



# NASSAU GLOBAL CREDIT

## **NGC CAPITAL MANAGEMENT LLC** (AND CERTAIN OF ITS INVESTMENT ADVISORY AFFILIATES)

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

**March 29, 2024**

**This brochure provides information about the qualifications and business practices of NGC Capital Management LLC. If you have any questions about the contents of this brochure, please contact us by phone at (203) 902-5522. The information in this brochure has not been approved or verified by the U.S. Securities and Exchange Commission (the “SEC”) or by any state securities authority.**

**Additional information about NGC Capital Management LLC also is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). NGC Capital Management LLC’s registration with the SEC does not imply a certain level of skill or training.**

## **Item 2. Material Changes**

The previous update to this Form ADV Part 2A firm brochure was made on July 28, 2023. Since then, This Form ADV Part 2A firm brochure has been restated in order to better correlate to the Firm's investment advisory affiliates (to which this Form ADV Part 2A firm brochure does not apply) and to provide certain other factual updates, updating (i) assets under management information in Item 4(E), (ii) the description of the Firm's financial industry affiliates in item 10; and (iii) incorporate certain other general updates. The foregoing is a summary of only those changes made since the most recent update of this Form ADV Part 2A firm brochure that the firm believes are material.

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## Item 4. Advisory Business

### A. Firm Description

NGC Capital Management LLC (f/k/a Angel Island Capital Management, LLC), a Delaware limited liability company ("**NGCCM**"), is an investment advisory firm that began operations in 2008 and has a principal place of business in New York, New York and an office in Darien, Connecticut.

NGCCM is a subsidiary of Nassau NGC Holdings LLC, a Delaware limited liability company ("**NGC Holdings**"), which is itself a wholly-owned subsidiary of Nassau Asset Management LLC, a Delaware limited liability company ("**NAM**"). NAM is a wholly-owned subsidiary of Nassau Financial Group, L.P., a Cayman Islands exempted limited partnership ("**Nassau Group**"). Nassau Group is a subsidiary of GGCOF Nassau Investments, L.P., a Cayman Islands exempted limited partnership and wholly-owned subsidiary of Nassau NAMCO Splitter, L.P., a Cayman Islands exempted limited partnership ("**NAM Splitter**"). NAM Splitter is owned and controlled by certain private investment funds sponsored and managed by Golden Gate Private Equity, Inc. ("**Golden Gate**").

NAM was founded by Phillip J. Gass and Kostas Cheliotis in 2015.

Alexander E. Dias and Jonathan Insull are the Chief Executive Officer and Chief Investment Officer, respectively, of each of (i) NGCCM, (ii) Nassau Global Credit GP LP (f/k/a Angel Island Capital GP, L.P.), a Delaware limited partnership and subsidiary of NGC Holdings ("**NGC GP**"), and (iii) AIC Credit Opportunities Partners Fund II GP, L.P., a Delaware limited partnership and subsidiary of NGC Holdings ("**AIC GP**" and, together with NGCCM and NGC GP, the "**Firm**"). Messrs. Dias and Insull are also officers of each of (i) Nassau Global Credit LLC, a Delaware limited liability company and subsidiary of NGC Holdings ("**NGC-US**"), (ii) NGC CLO Manager LLC, a Delaware limited liability company and subsidiary of NGC-US ("**NGLOM**"), and (iii) Nassau Global Credit (UK) LLP, a limited liability partnership incorporated in England and Wales and indirect subsidiary of NGC-US ("**NGC-UK**").

### B. Types of Advisory Services

The Firm provides discretionary investment advisory services (i) to privately offered investment funds (each a "**Fund**"), (ii) as a collateral manager for U.S. dollar-denominated pooled investment vehicles that are collateralized debt obligation funds (each a "**CDO**"), and (iii) separately managed accounts to institutions with which the Firm is affiliated (each an "**SMA**" and, collectively with the Funds, CDOs and the Firm's other investment advisory clients, the Firm's "**clients**"). As of the date of this Form ADV Part 2A firm brochure, the Firm serves as the investment manager and general partner for each of the following funds and collateral manager for the following CDO:

- NGC Loan Fund LP ("**ALF**");
- NGC Enhanced Loan Fund LP (together with its feeder funds, "**ELF**");
- AIC Credit Opportunities Partners Fund II Master Fund, L.P. (together with its feeder funds, "**COP II**"); and
- Angel Island Capital 2023-I Ltd. ("**AIC CDO**").

The Firm may also, in the future, provide additional types of investment advisory services or may provide services to additional types of clients.

The Firm provides a multi-strategy credit platform consisting of its liquid credit strategy, credit opportunities strategy, private credit strategy and asset-based opportunities strategy. The Firm's clients

make investments in performing and distressed bank loans, direct senior loan origination and related instruments, high yield bonds, investment grade bonds, asset based lending, mezzanine and mezzanine-like debt, structured and illiquid credit products, special situations instruments, credit- based securities, asset-backed and other structured debt securities, swap transactions (including total rate return swaps), other derivative instruments (including collateralized loan obligations), currency hedging transactions and any other financial instruments or assets that the Firm believes may help achieve its clients' respective investment objectives. The Client's advisory services consist of investigating, identifying and evaluating investment opportunities, structuring, negotiating and making investments on behalf of its clients, managing and monitoring the performance of such investments and disposing of such investments.

The Firm uses fundamental credit analysis to identify attractive investment opportunities and seeks superior risk adjusted returns, primarily in credit products. The Firm's clients may use leverage directly or indirectly. Use of leverage will increase the volatility of levered investments.

### **C. Availability of Customized Services**

Each Fund and CDO is or will be managed based on its objectives, which are specified in the relevant offering materials and investment advisory agreements. Investment advisory services provided to SMAs are specified in the investment advisory agreement with the owner of such SMA. In connection with SMAs and Funds having a limited number of investors, the Firm may in some cases agree to tailor advisory services to the individual needs of the SMA owner or investors in such Funds. The offering documents or other organizational documents for each Fund and CDO describe the terms and conditions of the Fund or CDO, including fees and risk factors, and should be read carefully prior to investment. No offer to sell interests in the Funds or CDOs is made by the descriptions in this brochure, and Funds and CDOs are available only to investors that are properly qualified.

While much of this brochure applies to all of the Firm's clients, certain information included herein applies to specific clients only. Thus, it is crucial for any client, prospective client, Fund investor, prospective Fund investor, CDO investor or prospective CDO investor to closely review the applicable investment advisory agreement, offering document, organizational agreement or other governing documents with respect to, among other things, the terms, conditions and risks of investing.

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

The Firm does not participate in wrap fee programs.

### **E. Assets Under Management**

As of December 31, 2023, the Firm managed approximately \$ 2,349,282,895, all of which was managed on a discretionary basis.

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

### **A. Compensation**

The Firm is compensated for investment advisory services it provides based on a percentage of the assets managed by the Firm on behalf of a client and through performance-based compensation. Compensation to the Firm for services provided to SMAs takes the form of management fees, and compensation to the Firm for services provided to the Funds and CDOs takes the form of management fees and carried interest. Such compensation may be paid to the Firm or an affiliate of the Firm. The Firm is permitted to waive, reduce or otherwise modify the management fee and/or incentive compensation for any investor in a Fund, and has

done so for affiliates of the Firm. In addition, the Firm occasionally enters into a side letter arrangement with certain Fund investors, in which the Firm has granted such investors with preferential terms.

It is anticipated that compensation to the Firm for services provided to other clients may take the form of management or performance fees, carried interest or other incentive-based compensation related to the performance of such other client accounts. Such compensation may be paid to the Firm or an affiliate of the Firm. In some cases, it is possible that these fees may be negotiated with a client prior to engagement.

## **B. Payment of Fees**

Typically, management fees paid by the Funds are based on the aggregate adjusted book value or fair market value of the assets owned by the Funds and paid quarterly in advance. Incentive fees paid by the Funds will be payable later in the Funds' lives after investors have received a specified preferred return.

Typically, management fees paid by the CDOs are based on the cash and principal value of the assets held within each CDO, and are paid quarterly in arrears. Incentive fees paid by the CDOs will be payable later in the CDOs' lives after investors have received a specified target return.

Typically, management fees paid by SMAs are based on the gross asset value of the assets managed by the Firm and are paid quarterly in advance.

Management fees and incentive fees paid by other Firm clients are tailored for each such other client.

Although the foregoing is a brief summary of the management fee and incentive compensation arrangements applicable to the Firm's clients, please note that this brief summary is not a substitute for the detailed terms provided in the advisory agreement, offering document, organizational agreement or other governing documents of each of the Firm's clients. Clients, prospective clients, Fund investors, prospective Fund investors, CDO investors and prospective CDO investors should therefore review the applicable advisory agreement, offering document, organizational agreement or other governing documents carefully because such documents, and not the summary in this brochure, describe more specifically the fees such client will pay.

## **C. Additional Expenses**

The expenses paid by the Firm's clients are set forth in detail in the advisory agreement, offering document, organizational agreement or other governing documents of the relevant client. Such expenses may differ among clients and within clients. Thus, although the following is a summary of expenses the Firm's clients may generally bear, it is not an exhaustive or complete list with respect to all clients. Clients, prospective clients, Fund investors, prospective Fund investors, CDO investors and prospective CDO investors should, therefore, review the applicable advisory agreement, offering document, organizational agreement or other governing documents carefully because such documents, and not the summary in this brochure, describe more specifically the expenses such client will bear.

Generally, each of the Firm's clients will bear its own operating and other expenses, which may include, but not be limited to:

- Management fees and performance-based compensation paid to the Firm;
- Expenses and fees related to the evaluation and development of investments (*e.g.*, investment-related travel and lodging expenses, quotation service expenses, appraisal fees, consulting fees, rating agency expenses, and pricing and valuation fees, and other due diligence expenses), regardless of whether a transaction for such investment is consummated;

- Expenses and fees related to the acquisition, hedging and disposition of investments (*e.g.*, private placement fees, arranger fees, syndication fees, private placement fees, investment banking fees, commitment fees, servicing fees, brokerage fees, commissions, mark-ups or mark-downs, settlement fees, breakup fees, and other transaction fees);
- Expenses and fees related to the monitoring and holding of investments (*e.g.*, interest expense, recordkeeping expenses, custody fees, bank charges, and risk management expenses);
- Interest and expenses related to client borrowings and indebtedness;
- Legal expenses;
- Costs associated with regulatory compliance (*e.g.*, expenses related to anti-money laundering monitoring, expenses related to investor-related compliance obligations (such as AIFMD and FATCA), expenses related to investment-specific regulatory filings (such as Hart-Scott-Rodino notifications), and expenses related to non-position-specific regulatory filings (such as Forms PF and Forms D));
- Expenses of forming, maintaining and winding up private investment fund vehicles and transaction vehicles or subsidiaries (*e.g.*, formation and organizational expenses, expenses related to the maintenance of offering documents and disclosure, trustee expenses and administrator expenses);
- Government fees, taxes and levies;
- Costs and expenses related to indemnification obligations;
- Insurance premiums and other insurance-related expenses;
- Expenses related to services provided by affiliates of the Firm (*e.g.*, shared service expenses); and
- Other costs, expenses and fees to be described in the offering memorandum of each Fund or CDO, investment advisory agreement entered into with each client, or applicable organizational or governing document of the client.

Expenses to be borne by more than one client will be allocated across the applicable clients in a manner determined by the Firm to be fair and equitable and consistent with its policies and procedures, generally *pro rata* based on the size of the applicable investment, client or account (as applicable).

#### **D. Advance Payment of Fees**

As a general matter, the Firm bills for services in arrears, although some clients pay management fees in advance. The advisory agreement, offering document or other organizational agreement will indicate how the refund of a prepaid fee, if owed by the Firm, would be paid.

#### **E. Compensation for Sale of Securities or Other Investment Products**

Neither the Firm nor any of its supervised persons receives any transaction-based compensation for the sale of investment instruments.

A description of the brokerage and other transaction costs that are borne by the Firm's clients is in Item 12 of this brochure.

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

As described in Item 5 above, the Firm and/or its affiliates receive compensation from certain clients partly in the form of performance-based compensation. However, such performance-based compensation may not be charged in the same amount or manner for all clients. The variation of performance-based compensation structures among clients may give rise to conflicts of interest. For example, variations create an incentive for the Firm to (i) disproportionately allocate time, services or functions to, (ii) direct the best investment ideas to, or (iii) allocate the sequence of trades in favor of, clients that have a performance-based compensation arrangement more favorable to the Firm. The Firm is committed to allocating investment opportunities on a fair and equitable basis and has established policies and procedures to address such conflicts of interest. These policies and procedures are described in more detail in Item 11 of this brochure.

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

The Firm's primary activity is to provide investment advisory services to Funds and CDOs, which are pooled investment vehicles generally offered to investors that are, in the case of U.S. investors, "qualified purchasers" as defined in the Investment Company Act of 1940 (the "*Investment Company Act*") and/or "qualified institutional buyers" as defined in Rule 144A under the Securities Act of 1933. It is expected that the Firm will generally provide investment advice to its clients (including the Funds and CDOs), and not individually to the investors in the Funds, CDOs or any other clients. The Firm provides investments advice to its SMA clients that is tailored to the needs of the SMA owner.

With respect to any client that is a Fund, CDO or other pooled investment vehicle, minimum subscription or investment amounts will be disclosed in the relevant offering memorandum.

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

The descriptions set forth in this brochure of specific advisory services that the Firm offers to its clients, and investment strategies pursued and investments made on behalf of its clients, should not be understood to limit in any way the Firm's investment activities. The Firm may offer any advisory services, engage in any investment strategy and make any investment, including any not described in this brochure, that it considers appropriate, subject in each case to the relevant client's investment objectives and guidelines.

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

The Firm utilizes a variety of methods to make investment decisions and recommendations. The Firm actively manages its clients' portfolios using a fundamental, research-driven approach, employing both bottom-up and top-down analyses. The Firm generally conducts an in-depth review of the target investments, which may include, without limitation, (i) analyses of corporate activities and financials, (ii) reviews of annual reports, prospectuses and other filings with the U.S. Securities and Exchange Commission (the "*SEC*"), if any, and (iii) where appropriate, interviews and meetings with senior management of such target investments. In addition, the Firm utilizes a liquidity-oriented, high-yield strategy for one of its insurance affiliates via the Firm's subadvisory agreement with NAM.

Generally, the Firm seeks to capitalize on both long- and short-term inefficiencies in the market while investing across a range of investments. Potential investments are analyzed through a thorough review of the fundamentals of the economy in general, as well as a review of the particular industry, and the strengths and weaknesses of each individual investment, using a variety of internal and external resources.



Clients and investors in Funds and CDOs should be aware that investing in securities and other investment instruments involves risk of loss that clients and such investors should be prepared to bear.

## **B. Material Risks of Investment Strategies**

The investment strategies the Firm uses entail substantial risks, including, but not limited to, those identified below. Further details regarding these risks and other applicable other risk factors are included in the offering documents of the Funds and CDOs for which the Firm performs investment advisory services, or in the advisory agreement or other documentation furnished to other clients. Clients, prospective clients, Fund investors, prospective fund investors, CDO investors and prospective CDO investors are advised to carefully review all risk factors described in such documents. The following is not intended to supersede the material contained in such documents.

***No Ability to Make Decisions.*** Investors in Funds and CDOs have no authority to make investment decisions on behalf of the Fund or CDO, respectively.

