policies and procedures are two primary principles. First, confidential information must be maintained in confidence. Second, employees of LIM who possess non-public information about a public company, whether or not it is material, must not trade in the public securities affected by such information, must not disclose such information to anyone who does not have a legitimate need to know it and must immediately disclose such information to the Chief Compliance Officer.

Additionally, LIM maintains a "Restricted List" with the names of issuers of public securities about which LIM or its affiliates (including Access Persons) hold an interest or otherwise have learned material, non-public information. Companies will be removed from the Restricted List at the discretion of the Chief Compliance Officer, when information involved has been made public or is no longer considered material, or when the confidentiality agreement relating to such company has expired. Further, LIM will assess the need to place the public stock of an Advisory Client portfolio company on the restricted list on an as-needed basis.

If a portfolio company were to go public, Access Persons would likely be prohibited from purchasing the stock while it remained a portfolio company (and for some time after at the discretion of the Chief Compliance Officer). Any sales of an interest in a public portfolio company would need to be pre-cleared so that the Chief Compliance Officer may confirm that the proposed investment meets the requirements of the applicable Fund Agreements and/or sub-advisory agreement and the Code. Access Persons are prohibited from trading securities on the Restricted List.

The Code sets forth a standard of business conduct that takes into account LIM's status as a fiduciary to the Advisory Clients and requires Access Persons to place the interests of the Advisory Clients above their own interests and the interests of LIM. The Code requires Access Persons to comply with applicable federal securities laws. Further, Access Persons are required to promptly bring violations of the Code to the attention of LIM's Chief Compliance Officer. All Access Persons are provided with a copy of the Code and are required to acknowledge receipt of the Code upon hire and on at least an annual basis thereafter (which is typically also included in annual training, which all Employees are required to attend (or participate in) and attest to).

The Code also sets forth certain reporting and pre-clearance requirements with respect to personal trading by Access Persons. Access Persons must provide LIM's Chief Compliance Officer with a list of their personal accounts and an initial holdings report listing the holdings of such personal accounts within 10 days of becoming an Access Person. In addition, LIM's Access Persons must provide annual holdings reports and quarterly transaction reports detailing, respectively, the holdings and quarterly transactions in their personal accounts in accordance with Advisers Act Rule 204A-1. The Chief Compliance Officer or his designee reviews Access Persons' personal transaction and holdings reports to make sure each Access Person is conducting her or her personal securities transactions in a manner that is consistent with the Code.

Advisory Clients, Investors or prospective Investors may obtain a copy of the Code by contacting LIM; see the contact information on the Cover Page of this Brochure.

## **B. Cross Trades and Principal Transactions**

The Funds' governing or offering documents limit the ability of Lateral to engage in cross trades or principal transactions. That said, the Funds, under limited circumstances, engage in principal transactions provided that the relevant conditions set forth in the governing or offering documents of the applicable Fund are followed. Additionally, Lateral will follow any investment allocation requirements of the Funds, side letters, or the like. To the extent such matters are not addressed by the investment allocation requirements of the Funds, Lateral's compliance department, in conjunction with the Lateral's compliance consultant or external fund counsel, will be responsible for confirming that Lateral (i) considers its respective duties to each Fund, (ii) determines whether the purchase or sale and price or other terms are comparable to what could be obtained through an arm's length transaction with a third party, and (iii) obtains any required approvals of the transaction's terms and conditions.

Lateral will not directly or indirectly receive any commission or other transaction-based compensation for affecting potential cross trades or principal transactions, and Lateral will typically not affect any such transaction for any Fund where Lateral is deemed to own more than 25% of the Fund. Cross trades and principal transactions are also governed by the firm's internal Allocation and Portfolio Management Policy (which is housed in the compliance manual and generally updated annually).