***Dependence on Key Individual.*** The success of the Firm's clients depends upon the ability of the Firm, particularly those of Mr. Dias and Mr. Insull, to develop and implement investment strategies that achieve the Firm's clients' investment objectives. If the Firm was to lose the services of Mr. Dias or Mr. Insull, the consequences to its clients could be material and adverse. Furthermore, the employees of the Firm are shared employees made available to it under a Shared Services Agreement with affiliates (the "***Shared Services Providers***"). The Firm is relying extensively on the experience and relationships of these persons over which it does not have direct control. There can be no assurances that these people will remain with the Shared Services Providers or will otherwise continue to be able to carry on their current duties to the Firm under the Shared Services Agreement or that the Shared Service Providers will be able to attract and retain replacements or additional persons when needed. The loss of the services of one or more of these professionals could have an adverse impact on the ability of the Firm to perform its duties.

***Reliance Upon Relationships with Investment Banks and Commercial Banks.*** The Firm depends on its relationships with investment banks and commercial banks, and clients will rely to a significant extent upon these relationships to provide them with potential investment opportunities. If the Firm fails to maintain its existing relationships or develop new relationships with other sources of investment opportunities, the Firm may not be able to grow its clients' investment portfolios. In addition, individuals with whom the Firm has relationships are not obligated to provide the Firm's clients with investment opportunities, and, therefore, there is no assurance that such relationships will generate investment opportunities for clients.

***Absence of Regulatory Oversight.*** While the Funds and CDOs for which the Firm performs investment advisory and/or management services may be considered similar to investment companies, no Fund or CDO is required to, nor will it, register as an investment company under the Investment Company Act or the laws of any jurisdiction and, accordingly, the provisions of such statutes (which may provide certain regulatory safeguards to investors) will not be applicable.

***Conflicts of Interest.*** Various potential and actual conflicts of interest may arise between and among the Firm, its clients (including the Funds and CDOs) and each of their affiliates. The following briefly summarizes some of these conflicts, but is not intended to be an exhaustive list of all such conflicts.

### **Receipt and Permissible Use of Certain Market Information**

The Firm and/or its affiliates will likely, from time to time, cause certain of their respective clients to invest in securities or other investment instruments that would be appropriate as obligations to be acquired by one or more of the Firm's other clients. The Firm and/or its affiliates may also have ongoing relationships with,

render services to or engage in transactions, either directly and/or through one or more clients, that invest: (i) in assets of a similar nature to those of one or more of the Firm's clients; and (ii) with companies whose securities or loans are acquired by one or more of the Firm's clients and may own equity or debt securities of such companies. As a result, certain principals, members, directors, officers, employees or affiliates of the Firm and its affiliates may possess information relating to issuers of investment instruments held in certain client accounts that is not known to the individuals at the Firm responsible for monitoring investments held in such accounts. Accordingly, there may be circumstances in which the Firm will be restricted from effecting purchases and/or sales of assets on behalf of one or more of its clients. At times, the Firm, in an effort to avoid such restrictions, may elect not to receive certain information that other market participants are eligible to receive or have received.

#### Differing Valuation Methodologies

Various of the Firm's clients may require the Firm and/or its affiliates to apply different valuation methodologies in valuing specific investments. As a result of such different methodologies, the assigned values of certain investments held in certain of the Firm's client accounts may differ from the value assigned to the same investments held by certain other Firm client accounts which, in turn, could result in different calculations of management fees for different clients holding the same investments.

#### Conflicting Investments or Roles Among Clients

The Firm and its affiliates and their respective clients and personnel may invest, or have already invested, in securities or other financial instruments that are senior or junior to securities or financial instruments of the same issuer that are held or may be acquired by one or more Firm clients. In addition, the Firm and/or its affiliates and their respective personnel may serve as a general partner, adviser, officer, director, sponsor or manager of funds and/or entities organized to issue collateralized loan obligations secured by assets similar to investments held in certain of the Firm's client accounts. In addition, certain of the Firm's clients may, but are not required to, invest in investment vehicles managed by one or more of the Firm or its affiliates. The Firm recognizes that conflicts may arise under such circumstances and will endeavor to treat each of the Firm's clients fairly and equitably.

#### Conflicts Regarding Investment Allocations

It is the policy of the Firm to allocate investment opportunities among the Firm's clients so as to not favor one client account over another. However, the Firm may be unaware of, and will not generally take into account, investments made by or opportunities presented to other affiliates of the Firm. The Firm will have no obligation to purchase, sell or exchange any security or financial instrument for one Firm client that the Firm may purchase, sell or exchange for another client if the Firm believes in good faith at the time the investment decision is made that such transaction or investment would be unsuitable, impractical or undesirable for such other client. There is no assurance that the Firm's clients with strategies or investment objectives that are similar will hold the same assets or perform in a similar manner.

Because of the nature of the fixed income markets, as well as specific client guidelines and objectives, *pro rata* allocation of investment opportunities by the Firm among its clients may not be feasible in all circumstances. Accordingly, the Firm does not prescribe one specific manner in which securities or financial instruments are allocated among its clients, and the Firm may use *pro rata*, rotational, percentage, or other allocation methods. An allocated transaction may be modified if strict adherence to an anticipated allocation may lead to impractical or undesirable results such as odd lots or *de minimis* allocations. The factors that the Firm may consider in allocating investments among its clients include, but are not limited to, (i) variations in investment objectives, (ii) variations in investment parameters and/or restrictions, (iii) other investment opportunities that may be available to one client but not another, (iv) portfolio limitations

due to margin or credit facility requirements, (v) legal, regulatory or contractual limitations or requirements, (vi) tax considerations, (vii) liquidity needs, (viii) concentration limitations relative to a particular issuer, industry, sector or geographic region, or (ix) timing considerations. In certain circumstances, the Firm may give special consideration to certain of its clients, such as new clients (including those in which the Firm and/or its affiliates or their personnel may have an interest) with a substantial amount of available cash. The investment decisions of the Firm and its affiliates may result in different investment decisions and allocations even with respect to the Firm's clients with similar investment objectives.

#### Conflicts Regarding Trade Execution

The Firm seeks to obtain the best execution for all orders placed with respect to any trade in a manner it believes to be in the best interests of the participating clients. In allocating brokerage business, the Firm may take into account a number of considerations, including but not limited to, (i) quality of execution, (ii) reputation, financial strength and stability, (iii) willingness to execute difficult transactions, (iv) access to underwritten offerings and secondary markets, (v) ongoing reliability, (vi) overall costs of a trade, (vii) desired timing of the transaction and size of trade, and (viii) market intelligence regarding trading activity. Although the Firm seeks competitive prices, it may not necessarily obtain the lowest price for a particular transaction.

The Firm may, in the allocation of business, take into consideration research and other brokerage services furnished to the Firm and/or its affiliates. Such services may be used by the Firm in connection with its other advisory activities or investment operations.

#### Conflicts Regarding Aggregate Investment Transactions

Orders for investments placed at the same time for two or more of the Firm's clients may, but are not required to, be "batched" or placed as an aggregated order for execution. When an aggregated order is filled through multiple trades at different prices on the same day, each participating client will generally receive the average price with transaction costs allocated *pro rata* based on the size of each client's participation in the order (or allocation in the event of a partial fill) as determined by the Firm. In the event of a partial fill, allocations may be modified on a basis that the Firm deems to be appropriate, including, for example, in order to avoid odd lots or *de minimis* allocations. The Firm may elect not to aggregate trades. In such cases where no orders are aggregated, trades are processed in the order they are placed with the broker or counterparty selected by the Firm. As a result, certain trades in the same security or investment instrument for one client (including a client in which an affiliate of the Firm or its personnel may have a direct or indirect interest) may receive more or less favorable prices or terms than another client and orders placed later may not be filled entirely or at all, based upon the prevailing market prices at the time of the order or trade. In addition, some opportunities for reduced transaction costs and economies of scale may not be achieved. The Firm generally will not aggregate orders with, or otherwise coordinate the purchase or sale of, investments with affiliates of the Firm.

#### Conflicts Regarding Investment Decisions Among the Firm and its Affiliates

The Firm and its affiliates may have or establish relationships with companies, including acting as sponsor, equity investor, adviser, lender or agent bank, whose equity securities or debt obligations are assets held in one or more of the Firm's client accounts, or may be considered for purchase by one or more of the Firm's clients, and may now or in the future own or seek to acquire equity securities or debt obligations issued by issuers of assets held in one or more of the Firm's client accounts, and such securities or obligations may have characteristics or interests different from or adverse to assets held in such client accounts. The Firm and its affiliates may buy, sell, or hold securities or other instruments for themselves and/or on behalf of one or more clients (including a client in which an affiliate of the Firm or its personnel may have a direct

or indirect interest) while the Firm is making different investment decisions with respect to one or more other clients and *vice versa*. In addition, the Firm and its affiliates may engage in any other business and furnish investment management and advisory services to certain of the Firm's clients, including persons that may have investment policies similar to those followed by the Firm with respect to other clients and which may own securities of the same class, or of the same type, as those owned by other clients. The Firm will be free, in its sole discretion, to make recommendations to clients, or effect transactions on behalf of itself or for others, which may be the same as or different from those it effects or directs others to effect for other clients. Neither the Firm nor any of its affiliates is under any obligation to offer investment opportunities of which it or they become aware to any Firm client or to account to any client, Fund investor or CDO investor (or share with any client, Fund investor or CDO investor, or inform any of them of) any such transaction or any benefit received by them from any such transaction or to inform any Firm client, Fund investor or CDO investor of any investments before offering such investments to any other Firm client(s). The Firm and its affiliates may make an investment on behalf of any client that they manage or advise without offering the investment opportunity to, or making any investment on behalf of, any other Firm client. Furthermore, the Firm and its affiliates may make an investment on their own behalf without offering the investment opportunity to any Firm client or the Firm on behalf of any Firm client. Affirmative obligations may exist or may arise in the future whereby the Firm and/or its affiliates are obligated to offer certain investments to certain Firm clients before or without the Firm offering those investments to other clients. The Firm may make investments on behalf of certain of its clients in securities, or other assets, that it has declined to invest in for its own account, the account of any Firm affiliates or the account of any other Firm client. The Firm will endeavor to resolve conflicts arising therefrom in a manner that it deems equitable to the extent possible under the prevailing facts and circumstances and applicable law.

The Nassau Group is ultimately owned by Golden Gate Capital Opportunity Fund, L.P. ("**GGCOF**") and Golden Gate Capital Opportunity Fund-A, L.P. ("**GGCOF-A**") and, collectively with GGCOF and any other investment funds formed to invest alongside GGCOF and GGCOF-A, the "**Opportunity Fund**", which are investment funds that are managed and controlled by Golden Gate. Given that the Firm is owned by a portfolio company of the Opportunity Fund, all fees paid by certain Funds, and all of the Firm's expenses (including compensation for its personnel) are indirectly borne by the Opportunity Fund. Such Firm costs and expenses are in addition to advisory fees and other compensation (*e.g.*, incentive allocation) received by Golden Gate. As Golden Gate earns advisory fees and incentive allocation from the Opportunity Fund, Golden Gate will benefit from the assets, income and gains of the Firm.

#### Conflicts Regarding Time Commitments

Although the Firm and the personnel available to it will devote as much time to each of the Firm's clients as the Firm deems appropriate to perform its duties in accordance with the applicable investment management agreement and in accordance with reasonable commercial standards, such personnel may have conflicts in allocating time and services among the Firm's clients.

#### Conflicts Regarding Other Activities of the Firm and its Affiliates

There is no limitation or restriction on the Firm or its affiliates with regard to acting as investment manager to multiple client accounts. This and other future activities of the Firm and its affiliates may give rise to additional conflicts of interest and/or intensify the conflicts of interest already described in this brochure.

#### Limited Ethical Screens or Information Barriers

The Firm and certain of its affiliates currently share a principal place of business, and certain of the same principals, members, directors, officers and employees. The Firm and such affiliates have endeavored to

put into place ethical and information barriers among the Firm and such affiliates of the type that many firms implement to separate persons who make investment decisions from others who might possess material, non-public information that could influence such decisions. Nevertheless, if the Firm, its affiliates or any of their personnel were to receive material non-public information about an issuer of a security, the Firm might be prevented from causing the purchase or sale of such security or another investment instrument due to internal restrictions imposed on the Firm. Notwithstanding the maintenance of certain internal controls relating to the management of material non-public information, it is possible that such controls could fail and result in the Firm, or one of its investment professionals, buying or selling a security or other investment instrument while, at least constructively, in possession of material non-public information. Inadvertent trading on material non-public information could have adverse effects on the Firm's reputation and/or result in the imposition of regulatory or financial sanctions on the Firm, its affiliates, its personnel and/or one or more of the Firm's clients and, as a consequence, negatively impact the Firm's ability to perform its investment management services for the Firm's clients.

#### Other Potential Conflicts of Interest

Affiliates of the Firm may, in the future, provide other services to the Firm's clients and/or may receive fees from them in other capacities. Other present and future activities of the Firm and its affiliates may give rise to additional conflicts of interest.

***Lack of Diversification.*** The Firm's client accounts will be limited in the types of investments the Firm acquires on their behalf. Such lack of diversification could increase volatility.

***Concentrated Portfolio.*** The Funds and CDOs will only make a limited number of investments, and because investments in the Funds and CDOs involve a high degree of risk, poor performance by a few of a Fund's or CDO's could severely affect the total returns to investors in such Fund or CDO.

***Long Term Commitment.*** Capital commitment obligations to the Funds will be outstanding for a number of months, and capital and profits, if any, from the Funds' and CDOs' investments may not be realized until the redemption, repayment or other disposition of such investment. The Funds and CDOs will generally expect to hold or remain committed with respect to investments for a number of years.

***Execution Risks and Investment Manager Error.*** The execution of the trading and investment strategies employed by the Firm will often require complex trades, difficult to execute trades, the use of negotiated terms with counterparties and/or the execution of trades involving less common or novel instruments. In each case, the Firm will seek to negotiate, settle and clear such trades without miscommunication or other error. However, in light of the complexity involved, some miscommunications and other errors, including miscommunications with brokers and counterparties, are inevitable and could result in losses to the Firm's clients.

***No Assurance of Investment Return.*** There is no assurance that the Firm will be able to generate returns for its clients or that the returns will be commensurate with the risks of investing in the type of investments pursued by the Firm's clients. An investment in a Fund or CDO should only be considered by persons who can afford a loss of their entire investment.

***Cybersecurity.*** The Firm, as well as service providers to the Firm and/or its clients, store and transmit large amounts of electronic information, including information relating to the Firm's clients' transactions. The computer systems, networks and devices used by the Firm and service providers to the Firm and/or its clients to carry out routine business operations employ a variety of protections that the Firm believes are reasonably designed to prevent damage or interruption from computer viruses, network failures, computer and telecommunication failures, infiltration by unauthorized persons and security breaches. Despite the

various protections utilized, systems, networks or devices potentially can be breached. The techniques used to obtain unauthorized access to data, disable or degrade service, or sabotage systems change frequently and may be difficult to detect for long periods of time. The Firm's clients and/or investors in the Funds or CDOs could be negatively impacted as a result of a cybersecurity breach, including but not limited to, (a) disruptions to business operations, (b) interference with the ability to calculate the value of assets in client portfolios, (c) impediments to trading, and (d) the inability to transact business. Similarly, adverse consequences could result from cybersecurity breaches affecting (w) issuers of securities or other investment instruments in which the Firm's clients invest, (x) counterparties with which our clients engage in transactions, (y) governmental and other regulatory authorities, and (z) exchange and other financial market operators, banks, brokers, dealers, insurance companies and other financial institutions.

***Clients May be Subject to Third Party Litigation; the Funds and CDOs Have Limited Funds Available to Pay Expenses.*** The investment activities by the Firm on behalf of its client may subject such clients to the risks of becoming involved in litigation by third parties. This risk may be greater where the Firm, on behalf of one or more clients, exercises control or significant influence over a company's direction. The expense of defending claims against a client by third parties, including involuntary bankruptcy petitions, and paying any amounts pursuant to settlements or judgments would, except in the unlikely event that a client is indemnified for such amounts, be borne by such client and, in the case of a Fund or CDO, would reduce the funds available for distribution.

The funds available to the Funds and CDOs to pay certain fees and expenses are limited. In the event that such funds are not sufficient to pay the expenses incurred by the Funds or CDOs, the ability of the Funds or CDOs to operate effectively may be impaired, and the Funds or CDOs may not be able to defend or prosecute legal proceedings that may be brought against them or that they might otherwise bring to protect the interests of the Funds or CDOs. In addition, service providers who are not paid in full have the right to resign. This could lead to the Funds and CDOs organized in the Cayman Islands being struck from the register of companies and dissolved.

***Financial Markets and Regulatory Change.*** The laws and regulations affecting businesses in general continue to evolve in an unpredictable manner. Laws and regulations, particularly those involving taxation, investment and trade, applicable to the Firm's clients' activities can change quickly and unpredictably, and may at any time be amended, modified, repealed, or replaced in a manner adverse to the interests of the Firm's clients. The Firm, its affiliates and/or the Firm's clients may be, or may become, subject to unduly burdensome and restrictive regulation. In particular, in response to significant recent events in international financial markets, governmental intervention and certain regulatory measures have been or may be adopted in certain jurisdictions. The extent to which the underlying causes of these recent events are pervasive throughout global financial markets and have the potential to cause further instability is not yet clear. These recent events, and their underlying causes, are likely to continue to be the catalyst for changes in global financial regulation for some time, and may result in major and unavoidable losses to the Firm's clients. Legal, tax and regulatory changes could adversely affect the Firm's clients and investors. The regulatory environment for private funds and similarly situated investment vehicles and accounts is evolving, and changes in such regulation may adversely affect the value of investments held by the Firm's clients. In addition, securities markets are subject to comprehensive statutes and regulations. The SEC, as well as other regulators, self-regulatory organizations and exchanges are authorized to take extraordinary actions in the event of market emergencies. The effect of any future regulatory change on the Firm's clients and investors could be substantial and adverse.

***The SEC's Position on Certain Non-Traditional Investments, Including Investments in CDOs, is Under Review.*** The staff of the SEC has undertaken a broad review of the potential risks associated with different asset management activities, focusing on, among other things, liquidity risk and risk from leverage. The

staff of the Division of Investment Management has, in correspondence with registered investment management companies, raised questions about the level and special risks of investments in CDOs. While it is not possible to predict what conclusions the staff will reach in these areas, or what recommendations the staff might make to the SEC, the imposition of limitations on investments by registered management investment companies in CDOs could adversely impact the Firm's ability to implement its investment strategy, or cause the Firm to take certain actions with potential negative impacts on its financial condition and results of operations. The Firm is unable at this time to assess the likelihood or timing of any regulatory development.

**NAIC Proposal.** The National Association of Insurance Commissioners (the “**NAIC**”), the standard-setting and regulatory support organization created and governed by the chief insurance regulators from all 50 states, assists state insurance regulators in establishing regulatory standards and best practices for insurance companies. On May 25, 2022, the staff of the NAIC Investment Analysis Office proposed to the Valuation of Securities (E) Task Force of the NAIC that the NAIC consider changing the methodology for calculating risk-based capital charges assessed on CDO equity securities held by insurance companies, so that the capital requirements for purchasing equity securities of a CDO would match the capital requirements for directly holding the underlying collateral, based on the assumption that the investment strategy presents the same investment risk as holding the entire pool of underlying collateral (the “**NAIC Proposal**”). In connection with such proposal, the NAIC would add two new risk-based capital factors to their model to account for the “tail risk” in any structured finance tranche. Although many details of the NAIC Proposal remain unclear, if the NAIC Proposal is adopted it could result in a material increase in the amount of capital that insurance companies must hold in relation to their investments in CDO equity securities. In addition to the potential adverse effect of such a change on insurance companies holding subordinated notes issued by CDOs, other investors in the subordinated notes issued by CDOs could be adversely affected if the change were to reduce the secondary market liquidity of CDO equity securities.

**SEC Private Fund Rules.** In August 2023, the SEC adopted new rules and amendments (collectively, the “**Private Fund Rules**”) to existing rules under the Advisers Act applicable to registered advisers and their activities with respect to certain private funds. In particular, the Private Fund Rules: (i) increase reporting requirements by private funds to investors concerning performance, fees and expenses; (ii) require registered advisers to private funds to obtain an annual audit for private fund clients and require the fund's auditor to notify the SEC upon the occurrence of certain material events; (iii) enhance requirements in connection with adviser-led secondary transactions with respect to private fund clients (also known as GP-led secondaries), including an obligation to obtain a fairness opinion and make certain disclosures; (iv) prohibit private fund advisers from engaging in certain practices with respect to their private fund clients; and (v) impose limitations and new disclosure requirements regarding preferential treatment of investors in private funds in side letters or other arrangements with the private fund adviser.

The Private Fund Rules are currently subject to a challenge filed in the U.S. Court of Appeals for the Fifth Circuit, which could result in an invalidation of some or all of the Private Fund Rules. However, if fully implemented, whether with or without modifications, the Private Fund Rules are likely to have a significant impact on private fund advisers (including the Firm) and their operations, including increasing compliance burdens and associated regulatory costs, requiring changes to fund documents, operations and practices, and enhancing the risk of regulatory action, including public regulatory sanctions. Further, the Private Fund Rules also could significantly increase the cost of insurance, specifically D&O and E&O insurance, or may make such insurance coverage unavailable.

**Political, Economic and Other Conditions.** The Firm's clients' investments may be adversely affected by changes in economic conditions or political events that are beyond the Firm's control. For example, a stock market break, continued threats of terrorism, the outbreak of hostilities involving the United States or any

other jurisdiction in which the Firm's clients invest, the outbreak of other global hostilities in jurisdictions in which the Firm's clients do not invest (including the current situation involving Russia and Ukraine), the death of a major political figure, or the overthrow or replacement of a current ruling body may have significant adverse effects on the Firm's clients' investment results. Additionally, a serious pandemic, such as avian influenza, or a natural disaster, such as a hurricane, could severely disrupt the global, national, and/or regional economies and/or markets. Other factors, such as changes in U.S. or non-U.S. tax laws, U.S. or non-U.S. securities laws, bank regulatory policies, or accounting standards, may make corporate financings less desirable. Similarly, legislative acts, rulemaking, adjudicatory, or other activities of the United States Congress, the SEC, the Federal Reserve Board, the New York Stock Exchange, the Financial Industry Regulatory Authority or other U.S. or non-U.S. governmental or quasi-governmental bodies, agencies, and regulatory organizations may make the business of the Firm's clients less attractive. A negative impact on economic fundamentals and consumer confidence may negatively impact market value, increase market volatility, and cause credit spreads to widen, each of which could have an adverse effect on the investment performance.

***Current Bank Failures and Health of the Banking Industry.*** On March 10, 2023, the California Department of Financial Protection and Innovation closed Silicon Valley Bank and appointed the Federal Deposit Insurance Corporation ("**FDIC**") as receiver following a major outflow of deposits from Silicon Valley Bank and its failure to raise new capital. On March 12, 2023, the New York State Department of Finance closed Signature Bank and appointed the FDIC as receiver after its customers withdrew more than \$10 billion in deposits at the bank. The failure of such banks has resulted in significant concern regarding the health of other banking institutions and the ability of such institutions to withstand the economic conditions posed by rapidly increasing interest rates, including a decline in value of securities and loan portfolios, and it is unclear if there will be additional bank failures. To the extent there is a failure of a bank at which a client's assets are maintained, such failure could result in a delay in deploying and using assets in such client's accounts at that bank which could have an impact on the Firm's ability to engage in recommended transactions for clients.

***Natural Disasters; Epidemics and Pandemics.*** A natural disaster, such as an earthquake, a hurricane, a tsunami or widespread fires, or an outbreak of epidemic, pandemic, or contagious diseases, such as the novel coronavirus (SARS-CoV 2) and related respiratory disease ("**COVID-19**") pandemic, and past outbreaks such as the Ebola virus, Middle East Respiratory Syndrome, Severe Acute Respiratory Syndrome, or the H1N1 virus, could severely disrupt the global, national, and/or regional economies and/or markets.

In particular, in late 2019, an outbreak of COVID-19 occurred and has spread rapidly across the world. This outbreak has led, and for an unknown period of time will likely continue to lead, to disruptions in local, regional, national and global markets and economies affected thereby. With respect to the U.S. financial markets, this outbreak has resulted in, and until fully resolved is likely to continue to result in, the following, among other things: (i) government imposition of various forms of "stay at home" orders and the closing of "non-essential" businesses, resulting in significant disruption to the businesses of many borrowers, including supply chains, demand and practical aspects of their operations, as well as in lay-offs of employees, and, while these effects are hoped to be temporary, some effects could reoccur from time to time, be persistent, or even be permanent; (ii) increased draws by borrowers on revolving lines of credit; (iii) increased requests by borrowers for amendments and waivers of their credit agreements to avoid default, increased defaults by such borrowers and/or increased difficulty in obtaining refinancing at the maturity dates of their loans; (iv) downgrades in the credit rating of borrowers; (v) volatility and disruption of these markets including greater volatility in pricing and spreads and difficulty in valuing loans during periods of increased volatility, and liquidity issues; and (vi) rapidly evolving proposals and/or actions by local, state and federal governments to address problems being experienced by the markets and by



businesses and the economy in general, which will not necessarily adequately address the problems facing the loan market and businesses broadly. This outbreak is having, and any future outbreaks could have, an adverse impact on the markets and the economy in general, which could have a material adverse impact on, among other things, the ability of lenders to originate loans, the volume and type of loans originated, and the volume and type of amendments and waivers granted to borrowers and remedial actions taken in the event of a borrower default, each of which could negatively impact the amount and quality of loans available for investment by Firm's clients and returns to the Firm's clients, Fund investors and CDO investors. Additionally, variations of the SARS-CoV 2 virus could increase the rate at which the virus spreads and hamper vaccination efforts, leading to increased economic disruption. As of the date of this firm brochure, it is impossible to determine the scope of this outbreak, or any future outbreaks, how long any such outbreak, market disruption or uncertainties will last, the effect any governmental actions will have or the full potential impact on the Firm or its investment strategies, including the Firm's ability to make investments similar to those it has made in the past.

Subsequent "waves" of COVID-19 have occurred in the United States and could recur in the future, with new strains of the virus continuing to be identified. It is unclear whether the mitigation or containment measures taken by various governments (including at the federal, state and local level) or private enterprises will be continued or re-implemented, or if different measures will be implemented, and what impact such measures will have on the national or global economy. There can be no assurance that countries that appear to have passed the peak of the COVID-19 impact will not experience a resurgence. Moreover, there are certain parts of the world that are continuing to see an increase in the number of cases.

***Risks from Climate Change.*** A Firm client may invest in portfolio investments located in communities where its businesses, and the activities of its clients and customers, could be disrupted by climate change. Potential physical risks from climate change may include (among other things) altered distribution and intensity of rainfall, prolonged droughts or flooding, increased frequency of wildfires, extreme weather changes, rising sea levels and a rising heat index. In addition, these physical changes may prompt changes in regulations or consumer preferences which in turn could have negative consequences for the business models of client portfolio investments. These climate driven changes could have a negative impact on the economy, and business activity in any of the locations in which a portfolio may invest and thereby adversely affect the performance of a client's portfolio investments.

***Cessation of LIBOR.*** On March 5, 2021, the United Kingdom Financial Conduct Authority ("**FCA**") announced that the ICE Benchmark Administration Limited (the "**IBA**"), the administrator for LIBOR, would cease the publication of the LIBOR settings for one-week and two-month USD LIBOR tenors immediately following the LIBOR publication on December 31, 2021, and of all other USD LIBOR settings (including one-month, three-month and six-month USD LIBORs) immediately following the LIBOR publication on June 30, 2023 (the "**Announcement**"). Concurrent with the Announcement, the Federal Reserve Board, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Cooperation released a statement that (i) encouraged banks to cease entering into new contracts that use USD LIBOR as a reference rate as soon as practicable and in any event by December 31, 2021, (ii) indicated that new contracts should either utilize a reference rate other than USD LIBOR or have robust fallback language that includes a clearly defined alternative reference rate after the discontinuation of USD LIBOR and (iii) explained that extending the publication of certain USD LIBOR tenors until June 30, 2023 would allow most legacy USD LIBOR contracts to mature before LIBOR begins experiencing disruptions.

On March 8, 2021, the Alternative Reference Rates Committee ("**ARRC**") confirmed that in its opinion the Announcement constitutes a "benchmark transition event" with respect to all USD LIBOR settings pursuant to the ARRC recommendations.

Although it is expected that floating rate obligations that bear interest based on LIBOR migrated to a new benchmark prior to June 30, 2023, there is no guarantee that (i) such transition occurred, and if it did not occur, when such transition will occur, (ii) SOFR, or the Term SOFR Reference Rate, will replace LIBOR as the benchmark for such floating rate obligations, or (iii) any spread adjustment adopted in connection with such transition will be representative of LIBOR as of the date of determination of such benchmark.

On April 3, 2018, the New York Federal Reserve Bank (“**FRBNY**”) began publishing its alternative rate, the Secured Overnight Financing Rate (“**SOFR**”). SOFR significantly differs from LIBOR, both in the actual rate and how it is calculated, and therefore it is unclear whether and when markets will adopt SOFR as a widely accepted replacement for LIBOR. The ARRC, convened by the Federal Reserve Board and the Federal Reserve Bank of New York, identified SOFR as “the rate that represents best practices for use in certain new USD derivatives and other financial contracts,” representing the ARRC’s preferred alternative to USD LIBOR. Additionally, there are a range of other proposed alternative reference rates.

On March 15, 2022, the President of the United States signed the Adjustable Interest Rate (LIBOR) Act (the “**LIBOR Act**”) into law. The LIBOR Act addresses covered contracts in all states and territories in the United States that have no or ineffective LIBOR fallback language. On the date the relevant USD LIBOR tenor ceases to be published or is announced to no longer be representative, the USD LIBOR tenor of such contract will be replaced with a spread-adjusted, SOFR-based rate to be recommended by the Federal Reserve Board. The LIBOR Act further provides a safe harbor from liability for the parties that have the right to select and use a recommended benchmark replacement. The parties to the contracts covered by the legislation are not precluded from amending such contract to choose a different rate than the recommended benchmark replacement. The LIBOR Act preempts any other state LIBOR transition laws that are or may in the future be put into effect.