## ITEM 12 – BROKERAGE PRACTICES

With the exception of the Niagara Plus Funds, the private company securities which are the primary investments by the Advisory Clients are purchased in private placement transactions, without the assistance of a broker-dealer and without the payment of brokerage commissions or dealer mark-ups. In the event that LIM's business were to evolve such that its clients were to regularly execute transactions through a broker-dealer, other than as stated below, then, as applicable and necessary, LIM would adopt additional policies and procedures reflective of its duty to execute trades in publicly traded securities in a manner designed to seek best price and execution. Additionally, if Lateral obtains public securities through a mergers and acquisition transaction or through an initial public offering, Lateral will implement the additional policies and procedures, including that brokerage selection will consider the range and quality of the brokerage services, execution capability, commission rate, financial responsibility, responsiveness to Lateral, the value of research (if any), among other considerations. LIM does not utilize soft dollars.

Regarding the Niagara Plus Funds, and in accordance with relevant securities laws and further detailed in the Fund Agreements and offering documents, LIM, following a brokerage selection process, has engaged a third-party FINRA-registered managing broker-dealer ("Managing Dealer") in connection with the sale of the fund's limited partner interests. The Managing Dealer receives selling commissions ("Selling Commissions") of up to 6.0% of gross offering proceeds attributable to sales of the limited partner interests. The Managing Dealer, at its sole discretion, will reallocate all or a portion of the Selling Commissions applicable to sales of the limited partner interests to a participating broker-dealer involving a registered representative compensated on a commission basis for the sale.

Separately, the Managing Dealer earns a managing dealer fee (the "Managing Dealer Fee") of up to 4.0% of gross offering proceeds attributable to sales of limited partner interests. The Managing Dealer, at its sole discretion, will reallocate to a participating broker-dealer up to 1.0% of the Managing Dealer Fee applicable to sales of the limited partner interests involving a registered representative compensated on a commission basis for the sale.

Additionally, the Niagara Funds and Niagara Plus Funds utilize certain online RIA search and technology platforms, (e.g., WealthForge Holdings, Inc.) whereby no direct additional compensation is paid by or to LIM, the Niagara Funds, or Niagara Plus Funds, but investors separately arrange for distinct fee arrangements directly with their RIAs.

## **ITEM 13 – REVIEW OF ACCOUNTS**

### **A. Review of Client Accounts**

The Managing Partner and other Lateral investment professionals regularly review client accounts (and at minimum formal bi-annual valuation reviews). Lateral considers, among other things, investment performance, the portfolio's sensitivity to market changes, and whether anything has changed subsequent to an initial investment decision that impacts the risk or potential return.

### **B. Reports Sent to Investors**

The Fund Agreements and sub-advisory agreement set forth the specific reports required to be sent to applicable Investors and the principal adviser to the Sub-advised Fund. Under the Fund Agreements, each Investor in a Fund receives: (i) quarterly, unaudited financial statements of such Fund, (ii) annual financial statements of the Fund audited by a nationally recognized accounting firm, and (iii) Fund tax information reported on IRS form K-1 annually. Certain Side Letters grant certain Investors additional reporting rights.



#### **ITEM 14 – CLIENT REFERRALS AND OTHER COMPENSATION**

Please see Item 12 for the description of how Lateral is using and compensating brokers (for its Niagara Plus Funds) and receiving benefits from these third parties. Lateral does not otherwise directly or indirectly compensate any third party for client or investor referrals. Any such compensation in the future will be structured in accordance with applicable U.S. SEC and/or FINRA rules and regulations and compensation will only be made to qualified and registered broker-dealers and/or placement agents. Such compensation will be fully disclosed in the relevant amended Fund Agreements or future fund agreements for new offerings.

## **ITEM 15 – CUSTODY**

Lateral is deemed to have custody of client funds or securities through the general partners and/or manager relationship to the Funds. Where Lateral has custody, Lateral complies with the relevant custody requirements applicable to registered investment advisers. Lateral does not have custody of the assets of the Sub-Advised fund.