On July 29, 2021, the ARRC formally announced and recommended Term SOFR as an alternative reference rate to LIBOR for syndicated and bilateral business loans. CME Group currently publishes Term SOFR in one-month, three-month and six-month tenors.

There can be no assurance that any replacement to LIBOR will gain wide market acceptance, nor whether SOFR alternatives develop, in the aggregate, substantial market acceptance. Neither can there be any assurance that such replacements and alternatives will represent an improvement over LIBOR in its current (or modified) form. Changes to presently accepted global benchmarks going forward could adversely affect the value and liquidity of the investments of the Firm’s clients, or could cause an absence of available investments until an alternative global benchmark gains general market acceptance. In addition, an increase in alternative types of financing at the expense of LIBOR-based corporate loans may have a material adverse effect on the market value of the investments of the Firm’s clients which in turn could have a material adverse effect on the Firm’s ability to achieve its clients’ investment objectives. The market transition away from LIBOR and other current reference rates to alternative reference rates is complex, and could have a range of adverse impacts on the Fund’s business, financial conditions, or results of its operations.

**Potential Impact of Brexit.** The United Kingdom (“**UK**”) officially withdrew from the European Union (“**EU**”) on January 31, 2020 at 11:00 p.m. GMT, (“**Brexit**”). On December 24, 2020, a trade agreement was concluded between the EU and the United Kingdom (the “**EU-UK Trade and Cooperation Agreement**”), which came into effect on May 1, 2021. Although the EU-UK Trade and Cooperation Agreement covers many issues such as economic partnership / free trade, law enforcement / judicial co-operation and governance, the EU-UK Trade and Cooperation Agreement is silent on items such as financial services equivalence and data protection adequacy. Brexit has led to volatility in global financial markets, in particular those of the United Kingdom and across the EU, and the weakening in political, regulatory,

consumer, corporate and financial confidence in the United Kingdom and the EU. Given the size and importance of the United Kingdom's economy, uncertainty or unpredictability about its legal, political and/or economic relationships with the EU has been, and may continue to be, a source of instability and could lead to significant currency fluctuations and other adverse effects on international markets and international trade despite the EU-UK Trade and Cooperation Agreement.

The results of these events may significantly impact the volatility, liquidity and/or market value of securities and other financial instruments, including securities offered by a CDO (the "***Offered Securities***"). These uncertainties could also have a material adverse effect on the business, financial condition, results of operations and prospects of the obligors or underlying obligors of investments held by a CDO, and therefore their ability to make the payments due under the collateral obligations, which would affect the CDO's ability to make payments on the Offered Securities. In addition, it is unclear what the full consequences of the United Kingdom's withdrawal from the EU and the subsequent application of the EU-UK Trade and Cooperation Agreement will ultimately be for CDOs or any other transaction party as a result of Brexit. To the extent that a Firm client or any other transaction party has exposure to UK or European markets or to transactions tied to the value of the pound sterling or Euro, these events could negatively affect the value and liquidity of a Firm client's investments.

***Competition; Availability of Investments.*** The Firm may be unable to find a sufficient number of attractive opportunities to meet the Firm's clients' investment objectives or fully invest their assets and/or committed capital. Among other factors, competition for suitable investments from investment funds and other investors may reduce the availability of investment opportunities. There has been significant growth in the number of private funds and managed accounts organized to make investments similar or identical to the Firm's clients' investments, which may result in increased competition to our clients in obtaining suitable investments. There can be no assurance that the Firm will be able to identify or successfully pursue attractive investment opportunities in such an environment.

***Combination or "Layering" of Multiple Risks May Significantly Increase Risk of Loss.*** Although the various risks discussed in this brochure are generally described separately, the potential effects of the interplay of multiple risk factors should be considered. Where more than one significant risk factor is present, the risk of loss to a Firm client, Fund investor or CDO investor may be significantly increased.

### **C. Material Risks of Securities Used in Investment Strategies**

The following summary identifies the material risks related to certain types of investments expected to be made for the Firm's clients, but does not intend to identify all possible investments that may be made or all possible risks related to such investments. Further details regarding these risks and other applicable other risk factors will be included in the offering documents of the Funds and CDOs for which the Firm performs investment advisory and/or management services or in the advisory agreement or other documentation furnished to other clients. Clients, prospective clients, Fund investors, prospective Fund investors, CDO investors and prospective CDO investors are advised to carefully review all risk factors described in such documents. The following is not intended to supersede the material contained in such documents.

***General.*** The investments made by or for Firm clients will generally consist of debt obligations, securities and assets that have significant risks as a result of business, financial, market or legal uncertainties. There can be no assurance that the Firm will correctly evaluate the nature and magnitude of the various factors that could affect the value of and return on such Firm client's investments. Prices of each Firm client's investments may be volatile, and investments may involve a high degree of business and financial risk that can result in substantial losses. In particular, these risks could arise from changes in the financial condition or prospects of the applicable issuer, changes in national or international economic and market conditions

and changes in laws, regulations, fiscal policies or political conditions of jurisdictions in which investments are made, including the risks of war and the effects of terrorist attacks and security operations. In addition, the ability of the Firm to successfully implement its strategy may entail a high degree of uncertainty. The possibility of partial or total loss of capital will exist and investors should not invest unless they can readily bear the consequences of such loss.

**Bank Loans.** The investments of a Firm client may include interests in loans originated by banks and other financial institutions. The loans invested in by a Firm client may include term loans and revolving loans, may pay interest at a fixed or floating rate and may be senior or subordinated. Purchasers of bank loans are predominantly commercial banks, investment funds and investment banks. As secondary market trading volumes for bank loans increase, new bank loans are frequently adopting standardized documentation to facilitate loan trading which should improve market liquidity. There can be no assurance, however, that future levels of supply and demand in bank loan trading will provide an adequate degree of liquidity, that the current period of illiquidity will not persist or worsen and that the market will not experience periods of significant illiquidity in the future. In addition, Firm clients may make investments in stressed or distressed bank loans that are often less liquid than performing bank loans. Firm clients may acquire interests in bank loans either directly (by way of sale or assignment) or indirectly (by way of participation). The purchaser of an assignment typically succeeds to all the rights and obligations of the assigning institution and becomes a lender under the credit agreement with respect to the debt obligation. However, its rights can be more restricted than those of the assigning institution. Participation interests in a portion of a debt obligation typically result in a contractual relationship only with the institution participating out the interest, not with the borrower. In purchasing participations, a Firm client generally will have no right to enforce compliance by the borrower with the terms of the loan agreement, nor any rights of set-off against the borrower, and such Firm client may not directly benefit from the collateral supporting the debt obligation in which it has purchased the participation. As a result, such Firm client will assume the credit risk of both the borrower and the institution selling the participation.

**Debt Securities and Private Debt Instruments.** A Firm client may invest in debt securities and private debt instruments of unrated or non-investment grade companies, including leveraged loans, high yield bonds, senior secured bank debt, junior loans, subordinated loans, syndicated bridge commitments and unsecured loans. Debt securities of all types of issues may have speculative characteristics, regardless of whether they are rated. Investments in debt are subject to the ability of the issuer or the borrower to meet principal and interest payments on the obligation and may be subject to price volatility due to such factors as interest rate sensitivity, market perception of the creditworthiness of the issuer or the borrower and the general market conditions. Such risks are greater for investments in non-investment grade, non-rated or lower credit quality debt than for investments in higher rated debt. In addition, private debt instruments have significant liquidity risks and market value risks since they are not generally traded in organized exchange markets but are traded by banks and other institutional investors.

There may be limitations on the ability of a Firm client to directly enforce its rights with respect to these types of investments, and such Firm client may, in addition to assuming the credit risk of the borrower, assume the credit risk associated with the lender or an interposed financial intermediary. Investments in debt may also expose a Firm client to unfavorable outcomes in the event of a bankruptcy proceeding. Successful claims by third parties arising from these and other risks will be borne by such Firm client.

**High Yield Debt.** It is likely that certain Firm clients will invest in high yield securities that are rated below investment grade and/or unrated. Securities in which a Firm client may invest may be deemed by rating companies to have substantial vulnerability to default in payment of interest and/or principal. Other securities may be unrated. Such securities are generally not exchange traded and, as a result, these instruments trade in a smaller secondary market than exchange-traded bonds. In addition, certain Firm

clients invest in bonds of issuers that do not have publicly traded equity securities, making it more difficult to hedge the risks associated with such investments. High yield debt is generally unsecured and may be subordinate to other obligations of the obligor. The lower rating of high yield debt reflects a greater possibility that adverse changes in the financial condition of the obligor or in general economic conditions (including, for example, a substantial period of rising interest rates or declining earnings) or both may impair the ability of the obligor to make payment of principal and interest. Many issuers of high yield debt are highly leveraged, and their relatively high debt-to-equity ratios create increased risks that their operations might not generate sufficient cash flow to service their debt obligations. In addition, many issuers of high yield debt may be in poor financial condition, experiencing poor operating results, having substantial capital needs or negative net worth or be facing special competitive or product obsolescence problems, and may include companies involved in bankruptcy or other reorganizations or liquidation proceedings. Certain of these securities may not be publicly traded, and therefore it may be difficult to obtain information as to the true condition of the issuers. Overall declines in the below investment-grade bond and other markets may adversely affect such issuers by inhibiting their ability to refinance their debt at maturity. High yield debt is often less liquid than higher rated securities, and high yield debt has experienced periods of volatility. The market values of certain of this high yield debt may reflect individual corporate developments.

High yield debt is often issued in connection with leveraged acquisitions or recapitalizations in which the issuers incur a substantially higher amount of indebtedness than the level at which they had previously operated. High yield debt has historically experienced greater default rates than has been the case for investment-grade securities. Firm clients may also invest in equity securities issued by entities with unrated or below investment-grade debt.

High yield debt may also be in the form of zero-coupon, deferred interest bonds and payment-in-kind bonds, which are bonds which are issued at a significant discount from face value. Because investors in zero coupon or payment-in-kind bonds receive no cash prior to the maturity or cash payment date applicable thereto, an investment in such securities generally has a greater potential for a complete loss of principal compared to an investment in debt securities that makes periodic interest payments. These investments typically experience greater volatility in market value due to changes in the interest rates than bonds that provide for regular payments of interest. Such investments are more vulnerable to the creditworthiness of the issuer and any other parties upon which performance relies.

***Secondary Market Risk.*** Firm clients invest in loans and debt securities acquired on a secondary basis. Firm clients are unlikely to be able to negotiate the terms of such debt as part of their acquisition and, as a result, these investments might not include some of the covenants and protections Firm clients generally seek. Even if such covenants and protections are included in the investments held by Firm clients, the terms of the investments could provide the relevant borrowers with substantial flexibility in determining compliance with such covenants. In addition, the terms on which debt is traded on the secondary market could represent a combination of the general state of the market for such investments and either favorable or unfavorable assessments of particular investments by the sellers thereof.

***Fixed-Income Securities and Loans.*** A Firm client may invest in bonds or other fixed-income securities of U.S. and non-U.S. issuers, including, without limitation, bank debt, bonds, notes, debentures and commercial paper, as well as derivatives thereon. Fixed-income securities pay fixed, variable or floating rates of interest. The value of fixed-income securities in which a Firm client invests will change in response to fluctuations in interest rates. In addition, the value of certain fixed-income securities and bank loans can fluctuate in response to perceptions of creditworthiness, foreign exchange rates, political stability or soundness of economic policies.

Fixed-income securities and bank loans are subject to the risk of the issuer's inability to meet principal and interest payments on its obligations (*i.e.*, credit risk) and are subject to price volatility due to such factors as interest rate sensitivity, market perception of the creditworthiness of the issuer and general market liquidity (*i.e.*, market risk).

**Senior Loans.** Senior secured loans are generally rated below investment grade or may also be unrated. As a result, the risks associated with senior secured loans are similar to the risks of other below investment grade fixed-income instruments, although senior secured loans are senior and secured in contrast to other below investment grade fixed-income instruments, which are often subordinated or unsecured. Investment in senior secured loans rated below investment grade is considered speculative because of the credit risk of their issuers. Such companies are more likely than investment grade issuers to default on their payments of interest and principal owed to a Firm client, and such defaults could have a materially adverse effect on a Firm client's performance. An economic downturn would generally lead to a higher non-payment rate, and a senior secured loan may lose significant market value before a default occurs. Moreover, there is a risk that the collateral securing such loans may decrease in value over time, may be difficult to sell in a timely manner, may be difficult to appraise and may fluctuate in value based upon the success of the business and market conditions, including as a result of the inability of the issuer to raise additional capital, and, in some circumstances, a Firm client's liens could be subordinated to claims of other creditors. Consequently, the fact that a loan is secured does not guarantee that a Firm client will receive principal and interest payments according to the loan's terms, or at all, or that a Firm client will be able to collect on the loan should it be forced to enforce its remedies. Senior secured loans are subject to a number of risks described elsewhere in this brochure, including liquidity risk and the risk of investing in below investment grade fixed income instruments.

There may be less readily available and reliable information about most senior secured loans than is the case for many other types of securities, including securities issued in transactions registered under the Securities Act or registered under the Commodity Exchange Act. As a result, the Firm will rely primarily on its own evaluation of a borrower's credit quality rather than on any available independent sources. Therefore, a Firm client will be particularly dependent on the analytical abilities of the Firm with respect to a Firm client's investments in senior secured loans.

**Subordinated Loans.** Certain Firm clients' investments may consist of loans or securities, or interests in pools of securities, in either case, that are subordinated or may be subordinated in right of payment and ranked junior to other securities issued by, or loans made to obligors. If an obligor experiences financial difficulty, holders of its more senior securities will be entitled to payments in priority to a Firm client. Some of a Firm client's asset-backed investments may also have structural features that divert payments of interest and/or principal to more senior classes or tranches of loans or securities backed by the same assets when loss rates or delinquency exceeds certain levels. This may interrupt the income a Firm client receives from its investments, which may negatively affect a Firm client's performance.

In addition, many of the issuers in which a Firm client invests will be highly leveraged and many of a Firm client's investments may be in securities which are unrated or rated below investment grade. Such investments are subject to additional risks, including an increased risk of default during periods of economic downturn, the possibility that the obligor may not be able to meet its debt payments and limited secondary market support, among other risks.

**Priority of Repayment for Certain Investments.** The characterization of a Firm client's investments as senior debt or senior secured debt does not mean that such debt will necessarily be repaid in priority to all other obligations of the businesses in which a Firm client invests. Furthermore, debt and other liabilities incurred by non-guarantor subsidiaries of the borrowers of senior secured loans made by a Firm client may

be structurally senior to the debt held by a Firm client. In the event of insolvency, liquidation, dissolution, reorganization or bankruptcy of a portfolio issuer, the debt and other liabilities of such subsidiaries could be repaid in full before any distribution can be made to an obligor of the senior secured loans held by a Firm client. Finally, portfolio companies will typically incur trade credit and other liabilities or indebtedness, which by their terms may provide that their holders are entitled to receive principal payments on or before the date's payments are due in respect of the senior secured loans held by a Firm client.

***Risks of Secured Loans.*** While a Firm client may invest in secured loans that may be over-collateralized at the time of the investment, it may nonetheless be exposed to losses resulting from default and foreclosure. Therefore, the value of the underlying collateral, the creditworthiness of the borrower and the priority of the lien are each of great importance. A Firm client cannot guarantee the adequacy of the protection of its interests, including the validity or enforceability of the loan and the maintenance of the anticipated priority and perfection of the applicable security interests. Furthermore, a Firm client cannot assure that claims may not be asserted that might interfere with enforcement of a Firm client's rights. In addition, in the event of any default under a secured loan held directly by a Firm client, such client will bear a risk of loss of principal to the extent of any deficiency between the value of the collateral and the principal and accrued interest of the secured loan, which could have a material adverse effect on a Firm client's cash flow from operations.

In the event of a foreclosure, a Firm client may assume direct ownership of the underlying asset. The liquidation proceeds upon sale of such asset may not satisfy the entire outstanding balance of principal and interest on the loan, resulting in a loss to a Firm client. Any costs or delays involved in the effectuation of a foreclosure of the loan, or a liquidation of the underlying property will further reduce the proceeds and thus increase the loss.

***Default of Borrowers.*** Loans that certain Firm clients will make may be subject to credit, liquidity and interest rate risk. In the event of any default on the Firm clients' investment in a debt obligation by the borrower, the Firm clients will bear a risk of loss of principal and accrued interest on the debt obligation, which could have a material adverse effect on the Firm clients' investment and results of operations. An investment may become defaulted for a variety of reasons, including non-payment of principal or interest, as well as breaches of contractual covenants. Credit risks associated with the investments include, among others, (i) the possibility that earnings of a borrower may be insufficient to meet its debt service obligations; (ii) a borrower's assets declining in value; and (iii) the declining creditworthiness, default and potential for insolvency of a borrower during periods of rising interest rates and economic downturn.

A defaulted investment may become subject to workout negotiations or may be restructured by, for example, reducing the interest rate, a write-down of the principal and/or changes to its terms and conditions. Any such process may be extensive and protracted over time and, therefore, may result in substantial uncertainty with respect to the ultimate recovery on the defaulted investment, and significant costs might be incurred by the Firm clients. In addition, the liquidity in defaulted loans may also be limited, and to the extent that defaulted loans are sold, it is highly unlikely that the proceeds from such sale will be equal to the amount of unpaid principal and interest thereon, which would adversely affect the value of the Firm clients' investment portfolio.

***Swap Agreements.*** A Firm client may enter into swap agreements. Swap agreements can be individually negotiated and structured to provide a Firm client with exposure to a variety of different types of assets, including currencies, interest rates, securities, commodities and credit risks. Depending on their structure, swap agreements may increase or decrease the exposure of a Firm client to long-term or short-term interest rates (in the United States or abroad), non-U.S. currency values, mortgage securities, corporate borrowing rates, asset-backed securities, collateralized debt obligations, indices or other assets or factors such as security prices, baskets of equity securities or inflation rates. Swap agreements can take many different

forms and are known by a variety of names. In general, swaps and other custom instruments that are not cleared are subject to counterparty risk, which is the risk of non-performance by the swap counterparty, including risks relating to the creditworthiness of the swap counterparty. Depending on the type of swap, a Firm client may instead be subject to the risk of the failure of the exchange on which it trades the swap or the clearinghouse through which it clears the swap. A Firm client may not be precluded from entering into any particular form of swap agreement if the Firm determines it is consistent with the investment objective and policies of a Firm client.

Swap agreements tend to shift investment exposure from one type of investment to another. For example, if a Firm client agrees to exchange payments in U.S. dollars for payments in a non-U.S. currency, the swap agreement would tend to decrease a Firm client's exposure to the U.S. dollar and interest rates and increase its exposure to the relevant non-U.S. currency and related interest rates. Depending on how they are used, swap agreements may increase or decrease the overall volatility or risk of the portfolio of a Firm client. The most significant factor in the performance of swap agreements is the change in the referenced asset, whether an interest rate, currency, security, commodity or reference entity, along with other factors that impact the amounts of payments due to and from a Firm client. If a swap agreement calls for payments by a Firm client, such client must be prepared to make such payments when due. In addition, if a counterparty's creditworthiness declines, the value of swap agreements with such counterparty can be expected to decline, potentially resulting in losses by a Firm client. Generally speaking, swap agreements require each party to post margin at the beginning of the trade and throughout the life of the agreement to collateralize any adverse mark to market movement in the value of the swap to such party. A bankruptcy of the collateral holder may result in losses to the extent posted collateral exceeds the obligations of the pledging party under the swap agreement.

The Dodd-Frank Act requires clearing and trading on regulated platforms of those certain products mandated by the U.S. Commodity Futures Trading Commission (the "**CFTC**"). The CFTC currently requires the centralized clearing and trading on swap execution facilities ("**SEFs**") of certain interest rate and credit index derivatives. Additional products are expected to be required to be cleared and traded in this manner in the future. However, other swaps will not necessarily be cleared or traded through registered clearinghouses or traded on regulated platforms, and therefore may not be subject to the protections afforded to participants in cleared swaps (e.g., centralized counterparty, guaranteed funds, customer asset segregation and mandatory margin requirements) and trades executed on SEFs (e.g., price transparency). Clearinghouse collateral requirements may differ from and be greater than the collateral terms negotiated with swap counterparties in the over-the-counter market. This may increase a Firm client's cost in entering into these products and impact the Firm's ability to pursue certain investment strategies. For swaps that are cleared through a clearinghouse, a Firm client will face the clearinghouse as legal counterparty and will be subject to clearinghouse performance and credit risk. It is worth noting that the Dodd-Frank Act requires that over time a large proportion of transactions in the derivatives markets to be cleared on registered clearinghouses and traded on SEFs.

In addition, the Dodd-Frank Act and related CFTC and SEC rules (certain of which have not yet been released or finalized) impose other significant new regulations on the derivatives markets, including the registration of and regulations on persons deemed to be swap dealers or major swap participants. Such regulated swap entities are subject to a number of regulatory requirements that may result in such counterparties increasing a Firm client's and its issuers' cost of trading derivative instruments through increased fees or spreads to offset the compliance costs and requirements. On the other hand, a Firm client and the issuers it invests in may trade in certain swaps or derivative instruments with unregistered and unregulated entities, and therefore may not benefit from protections afforded to counterparties of registered and regulated swap entities.



There is significant uncertainty regarding the Dodd-Frank Act, the regulations that are being developed pursuant to such legislation and, consequently, the full impact that such legislation ultimately will have on a Firm client and its issuers' derivatives instruments is not fully known to date.

Moreover, certain aspects of the appropriate U.S. federal income tax treatment of customized derivative instruments are uncertain and, if a Fund's U.S. federal income tax treatment of such instruments proves to be inappropriate, a Fund investor's after-tax return from its investment in the Fund may be adversely affected.

Although the Dodd-Frank Act has imposed new and significant regulations regarding swap agreements, these transactions are substantially unregulated in other ways. There is no limitation on daily price movements and speculative position limits are not applicable. There may be periods during which certain participants in these markets refuse to quote prices for certain swap agreements or the assets referenced in such agreements or have quoted prices with an unusually widespread between the price at which they were prepared to buy and that at which they were prepared to sell. Disruptions can occur in the market for any particular type of swap agreement due to unusually high trading volume, political intervention or other factors. The imposition of controls by government authorities might also limit such trading in swap agreements to a level that is less than that which the Firm would otherwise recommend, to the possible detriment of a Firm client. Market illiquidity or disruption could result in significant losses to a Firm client.

For all the foregoing reasons, swap agreements can expose a Firm client and its investments to significant risk of loss and may result in a poorer overall performance for a Firm client than if it had not entered into such transactions.

***Synthetic Instruments.*** A Firm client may utilize customized derivative instruments, such as swap or notional principal contracts, to receive synthetically the economic attributes associated with an investment in a security or financial instrument or a basket of securities or financial instruments.

There may be circumstances in which the Firm would conclude that the best or only means by which a Firm client could make a desirable investment is through the use of such derivative structures. A Firm client may be exposed to certain risks should the Firm use derivatives as a means to implement synthetically its investment strategies. If a Firm client enters into a derivative instrument whereby it agrees to receive the return of a security or financial instrument or a basket of securities or other financial instruments, it will typically contract to receive such returns for a predetermined period of time. During such period, a Firm client may not have the ability to increase or decrease its exposure. In addition, such customized derivative instruments may not provide early optional termination rights to a Firm client and may be highly illiquid. As a result, it is possible that a Firm client will not be able to terminate such derivative instruments prior to their expiration date or that the penalties associated with such a termination will impact a Firm client's performance in a material adverse manner. In the event a Firm client seeks to invest in a security or other financial instrument or basket of securities or other financial instruments through such synthetic derivative instruments, a Firm client will not acquire any voting interests or other shareholder rights that would be acquired with a direct investment in the underlying securities or other financial instruments. Accordingly, a Firm client will not participate in matters submitted to a vote of the shareholders. In addition, a Firm client may not receive all of the information and reports to shareholders that a Firm client would receive with a direct investment. Further, it is expected that a Firm client will pay the counterparty to any such customized derivative instrument structuring fees and ongoing transaction fees, which will reduce the investment performance of a Firm client. These transactions will likely also require the posting of collateral. A bankruptcy of the collateral holder may result in losses to the extent posted collateral exceeds the obligations of the pledging party under such transaction. Finally, certain aspects of the appropriate U.S. federal income tax treatment of such customized derivative instruments are uncertain and, if a Fund's U.S. federal income

tax treatment of such instruments proves to be inappropriate, a Fund investor's after-tax return from its investment in the Fund may be adversely affected.

***Counterparty Risk; Necessity for Counterparty Trading Relationships.*** A Firm client may establish relationships in the future to obtain financing, derivative intermediation and prime brokerage services that permit a Firm client to trade in any variety of markets or asset classes over time. However, there can be no assurance that a Firm client will be able to establish or maintain such relationships. An inability to establish or maintain such relationships would limit a Firm client's trading activities and could create losses, preclude a Firm client from engaging in certain transactions or obtaining financing, derivative intermediation and prime brokerage services and prevent a Firm client from trading at optimal rates and terms. Moreover, a disruption in the financing, derivative intermediation and prime brokerage services provided by any such relationships before a Firm client establishes additional relationships could have a significant impact on the Firm client's business due to a Firm client's reliance on such counterparties.

Many of the markets in which a Firm client effects a substantial portion of its transactions are over-the-counter or interdealer markets. The participants in such markets are typically not subject to credit evaluation and regulatory oversight as are members of exchange-based markets. This exposes a Firm client to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a dispute over the terms of the contract (whether or not bona fide) or because of a credit or liquidity problem, thus causing a Firm client to suffer a loss. Such counterparty risk is accentuated for contracts with longer maturities where events may intervene to prevent settlement, or where a Firm client has concentrated its transactions with a single or small group of counterparties. The Firm is not restricted from dealing with any particular counterparty or from concentrating any or all of its transactions with one counterparty. The ability of a Firm client to transact business with any one or number of counterparties, the lack of any meaningful and independent evaluation of such counterparties' financial capabilities and the absence of a regulated market to facilitate settlement may increase the potential for losses by a Firm client.

In addition, a Firm client may use counterparties located in various jurisdictions outside the United States. Such local counterparties are subject to various laws and regulations in various jurisdictions that are designed to protect their customers in the event of their insolvency. However, the practical effect of these laws and their application to a Firm client's assets are subject to substantial limitations and uncertainties. Because of the large number of entities and jurisdictions involved and the range of possible factual scenarios involving the insolvency of a counterparty, it is impossible to generalize about the effect of their insolvency on a Firm client and its assets. It should be assumed that the insolvency of any counterparty would result in a loss to a Firm client, which could be material.

***Convertible Securities.*** Convertible securities are bonds, debentures, notes, preferred stocks or other securities that may be converted into or exchanged for a specified amount of common stock of the same or different issuer within a particular period of time at a specified price or formula. A convertible security entitles the holder to receive interest that is generally paid or accrued on debt or a dividend that is paid or accrued on preferred stock until the convertible security matures or is redeemed, converted or exchanged. Convertible securities have unique investment characteristics in that they generally (i) have higher yields than common stocks, but lower yields than comparable non-convertible securities; (ii) are less subject to fluctuation in value than the underlying common stock due to their fixed-income characteristics; and (iii) provide the potential for capital appreciation if the market price of the underlying common stock increases.

The value of a convertible security is a function of its investment value (determined by its yield in comparison with the yields of other securities of comparable maturity and quality that do not have a conversion privilege) and its conversion value (*i.e.*, the security's worth, at market value, if converted into the underlying common stock). The investment value of a convertible security is influenced by changes in

interest rates, with investment value declining as interest rates increase and increasing as interest rates decline. The credit standing of the issuer and other factors may also have an effect on the convertible security's investment value. The conversion value of a convertible security is determined by the market price of the underlying common stock. If the conversion value is low relative to the investment value, the price of the convertible security is governed principally by its investment value. To the extent the market price of the underlying common stock approaches or exceeds the conversion price, the price of the convertible security will be increasingly influenced by its conversion value. A convertible security generally will sell at a premium over its conversion value by the extent to which investors place value on the right to acquire the underlying common stock while holding a fixed-income security. Generally, the amount of the premium decreases as the convertible security approaches maturity.

A convertible security may be subject to redemption at the option of the issuer at a price established in the convertible security's governing instrument. If a convertible security held by a Firm client is called for redemption, such client will be required to permit the issuer to redeem the security, convert it into the underlying common stock or sell it to a third-party. Any of these actions could have an adverse effect on the ability of such Firm client to achieve its investment objective.

***Incurrence of Additional Debt or Equity Securities.*** Borrowers or issuers of any portfolio investment may have, or may be permitted to incur, other debt or issue other equity securities that rank equally with, or senior to, a Firm clients' investments. By their terms, those instruments may provide that the holders are entitled to receive payment of dividends, interest or principal on or before the dates on which the Firm clients are entitled to receive payments in respect of their investments. These debt instruments would usually prohibit the borrower or issuer of any portfolio investment from paying interest on or repaying the Firm clients' investments in the event and during the continuance of a default under the debt. Also, in the event of insolvency, liquidation, dissolution, reorganization or bankruptcy of a borrower or issuer of any portfolio investment, holders of securities ranking senior to the Firm clients' investment in that borrower or issuer typically would be entitled to receive payment in full before the Firm clients receive any distribution in respect of their investment. After repaying those holders, the borrower or issuer of any portfolio investment may not have any remaining assets to use to repay its obligation to the Firm clients. In the case of securities ranking equally with the Firm clients' investments, such clients will have to share on an equal basis any distributions with other security holders in the event of an insolvency, liquidation, dissolution, reorganization or bankruptcy of the relevant borrower or issuer of any portfolio investment.

The rights the Firm clients may have with respect to the collateral securing any junior priority loans it makes to the relevant borrower or issuer of a portfolio investment may also be limited pursuant to the terms of one or more intercreditor agreements that the Firm clients enter into with the holders of senior debt. Under such an intercreditor agreement, at any time that senior obligations are outstanding, the Firm clients may forfeit certain rights with respect to the collateral to the holders of the senior obligations. These rights may include the right to commence enforcement proceedings against the collateral, the right to control the conduct of those enforcement proceedings, the right to approve amendments to collateral documents, the right to release liens on the collateral and the right to waive past defaults under collateral documents. The Firm clients may not have the ability to control or direct such actions, even if as a result their rights as junior lenders are adversely affected.