With regard to the Funds for which Lateral has custody, Lateral is exempt from the quarterly account statement delivery obligations, “Qualified Custodian Notice” and the surprise audit requirement of the custody rule because the Funds are audited each year by an independent public accountant (“Annual Audit Exception”), which is registered with, and subject to regular inspection by, the Public Company Accounting Oversight Board, and Lateral distributes financial statements to Investors in each Fund annually, within 120 days of the end of such Funds’ fiscal years.

Investors should carefully review and compare all statements received, including the quarterly unaudited reports and annual audited reports.

## **ITEM 16 – INVESTMENT DISCRETION**

Pursuant to the applicable Fund Agreements, Lateral has discretionary authority to manage securities accounts on behalf of the LUSCOF, Niagara Funds, and Niagara Plus Funds. Lateral is authorized to make transaction recommendations for the Sub-advised account and the Non-Discretionary Funds, but must seek preclearance, as applicable from the principal adviser to the Sub-advised Fund or the Non-Discretionary Fund investors, prior to effecting investments in those vehicles.

As explained in Item 4 above, each Fund's investment strategy is set forth in detail in such Fund's confidential private placement memorandum and/or Fund Agreement. Investors do not have the ability to impose limitations on LIM's discretionary authority, beyond the terms already set forth in the fund documents, although some investors can and have entered into side letters. Investors must execute a subscription agreement in which they make various representations, including representations regarding their suitability to invest in a high-risk investment pool.

## **ITEM 17 – VOTING CLIENT SECURITIES**

Lateral has adopted proxy voting policies and procedures that are designed to ensure that when Lateral or an Affiliated General Partner votes proxies, regardless of how infrequent this may occur, with respect to securities held on behalf of Advisory Clients, such proxies are voted in the Advisory Clients' best interests, in the judgment of Lateral to the extent reasonably practicable. The procedures also require that Lateral identify and address conflicts of interest between Lateral, its related persons and its Advisory Clients and their securities. If a material conflict of interest is identified, Lateral will determine whether voting in accordance with the guidelines set forth in the procedures is in the best interests of its Advisory Clients or whether taking some other action is more appropriate.

It should be noted that given Lateral's business as a private credit and growth equity fund manager, it is anticipated that it will be extremely rare that Lateral will receive proxies with respect to securities held on behalf of the Advisory Clients. However, there could be situations where private companies could have proxy issues (e.g., a private company needs approval of investors to make changes to board of directors, auditors, etc.). In such situations, Lateral or an Affiliated General Partner would have authority to vote proxies on behalf of Advisory Clients. In such cases, each proxy voting proposal received by Advisory Clients would be thoroughly reviewed in order to ensure that each such proxy is voted in the best interests of the Advisory Clients holding the applicable securities.

Investors generally do not have the ability to direct proxy votes, however, if a material conflict is identified, Lateral will determine what course of action is in the best interests of the affected Investors (which includes utilizing an independent third party to vote such proxies, if any). Further, Lateral will determine whether it is appropriate to disclose the conflict to affected Investors or the respective investor advisory board (e.g., the applicable Limited Partner Advisory Committee) and give such Investors the opportunity to vote the proxies in question themselves.

If applicable, the Chief Compliance Officer, Deputy Compliance Officer or a designee would deliver proxies in accordance with instructions related to such proxy. In the event proxy voting procedures were ever to be utilized, Lateral would keep a record of its proxy voting policies and procedures, proxy statements received, votes cast, all communications received, and internal documents created that were material to voting decisions and each client request for proxy voting records and Lateral's response for the previous five years.

## **ITEM 18 – FINANCIAL INFORMATION**

Lateral and its affiliates do not require or solicit prepayment of advisory fees six months in advance.

Lateral is not currently aware of any financial condition that is reasonably likely to impair its ability to meet contractual commitments to Advisory Clients or Investors.

Lateral has not been the subject of any such bankruptcy petition.