***Highly Volatile Instruments.*** The prices of the financial instruments in which the Firm clients can invest can be highly volatile. Price movements of instruments in which the assets of Firm clients may be invested are influenced by, among other things, interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, and national and international political and economic events and policies. In addition, governments from time to time intervene, directly and by regulation, in certain markets, particularly those in currencies and financial instrument options. Such

intervention is intended to influence prices directly and may, together with other factors, cause all of such markets to move rapidly in the same direction because of, among other things, interest rate fluctuations. The investments of the Firm clients also are subject to the risk of failure of any exchange on which its positions trade or of their clearinghouses.

***Contingent Liabilities.*** A Firm client may from time to time incur contingent liabilities in connection with an investment. For example, a Firm client may acquire a revolving credit or delayed draw term facility that has not yet been fully drawn or may originate or make a secondary purchase of a revolving credit facility. If the borrower subsequently draws down on the facility, the applicable client will be obligated to fund the amounts due which amounts may be required to be funded after the termination of the Firm client's investment period. A Firm client may incur numerous other types of contingent liabilities. There can be no assurance that a Firm client will adequately reserve for its contingent liabilities and that such liabilities will not have an adverse effect on such client.

***Distressed and Stressed Investments.*** A Firm client may also be authorized to invest in the securities and obligations of distressed and bankrupt issuers, 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. Defaulted obligations might be repaid, if at all, only after lengthy workout or bankruptcy proceedings, during which the issuer might not make any interest or other payments and the amount of any recovery may be affected by the relative seniority of the Firm client's investment in the capital structure of the issuer. In addition, distressed investments are more likely to be challenged as fraudulent conveyances and amounts paid on the investment may be subject to avoidance as a preference under certain circumstances.

Firm clients may also invest in the securities and obligations of stressed issuers. Stressed issuers are issuers that are not yet deemed distressed or bankrupt and whose debt securities are trading at a discount to par, but not yet at distressed levels. An example would be an issuer that is in technical default of its credit agreement, or undergoing strategic or operational changes, which results in market pricing uncertainty. The market prices of stressed and distressed instruments are highly volatile, and the spread between the bid and the ask prices of such instruments is often unusually wide.

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

Furthermore, reorganizations can be contentious and adversarial. It is by no means unusual for participants to use the threat of, as well as actual, litigation as a negotiating technique. Therefore, it is possible that a Firm client may be named as defendants in civil proceedings. The expense of defending against claims by third parties and paying any amounts pursuant to settlements or judgments would generally be borne by a Firm client and would reduce net assets.

***Non-Performing Debt.*** There are varying sources of statistical default and recovery rate data for loans and other debt securities and obligations and numerous methods for measuring default and recovery rates. The historical performance of the credit market or the leveraged loan market is not necessarily indicative of future results.

It is anticipated that certain of the loans purchased by a Firm client may be non-performing or in default or become non-performing and/or default after they are purchased by a Firm client. Furthermore, the obligor and/or relevant guarantor may also be in bankruptcy or liquidation. There can be no assurance as to the amount and timing of payments a Firm client will receive with respect to such non-performing or defaulted loans.

***Leveraged Loans.*** “Leveraged loans” are loans made to companies with a below investment-grade rating from any nationally recognized rating agency. As a result, the risks associated with leveraged loans are similar to the risks of other below investment grade fixed-income instruments.

Investments in leveraged loans rated below investment grade are considered speculative because of the credit risk of their issuers. Such loans may be performing poorly when a Firm client acquires them. An economic downturn would generally lead to a higher non-payment rate, and a leveraged loan may lose significant market value before a default occurs. There is no assurance that the Firm will correctly evaluate the value of the assets collateralizing such loans or the prospects for distribution on or repayment of such loans. Moreover, there is a risk that the collateral securing such loans may decrease in value over time, may be difficult to sell in a timely manner, may be difficult to appraise and may fluctuate in value based upon the success of the business and market conditions, including as a result of the inability of the issuer to raise additional capital, and, in some circumstances, the Firm client’s liens could be subordinated to claims of other creditors. Consequently, the fact that a loan is secured does not guarantee that the Firm client will receive principal and interest payments according to the loan’s terms, or at all, or that the Firm client will be able to collect on the loan should it be forced to enforce its remedies. A Firm client may lose its entire investment or may be required to accept cash, property or securities with a value less than such Firm client’s original investment and/or may be required to accept payment over an extended period of time.

Other risks associated with a leveraged loan include the possible invalidation of the underlying loan as a fraudulent conveyance under relevant creditors’ rights laws and depreciation in the value of the collateral securing the obligations of such loan. The Firm client may suffer losses arising from these and other risks.

In general, the secondary trading market for leveraged loans may not be as liquid or efficient as certain other debt instruments. No active trading market may exist for certain leveraged loans, which may make it difficult to value or trade them. Illiquidity and adverse market conditions may mean that the Firm client may not be able to sell leveraged loans quickly or at a price deemed by the Firm client to be equal to the full value. To the extent that a secondary market does exist for certain leveraged loans, the market for them may be subject to irregular trading activity, wide bid/ask spreads and extended trade settlement periods.

There may be less readily available and reliable information about most leveraged loans than is the case for many other types of securities, including securities issued in transactions registered under the Securities Act or registered under the Commodity Exchange Act. As a result, the Firm will rely primarily on its own evaluation of a borrower’s credit quality rather than on any available independent sources. Therefore, the Firm client will be particularly dependent on the analytical abilities of the Firm with respect to the Firm client’s investments in leveraged loans.

***Unfunded Loans.*** Firm clients’ investments may be permitted to be comprised, directly or indirectly, of loan commitments that are unfunded at the time of investment. A loan commitment is a written agreement in which the lender commits itself to make a loan or loans up to a specified amount within a specified time period. The loan commitment sets out the terms and conditions of the lender’s obligation to make the loans. The portion of the amount committed by a lender under a loan commitment that the borrower has not drawn down is referred to as “unfunded.” A lender typically is obligated to advance the unfunded amount of a loan commitment at the borrower’s request, subject to certain conditions regarding the creditworthiness of

the borrower. Borrowers with deteriorating creditworthiness could continue to satisfy their contractual conditions and therefore be eligible to borrow at times when the lender might prefer not to lend. In addition, a lender will likely have assumptions as to when the borrower will draw on an unfunded loan commitment when the lender enters into the commitment. If the borrower does not draw as expected, the commitment is unlikely to prove as attractive an investment as originally anticipated. Further, any failure to advance requested funds to a borrower could result in possible assertions of offsets against amounts previously lent.

***Covenant-Lite Loans.*** A substantial portion of a Firm client's assets may consist of "covenant-lite loans." There has been an increase in the average debt multiple of leveraged loans and the growth in the percentage of leveraged loans issued as "covenant-lite." Covenant-lite loans typically do not have maintenance covenants (which generally are covenants requiring the underlying obligor of the loan to comply with one or more financial covenants during each reporting period applicable to such loan). In addition, the Firm believes that the covenants that do exist have generally become less restrictive, thereby offering more limited protection to lenders. Ownership of covenant-lite loans may expose the Firm client to different risks, including with respect to liquidity, price volatility and ability to restructure loans, than is the case with loans that have maintenance covenants. The lack of such covenants may increase the likelihood that such borrowers could default on their payments to the Firm client, thereby resulting in losses to the Firm client. The Firm client may also own certain loans that do not have maintenance or incurrence covenants themselves but contain cross-default or cross-acceleration provisions to another loan of the underlying obligor that requires the underlying obligor to comply with a maintenance covenant (an "excluded loan"). If the application of any such covenant is subject to certain conditions (for example, in the case of a revolver, the condition that such revolver has been drawn), and those conditions have not been satisfied, such covenant may not afford or may cease to afford protection to the Firm client. As a result of the ownership of such excluded loans and covenant-lite loans, the Firm client's exposure to losses may be increased.

***Hung Loan.*** The term "hung loan" commonly refers to a loan that has been made (or has been committed to be made), and the lender is not able to syndicate the loan on the originally anticipated terms. Hung loans are illiquid and lack readily ascertainable market values; there is no assurance that the price to be paid for hung loans by a Firm client will reflect a discounted price that should allow the Firm client to achieve a positive return on such loans or avoid losses. Since the price of the loans to be purchased is expected to continue to be significantly impacted by, in addition to the specific circumstances relating to each loan (*e.g.*, in the case of a loan relating to a leveraged buyout ("***LBO***"), the financial condition of the target), global and macro-economic conditions (*e.g.*, monetary policy, changes to currency exchange rates, governmental intervention or changes to existing laws, international geo-political events, *etc.*) as well as other systemic factors, it is possible that loans purchased by the Firm client will suffer significant impairments in value as a result of events not predicted by the Firm client. The Firm client may also face difficulties in disposing of or leveraging such loans, or in doing so without incurring losses. The markets in which hung loans are purchased and sold have been volatile and are likely to continue to be volatile in the future.

***Bridge Loans.*** It is a common practice for financial institutions to commit to providing bridge loans to facilitate acquisitions, including LBOs, where they serve as Firms to the purchaser. Bridge loans are frequently made because, for timing or market reasons, longer-term financing is not available at the time the funds are needed, which is often at the time of the closing of an acquisition. In the past, these commitments were not frequently drawn upon due to the availability of other sources of financing; however, due to market conditions affecting the availability of these other sources of financing (principally high-yield bond transactions), bridge loan commitments have been and may be drawn upon more regularly. Since these commitments were not regularly drawn upon in the past, there is little history for investors to rely upon in evaluating investments in bridge loans. Bridge loans often have shorter maturities. Borrower and lenders typically agree to shorter maturities based on the anticipation that the bridge loans will be replaced

with other forms of financing within such shorter time period. However, the source and timing of such replacement financing may be uncertain and can be affected by, among other things, market conditions and the financial condition of the borrower at the maturity date of the bridge. If the borrower is unable to obtain replacement financing and repay the bridge loan at maturity, the terms of the bridge loan may provide for the bridge loan to be converted to a longer-term loan. If bridge loans are not repaid (or cannot be disposed of on favorable terms) on the dates projected by the Firm, there may be an adverse effect upon the ability of the Firm to manage the assets of the Firm client in accordance with its models and projections or an adverse effect upon the Firm client's performance and ability to make distributions.

***Time Required for Maturity of Investments.*** Certain securities or obligations held by a Firm client have terms longer than the term of a Firm client and certain loans may have grace periods of several years. Furthermore, a Firm client may, in connection with collateral held by it acquire non-marketable common or preferred equity securities and other illiquid assets with equity participation features which, to the extent that they have value at all, will likely not have realizable value for a significant period of time. Accordingly, it is unlikely that significant distributions to investors will occur for a number of years from the date of the investors' applicable capital contributions, and certain investments may need to be disposed of upon dissolution of a Firm client for less than their potential value.

***Debtor-in-Possession Loans.*** The investments of certain Firm clients may consist of interests in loans issued by companies that are in bankruptcy. These investments are highly risky, as there are a number of significant risks inherent in the bankruptcy process. First, many events in a bankruptcy are the product of contested matters and adversarial proceedings and are beyond the control of the creditors. While creditors are generally given an opportunity to object to significant actions, there can be no assurance that a bankruptcy court in the exercise of its broad powers would not approve actions that would be contrary to the interests of a Firm client. Second, the effect of a bankruptcy filing on a company may adversely and permanently affect the company. The company may lose its market position and key employees and otherwise become incapable of restoring itself as a viable entity. If for this or any other reason the proceeding is converted to liquidation, the liquidation value of the company may not equal the liquidation value that was believed to exist at the time of the investment. Third, the duration of a bankruptcy proceeding is difficult to predict. A creditor's return on investment can be adversely affected by delays while the plan of reorganization is being negotiated, approved by the creditors and confirmed by the bankruptcy court and until it ultimately becomes effective. Fourth, the administrative costs in connection with a bankruptcy proceeding are frequently high. Although debtor-in-possession loans may in some circumstances possess priority over administrative expenses, this is not always the case, and administrative expenses may be paid out of the debtor's estate prior to any return to creditors. For example, if a proceeding involves protracted or difficult litigation, or turns into a liquidation, substantial assets may be devoted to administrative costs. Fifth, bankruptcy law permits the classification of "substantially similar" claims in determining the classification of claims in a reorganization. Because the standard for classification is vague, there exists the risk that a Firm client's influence with respect to the class of securities it owns can be lost by increases in the number and amount of claims in that class or by different classification and treatment. Sixth, in the early stages of the bankruptcy process it is often difficult to estimate the extent of, or even to identify, any contingent claims that might be made. Seventh, especially in the case of investments made prior to the commencement of bankruptcy proceedings, creditors can lose their ranking and priority if they exercise "domination and control" over a debtor and other creditors can demonstrate that they have been harmed by such actions. Eighth, certain claims that have priority by law (for example, claims for taxes) may be quite significant. Finally, amounts previously paid to a Firm client may be challenged as fraudulent conveyances or preferences as part of a bankruptcy proceeding.

A Firm client may invest in the securities and obligations issued by companies that are financially distressed and are expected by the Firm to commence bankruptcy proceedings or undertake out-of-court restructurings,

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. While these loans are subject to the risks inherent in the bankruptcy process as debtor-in-possession loans, they are typically riskier than debtor-in-possession loans because they do not possess certain protections, such as priming liens, typically afforded to debtor-in-possession loans. It is more likely that a creditor making an investment made prior to the commencement of bankruptcy proceedings will be deemed to have exercised “domination and control” over a debtor and consequently lose ranking and priority. In addition, investments in pre-filing companies are more likely to be challenged as fraudulent conveyances and amounts paid on the investment may be subject to avoidance as a preference under certain circumstances.

***Special Situation Financings.*** Certain Firm clients make investments in special situation financings, including event-driven situations such as recapitalizations, debtor-in-possession and other financings, corporate and financial restructurings, acquisitions, divestitures, reorganizations or other situations in public or private companies that would provide a Firm client with an opportunity to provide debt and/or equity financing. Such investments may be originated by Firm clients and will typically be made on a negotiated basis. These investments are complicated, and an incorrect assessment of the downside risk associated with an investment could result in significant losses to a Firm client.

***Lower Credit Quality Loan.*** There may be no restrictions on the credit quality of a Firm client’s loans. Loans invested in by a Firm client may be deemed to have substantial vulnerability to default in payment of interest and/or principal. Certain of the loans in which a Firm client may invest have large uncertainties or major risk exposures to adverse conditions and may be considered to be predominantly speculative. Generally, such loans offer a higher return potential than better quality loans but involve greater volatility of price and greater risk of loss of income and principal. The market values of certain of these loans also tend to be more sensitive to changes in economic conditions than better quality loans.

***Syndicated Loans and Minority Holders.*** A Firm client may purchase assets in the form of an assignment of, or participation interest in, a note or other obligation issued under a loan facility to which more than one lender is a party. Participations held by a Firm client in a seller’s portion of a debt instrument typically results in a contractual relationship only with such seller, not with the obligor. These loan facilities are administered for the lenders by a lender or other agent acting as the lead administrator. The terms and conditions of these loan facilities may be amended, modified or waived only by the agreement of the lenders. Generally, any such agreement must include a majority or a super-majority (measured by outstanding loans or commitments) or, in certain circumstances, a unanimous vote of the lenders, and a Firm client may have a minority interest in such loan facilities. Consequently, the terms and conditions of a Firm client asset issued or sold in connection with a loan facility could be modified, amended or waived in a manner contrary to the preferences of a Firm client if the amendment, modification or waiver of such term or condition does not require the unanimous vote of the lenders and a sufficient number of the other lenders concur with such modification, amendment or waiver. There can be no assurance that any Firm client assets issued or sold in connection with any loan facility will maintain the terms and conditions to which a Firm client or a predecessor in interest to a Firm client originally agreed.

In connection with purchasing participations, a Firm client generally will have no right to enforce compliance by the obligor with the terms of the related loan agreement, nor any rights of set-off against the obligor and a Firm client may not directly benefit from the collateral supporting the debt instrument in which it has purchased the participation. As a result, a Firm client will assume the credit risk of both the obligor and the seller selling the participation. In the event of the insolvency of such seller, a Firm client may be treated as a general creditor of such seller and may not benefit from any set-off between such seller and the obligor. Well-publicized weaknesses in certain financial institutions that came to light following the global financial crisis could be indicative of increased counterparty risk with respect to, among other



things, participation interests. Additionally, the transparency of financial statements used by such financial institutions, in particular, with respect to the value of complex financial assets, has been called into question. If a Firm client holds a participation in a debt instrument, it may not have the right to vote to waive enforcement of any restrictive covenant breached by an obligor or, if a Firm client does not vote as requested by the seller, it may be subject to repurchase of the participation at par. Sellers voting in connection with a potential waiver of a restrictive covenant may have interests different from those of a Firm client, and such selling institutions may not consider the interests of a Firm client in connection with their votes. In addition, participations may expose a Firm client to risks relating to financing cost, margin requirements and increased losses associated with the use of leverage in connection with unfunded or partially funded participations.

**Assignments.** A Firm client may also purchase assignments, which are arrangements whereby a creditor assigns an interest in a loan to a Firm client. The purchaser of an assignment typically succeeds to all the rights and obligations of the assignor of the loan and becomes a lender under the loan agreement and other operative agreements relating to the investment. Assignments are, however, arranged through private negotiations between potential assignees and potential assignors, and the rights and obligations acquired by the purchaser of an assignment may differ from, and be more limited than, those held by the assignor of the loan. In contrast to the rights of a Firm client as an owner of a participation, a Firm client, as an assignee, will generally have the right to receive directly from the obligor all payments of principal, interest and any fees to which it is entitled. In some assignments, the obligor may have the right to continue to make payments to the assignor with respect to the assigned portion of the loan. In such a case, the assignor would be obligated to receive such payments as agent for a Firm client and to promptly pay over to a Firm client such amounts as are received. As a purchaser of an assignment, a Firm client typically will have the same voting rights as other lenders under the applicable loan agreement and will have the right to vote to waive enforcement of breaches of covenants. A Firm client will also have the same rights as other lenders to enforce compliance by the obligor with the terms of the loan agreement, to set-off claims against the obligor and to have recourse to collateral supporting the investment. As a result, a Firm client may not bear the credit risk of the assignor and the insolvency of an assignor of a loan should have little effect on the ability of a Firm client to continue to receive payments of principal, interest or fees from the obligor. A Firm client will, however, assume the credit risk of the obligor.

**Exit Financing.** The Firm may cause certain Firm clients to invest in companies that are in the process of exiting, or that have recently exited, the bankruptcy process. Post-reorganization securities typically entail a higher degree of risk than investments in securities that have not undergone a reorganization or restructuring. Moreover, post-reorganization securities can be subject to heavy selling or downward pricing pressure after the completion of a bankruptcy reorganization or restructuring. If an evaluation by the Firm of the anticipated outcome of an investment situation should prove incorrect, the relevant Firm client could experience a loss.

**Structured Products.** The Firm may cause certain Firm clients to invest in structured products. These investments will typically consist of equity or subordinated debt securities issued by a private investment fund that invests, on a leveraged basis, in the bank loan, high yield debt or other asset groups. A Firm client's investments in structured products will be subject to a number of risks, including risks related to the fact that the structured products will be leveraged. Utilization of leverage is a speculative investment technique and will generally magnify the opportunities for gain and risk of loss borne by an investor in the equity or subordinated debt securities issued by a structured product. Many structured products contain covenants designed to protect the providers of debt financing to such structured products. A failure to satisfy those covenants could result in the untimely liquidation of the structured product and a complete loss of the Firm client's investment therein. In addition, if the particular structured product is invested in a security in which

the Firm client is also invested, this would tend to increase the Firm client's overall exposure to the credit of the issuer of such securities, at least on an absolute, if not on a relative basis.

The value of an investment in a structured product will depend on the investment performance of the assets in which the structured product invests and will therefore be subject to all of the risks associated with an investment in those assets. These risks include the possibility of a default by, or bankruptcy of, the issuers of such assets or a claim that the pledging of collateral to secure any such asset constituted a fraudulent conveyance or preferential transfer that can be subordinated to the rights of other credits of the issuer of such asset or nullified under applicable law. The Firm client will not own such assets directly and will therefore not benefit from general rights applicable to the holders of assets, such as the right to indemnity and the rights of setoff, or have voting rights with respect to such assets, and in such cases, all decisions related to such assets, including whether to exercise certain remedies, will be controlled by the structured product.

In addition, there can be no assurance that a liquid market will exist in structured products when a Firm client seeks to sell its interest therein. Also, it is possible that a Firm client's investment in structured products will be subject to certain contractual limitations on transfer.

***Second Lien Loans.*** Firm clients may invest in loans that are secured by a second lien on assets. Second lien loans have been a developed market for a relatively short period of time, and there is limited historical data on the performance of second lien loans in adverse economic circumstances. In addition, second lien loan and other junior or subordinated products are subject to intercreditor arrangements with the holders of first lien indebtedness, pursuant to which the second lien or junior holders have waived many of the rights of a secured creditor, and some rights of unsecured creditors, which may limit the Firm clients' ability to amend their loan documents, assign their loans, accept prepayments, exercise their remedies (through standstill periods) and control decisions made in bankruptcy proceedings relating to borrowers, which can materially affect recoveries. While there is broad market acceptance of some second lien intercreditor terms, no clear market standard has developed for certain other material intercreditor terms for second lien loan products. This variation in key intercreditor terms may result in dissimilar recoveries across otherwise similarly situated second lien loans in insolvency or distressed situations. While uncertainty of recovery in an insolvency or distressed situation is inherent in all debt instruments, second lien loan products carry more risks than certain other debt products. In August 2007, the market for many loan products, including second lien loans, contracted significantly, which made virtually all leveraged loan products, particularly second lien loan products, less liquid or illiquid. Many participants ceased underwriting and purchasing certain second lien loan products. Although conditions have improved following the global financial crisis, there can be no assurance that such illiquidity will not reoccur with respect to loans.

***Relating to Investment in RMBS.*** Firm clients may invest certain of its assets in residential mortgage-backed securities ("***RMBS***") and become holders of RMBS. Holders of RMBS bear various risks, including credit, market, interest rate, structural and legal risks. RMBS represent interests in pools of residential mortgage loans secured by residential mortgage loans. Such loans may be prepaid at any time. Residential mortgage loans are obligations of the borrowers thereunder only and are not typically insured or guaranteed by any other person or entity, although such loans may be securitized, and the securities issued in such securitization may be guaranteed or credit enhanced. The rate of defaults and losses on residential mortgage loans will be affected by a number of factors, including general economic conditions and those in the area where the related mortgaged property is located, the borrower's equity in the mortgaged property and the financial circumstances of the borrower. If a residential mortgage loan is in default, foreclosure of such residential mortgage loan may be a lengthy and difficult process and may involve significant expenses. Furthermore, the market for defaulted residential mortgage loans or foreclosed properties may be very limited.

At any one time, a portfolio of RMBS may be backed by residential mortgage loans with disproportionately large aggregate principal amounts secured by properties in only a few states or regions. As a result, the residential mortgage loans may be more susceptible to geographic risks relating to such areas, such as adverse economic conditions, adverse events affecting industries located in such areas and natural hazards affecting such areas, than would be the case for a pool of mortgage loans having more diverse property locations. In addition, the residential mortgage loans may include so-called “jumbo” mortgage loans, having original principal balances that are higher than is generally the case for residential mortgage loans. As a result, such portfolio of RMBS may experience increased losses.

Each underlying residential mortgage loan in an issue of RMBS may have a balloon payment due on its maturity date. Balloon residential mortgage loans involve a greater risk to a lender than self-amortizing loans, because the ability of a borrower to pay such amount will normally depend on its ability to obtain refinancing of the related mortgage loan or sell the related mortgaged property at a price sufficient to permit the borrower to make the balloon payment, which will depend on a number of factors prevailing at the time such refinancing or sale is required, including, without limitation, the strength of the residential real estate markets, tax laws, the financial situation and operating history of the underlying property, interest rates and general economic conditions. If the borrower is unable to make such balloon payment, the related issue of RMBS may experience losses.

Prepayments on the underlying residential mortgage loans in an issue of RMBS will be influenced by the prepayment provisions of the related mortgage notes and may also be affected by a variety of economic, geographic and other factors, including the difference between the interest rates on the underlying residential mortgage loans (giving consideration to the cost of refinancing) and prevailing mortgage rates and the availability of refinancing. In general, if prevailing interest rates fall significantly below the interest rates on the related residential mortgage loans, the rate of prepayment on the underlying residential mortgage loans would be expected to increase. Conversely, if prevailing interest rates rise to a level significantly above the interest rates on the related mortgages, the rate of prepayment would be expected to decrease. Prepayments could reduce the yield received on the related issue of RMBS.

***Structural and Legal Risks of RMBS.*** Residential mortgage loans in an issue of RMBS may be subject to various U.S. federal and state laws, public policies and principles of equity that protect consumers, which among other things may regulate interest rates and other charges, require certain disclosures, require licensing of originators, prohibit discriminatory lending practices, regulate the use of consumer credit information and regulate debt collection practices. Violation of certain provisions of these laws, public policies and principles may limit the servicer’s ability to collect all or part of the principal of or interest on a residential mortgage loan, entitle the borrower to a refund of amounts previously paid by it, or subject the servicer to damages and sanctions. Any such violation could result also in cash flow delays and losses on the related issue of RMBS.

RMBS may have structural characteristics that distinguish them from other asset-backed securities. The rate of interest payable on RMBS may be set or effectively capped at the weighted average net coupon of the underlying mortgage loans themselves. As a result of this cap, the return to investors is dependent on the relative timing and rate of delinquencies and prepayments of mortgage loans bearing a higher rate of interest. In general, early prepayments will have a greater impact on the yield to investors. Federal and state law may also affect the return to investors by capping the interest rates payable by certain mortgagors. The Servicemembers Civil Relief Act of 2003 provides relief for soldiers and members of the reserve called to active duty by capping the interest rates on their mortgage loans at 6% per annum. Certain RMBS may provide for the payment of only interest for a stated period of time.

In addition, structural and legal risks of RMBS include the possibility that, in a bankruptcy or similar proceeding involving the originator or the servicer (often the same entity or affiliates), the assets of the issuer could be treated as never having been truly sold by the originator to the issuer and could be substantively consolidated with those of the originator, or the transfer of such assets to the issuer could be voided as a fraudulent transfer. Challenges based on such doctrines could result also in cash flow delays and losses on the related issue of RMBS.

It is not expected that RMBS will be guaranteed or insured by any governmental agency or instrumentality or by any other person, although Firm clients may be permitted to invest in direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or certain instrumentalities thereof. Distributions on RMBS will depend solely upon the amount and timing of payments and other collections on the related underlying mortgage loans.

***Defaults and Foreclosures on Mortgage Loans; Eminent Domain.*** Firm clients may make investments in loans, or securities backed by loans, that may be at the time of their acquisition, or may become after acquisition, non-performing loans. In the event of any default under a loan directly held by Firm clients or a loan underlying a security held by Firm clients, such Firm clients will bear a risk of loss of principal to the extent of any deficiency between the value of the collateral and the principal and accrued interest of the loan, which could have a material adverse effect on the applicable Firm clients' cash flow from operations. Other non-performing loans may require workout negotiations and/or restructuring, which may entail, among other things, a substantial reduction in the interest rate and/or a substantial write-down of the original principal amount of such loans. Further, even if a restructuring were successfully accomplished, unless the restructuring provided for full amortization on or prior to maturity and the borrower strictly complied with that restructuring, a risk exists that upon maturity of such loans, replacement financing will not be available and such loans may not be repaid. In the event of the bankruptcy of a borrower, the loan to that borrower will be deemed to be secured only to the extent of the value of the underlying collateral at the time of bankruptcy (as determined by the bankruptcy court), the lien securing the loan will be subject to the avoidance powers of the bankruptcy trustee or debtor-in-possession to the extent the lien is unenforceable under state law, and realizing any value under such circumstances can be an expensive and lengthy process that could have a substantial negative effect on the anticipated return on the loan and on the security backed by such loan. Other risks attendant to a bankruptcy filing are described below. The foregoing statement does not apply in the context of a borrower insolvency case commenced under Chapter 13 of the U.S. Bankruptcy Code where the underlying collateral is used as the principal residence of the borrower, but in such instances, the lender will nonetheless be stayed from the collection of its claim, taking possession of the collateral, and enforcing its lien unless and until the lender obtains relief from the automatic stay under the U.S. Bankruptcy Code.

It is possible that the Firm may find it necessary or desirable to foreclose on collateral securing one or more investments in loans purchased by Firm clients. The foreclosure process can be expensive and lengthy (which could have a substantial negative effect on the Firm clients' anticipated return on the foreclosed mortgage loan) and may be adversely affected by the operation of state law governing the foreclosure process as well as other creditor's rights provided in the governing loan instruments. Inadequate documentation of loans or assignments of loans and erroneous or incomplete recordkeeping with respect to loans that were formerly securitized in loan pools may impair the Firm's ability to foreclose on collateral securing loans. Borrowers often resist foreclosure actions by asserting numerous claims, including lender liability claims, and may also file for bankruptcy at any time during the foreclosure process.

The foreclosure process also tends to create a negative public image of the collateral property and may result in the disruption of ongoing leasing and management of the property. Firm clients' involvement in the foreclosure process may also expose Firm clients and/or their affiliates to negative publicity, adverse public

sentiment, regulatory scrutiny or legal disputes, which may adversely impact Firm clients and their anticipated investment programs.

Also, a number of mortgage loan originators have recently experienced serious financial difficulties or bankruptcy. The foregoing, as well as the resulting reduced investor demand for mortgage loans and mortgage-related securities and increased investor yield requirements have caused limited liquidity in the secondary market for mortgage-related securities, which can adversely affect the market value of mortgage-related securities. As a result, the performance of Firm clients' mortgage loans and other investments backed by mortgage loans could be correspondingly adversely affected.

A number of local governments have in the past and may in the future consider using eminent domain to seize mortgage loans and forgive principal on the loans. Such seizures, if they are successful, could result in losses and write-downs relating to Firm clients' mortgage loans and other investments backed by mortgage loans (*i.e.*, MBS), and could increase Firm clients' credit losses. These actions and others that state and local governments may pursue in the future could have an adverse effect on Firm clients' business, results of operations, financial condition and net worth.

***Risks Related to Investment in CMBS.*** Firm clients may invest in commercial mortgage-backed securities ("**CMBS**") and other mortgage-backed securities ("**MBS**"), including subordinated tranches of such securities. The value of CMBS will be influenced by factors affecting the value of the underlying real estate portfolio, and by the terms and payment histories of such CMBS.

Some or all of the CMBS contemplated to be acquired by Firm clients may not be rated or may be rated lower than investment-grade securities, by one or more nationally recognized statistical rating organizations. Lower-rated or unrated CMBS, or so-called "B-pieces," have speculative characteristics and can involve substantial financial risks as a result. The prices of lower credit quality securities have been found to be less sensitive to interest rate changes than more highly rated investments, but more sensitive to adverse economic or real estate market conditions or individual issuer concerns. Securities rated lower than B by the rating organizations can be regarded as having extremely poor prospects of ever attaining any real investment standing and may be in default. Existing credit support and the owner's equity in the property may be insufficient to protect Firm clients from loss. As an investor in subordinated CMBS in particular, Firm clients will be first in line among debt holders to bear the risk of loss from delinquencies and defaults experienced on the collateral.

Firm clients may acquire subordinated tranches of CMBS issuances. In general, subordinated tranches of CMBS are entitled to receive repayment of principal only after all principal payments have been made on more senior tranches and also have subordinated rights as to receipt of interest distributions. Such subordinated tranches are subject to a greater risk of nonpayment than are senior tranches of CMBS or CMBS backed by third-party credit enhancement. In addition, an active secondary market for such subordinated securities is not as well developed as the market for certain other MBS. Accordingly, such subordinated CMBS may have limited marketability and there can be no assurance that a more efficient secondary market will develop.

The value of CMBS and other MBS in which Firm clients may invest generally will have an inverse relationship with interest rates. Accordingly, if interest rates rise, the value of such securities will decline. In addition, to the extent that the mortgage loans which underlie specific MBS are prepayable, the value of such mortgage securities may be negatively affected by increasing prepayments, which generally occur when interest rates decline.

Mortgage loans on commercial properties underlying MBS often are structured so that a substantial portion of the loan principal is not amortized over the loan term but is payable at maturity and repayment of the loan principal, and thus, often depends upon the future availability of real estate financing from the existing or an alternative lender and/or upon the current value and salability of the real estate. Therefore, the unavailability of real estate financing may lead to default. Many commercial mortgage loans underlying MBS are effectively nonrecourse obligations of the borrower, meaning that there is no recourse against the borrower's assets other than the collateral. If borrowers are not able or willing to refinance or dispose of encumbered property to pay the principal and interest owed on such mortgage loans, payments on the subordinated classes of the related MBS are likely to be adversely affected. The ultimate extent of the loss, if any, to the subordinated classes of MBS may only be determined after a negotiated discounted settlement, restructuring or sale of the mortgage note, or the foreclosure (or deed in lieu of foreclosure) of the mortgage encumbering the property and subsequent liquidation of the property. Foreclosure can be costly and delayed by litigation and/or bankruptcy. Factors such as the property's location, the legal status of title to the property, its physical condition and financial performance, environmental risks and governmental disclosure requirements with respect to the condition of the property may make a third party unwilling to purchase the property at a foreclosure sale or to pay a price sufficient to satisfy the obligations with respect to the related MBS. Revenues from the assets underlying such MBS may be retained by the borrower and the return on investment may be used to make payments to others, maintain insurance coverage, pay taxes or pay maintenance costs. Such diverted revenue is generally not recoverable without a court-appointed receiver to control collateral cash flow.

***Season and Sell Transactions.*** From time-to-time Firm clients may enter into loan origination transactions that would be conducted through a so-called "season and sell" structure. Under such arrangements, a Firm client ("***Originating Client***") would (either directly or indirectly through an entity formed for such purpose) originate loans and, after those loans have been held for a seasoning period (e.g., 90 days), would often sell a pro rata portion of such loans to another Firm client (or an entity owned by another Firm client) ("***Purchasing Client***") at the then-current fair market values of such loans. However, because the decision by the Originating Client (or such originating entity) to originate the loans and the decision by the Purchasing Client (or such transferee entity) whether and at what price to acquire a portion of such loans would be made as separate, independent decisions, it is possible from time to time that certain loans originated by the Originating Client (or such originating entity) may not subsequently be transferred to the Purchasing Client or such transferee entity. As a result, the Originating Client and the Purchasing Client may hold different investments in their respective loan portfolios, and the Originating Client would bear all of the risk of the loans during the seasoning period and may be forced to retain a disproportionate amount of non-performing or other loans if the Purchasing Client or such transferee entity elected subsequently not to purchase them. This potential difference in investments held by the Originating Client and the Purchasing Client, together with the different prices at which the loans would be acquired and the fact that the Purchasing Client would not participate in loan origination fees, will potentially cause a divergence in the economic returns between the Originating Client and the Purchasing Client.

***Corporate Debt.*** Firm clients may invest in corporate debt. Bonds, notes and debentures issued by corporations may pay fixed, variable or floating rates of interest, and may include zero-coupon obligations. Corporate debt instruments may be subject to credit ratings downgrades. Other instruments may have the lowest quality ratings or may be unrated. In addition, a Firm client may be paid interest in kind in connection with its investments in corporate debt and related financial instruments (e.g., the principal owed to a Firm client in connection with a debt investment may be increased by the amount of interest due on such debt investment). Such investments may experience greater market value volatility than debt obligations that provide for regular payments of interest in cash and, in the event of a default, a Firm client may experience substantial losses.

**Mezzanine Debt.** The mezzanine investments in which a Firm client intends to invest are typically contractually or structurally subordinate to senior indebtedness of the applicable company, or effectively subordinated as a result of being unsecured debt and therefore subject to the prior repayment of secured indebtedness to the extent of the value of the assets pledged as security. In some cases, the subordinated debt held by a Firm client may be subject to the prior repayment of different classes of senior debt that may be “layered” ahead of the debt held by a Firm client. In the event of financial difficulty on the part of a portfolio company, such class or classes of senior indebtedness ranking prior to the debt held by a Firm client, and interest thereon and related expenses, must first be repaid in full before any recovery may be had on a Firm client’s mezzanine or other subordinated investment. Subordinated investments are characterized by greater credit risks than those associated with the senior or senior secured obligations of the same issuer. Further, mezzanine investments generally are subject to various risks, including, without limitation, (i) a subsequent characterization of an investment as a fraudulent conveyance; (ii) the recovery as a preference of liens perfected or payments made on account of a debt in the 90 days before a bankruptcy filing; (iii) equitable subordination claims by other creditors; (iv) so-called “lender liability” claims by the issuer of the obligations; and (v) environmental liabilities that may arise with respect to collateral securing the obligations. In addition, under certain circumstances the holders of the senior indebtedness will have the right to block the payment of interest and principal on a Firm client’s mezzanine investment and to prevent a Firm client from pursuing its remedies on account of such non-payment against the company. Further, in the event of any debt restructuring or workout of the indebtedness of any company, the holders of the senior indebtedness will likely control the creditor side of such negotiations.

Many issuers of mezzanine debt are highly leveraged, and their relatively high debt-to-equity ratios create increased risks that their operations might not generate sufficient cash flow to service their debt obligations. In addition, many issuers of mezzanine debt may be in poor financial condition, experiencing poor operating results, having substantial capital needs or negative net worth or be facing special competitive or product obsolescence problems, and may include companies involved in bankruptcy or other reorganizations or liquidation proceedings. Adverse changes in the financial condition of an issuer, general economic conditions, or both, may impair the ability of such issuer to make payments on the subordinated securities and result in defaults on such securities more quickly than in the case of the senior obligations of such issuer. Mezzanine debt securities may not be publicly traded, and therefore it may be difficult to obtain information as to the true condition of the issuers. Finally, the market values of certain of this mezzanine debt may reflect individual corporate developments.

Mezzanine debt investments may also be in the form of zero-coupon or deferred interest bonds, which are bonds which are issued at a significant discount from face value. The original discount approximates the total amount of interest the bonds will accrue and compound over the period until maturity or the first interest accrual date at a rate of interest reflecting the market rate of the security at the time of issuance. While zero-coupon bonds do not require the periodic payment of interest, deferred interest bonds generally provide for a period of delay before the regular payment of interest begins. These investments typically experience greater volatility in market value due to changes in the interest rates than bonds that provide for regular payments of interest.

**Failure of Servicers to Effectively Service Loans.** The failure of servicers to effectively service the loans and/or pools thereof in which a Firm client has an investment would materially and adversely affect such Firm client. Most loans and securitizations thereof require a servicer to manage collections on each of the underlying loans. Both default frequency and default severity of loans may depend upon the quality of the servicer. The servicer quality is of significant importance in the management of mortgage loans (or pools thereof) and default issues related thereto. In the case of pools of securitized loans, servicers may be required to advance interest on delinquent loans to the extent the servicer deems those advances recoverable. In the event the servicer does not advance, interest payments may be interrupted even on more senior

securities. Servicers may also advance more than is in fact recoverable once a defaulted loan is disposed, and the loss to the trust may be greater than the outstanding principal balance of that loan.

***Risks Associated with Servicers.*** In addition to risks associated with attempting to predict default and recovery rates on mortgages that Firm clients may acquire or to which they otherwise have exposure, the creditworthiness, servicing practices and viability of the servicers of such mortgages are also significant risks. For example, RMBS may provide that the servicer is required to make advances in respect of delinquent mortgage loans. However, servicers experiencing financial difficulties may not be able to perform these obligations. Servicers who have sought bankruptcy protection may, due to application of the provisions of bankruptcy law, not be required to advance such amounts. Even if a servicer were able to advance amounts in respect of delinquent mortgage loans, its obligation to make such advances may be limited to the extent that it does not expect to recover such advances due to the deteriorating credit of the delinquent mortgage loans. In addition, a servicer's obligation to make such advances may be limited to the amount of its servicing fee.

Illiquidity and unpredictability in these markets make it difficult to determine whether such servicers have sufficient capital and adequate staffing levels to fulfill their servicing obligations and the extent to which such servicers are subject to regulatory risks and risk of error. Recently, a number of originators and servicers of mortgage loans have experienced serious financial difficulties and, in some cases, have entered bankruptcy proceedings. Such financial difficulties may have a negative effect on the ability of servicers to pursue collection on mortgage loans that are experiencing increased delinquencies and defaults and to maximize recoveries on sale of underlying properties following foreclosure.

Firm clients will also be exposed to these and other risks to the extent they have financial interests in a servicer or otherwise engage in servicing activities. While Firm clients may utilize (or replace existing servicers with) affiliated servicers, there can be no assurance that any such affiliated servicer will be successful or will have a positive impact on Firm clients' performance.

State mortgage finance licensing laws vary considerably. Many of the mortgage licensing laws impose a licensing obligation to service residential mortgage loans. Certain state collection agency licensing laws require entities collecting on delinquent or defaulted loans for others or acquiring such loans to be licensed. Failure to obtain and maintain the appropriate state licenses, or to qualify for the appropriate exemptions, could adversely affect Firm clients' investments to the extent Firm clients seek to engage in loan servicing activities directly or have financial interests in a servicer.

Generally, the day-to-day administration of Firm clients' loans will be handled by one or more servicers selected by the Firm. It is expected that, in consultation with the Firm, such servicers will develop appropriate strategies to seek to maximize value from such investments. Although the Firm currently expects to retain third-party servicers, it may in the future cause Firm clients to acquire a servicer and/or to employ servicers that are owned by or otherwise affiliated with the Firm or Firm clients. The Firm expects that Firm clients will typically retain servicers on the basis of cost plus a performance fee contingent upon the achievement of targeted financial results but may enter into other compensation arrangements.

***When-Issued and Forward Commitment Securities.*** The purchase of securities on a when-issued basis involves a commitment by a Firm client to purchase or sell securities at a future date (typically one or two months later). No income accrues on securities that have been purchased on a when-issued basis prior to delivery to a Firm client. When-issued securities may be sold prior to the settlement date. If a Firm client disposes of the right to acquire a when-issued security prior to its acquisition, it may incur a gain or loss. In addition, there is a risk that securities purchased on a when-issued basis may not be delivered to a Firm client. In such cases, a Firm client may incur a loss.



Forward contracts and options thereon, unlike futures contracts, are generally not traded on exchanges and are not standardized; rather, banks and dealers act as principals in these markets, negotiating each transaction on an individual basis. Forward contracts are subject to many of the same risks as swap agreements described above, in particular counterparty and performance risks. Forward trading (to the extent forward contracts are not traded on exchanges) and cash trading are substantially unregulated. There is no limitation on daily price movements and speculative position limits are not applicable. The principals who deal in the forward markets are not required to continue to make markets in the currencies or commodities they trade, and these markets can experience periods of illiquidity, sometimes of significant duration. There have been, and may in the future be, periods during which certain participants in these markets have refused to quote prices for certain currencies or commodities or have quoted prices with an unusually widespread between the price at which they were prepared to buy and that at which they were prepared to sell. Disruptions can occur in any market traded by a Firm client due to unusually high trading volume, political intervention or other factors. The imposition of controls by government authorities might also limit such forward (and futures) trading to a level that is less than that which the Firm would otherwise recommend, to the possible detriment of a Firm client. Market illiquidity or disruption could result in major losses to a Firm client.

***Asset-Backed Securities.*** Asset-backed securities (“***ABSs***”) and other asset-based structured products, which are securities and instruments backed by mortgages, including commercial mortgage-backed securities, trade claims, installment sale contracts, credit card receivables or other assets and which include collateralized debt obligations. The investment characteristics of ABSs differ from traditional debt securities. Among the major differences are that interest and principal payments are made more frequently, usually monthly, and that the principal may be prepaid at any time because the underlying loans or other assets generally may be prepaid at any time. ABSs are not secured by an interest in the related collateral. Credit card receivables, for example, are generally unsecured and the debtors are entitled to the protection of a number of U.S. state and federal (and comparable non-U.S.) consumer loan laws, many of which give such debtors the right to set off certain amounts owed on the credit cards, thereby reducing the balance due. Most issuers of ABSs backed by automobile receivables permit the servicers to retain possession of the underlying obligations. If the servicer were to sell these obligations to another party, there is a risk that the purchaser would acquire an interest superior to that of the holders of the related ABSs. In addition, because of the large number of vehicles involved in a typical issuance and technical requirements under state laws, the trustee for the holders of the ABSs may not have a proper security interest in all of the obligations backing such ABSs. Therefore, there is a possibility that recoveries on repossessed collateral may not, in some cases, be available to support payments on these securities. The risk of investing in ABSs is ultimately dependent upon payment of consumer loans by the debtor.

The collateral supporting ABSs is of shorter maturity than certain other types of loans and is less likely to experience substantial prepayments. ABSs are often backed by pools of any variety of assets, including, for example, leases, mobile home loans and aircraft leases, which represent the obligations of a number of different parties and use credit enhancement techniques such as letters of credit, guarantees or preference rights. The value of an ABS is affected by changes in the market’s perception of the asset backing the security and the creditworthiness of the servicing agent for the loan pool, the originator of the loans or the financial institution providing any credit enhancement, as well as by the expiration or removal of any credit enhancement.

In addition, investments in subordinated ABSs involve greater credit risk of default than the senior classes of the issue or series. Default risks are further pronounced in the case of ABSs secured by, or evidencing an interest in, a relatively small or less diverse pool of underlying loans. Certain subordinated securities absorb all losses from default before any other class of securities is at risk, particularly if such securities have been

issued with little or no credit enhancement equity. Such securities, therefore, possess some of the attributes typically associated with equity investments.

***Capital Calls and Use of Subscription Lines and Asset-Backed Facilities.*** The Firm may apply leverage, including subscription facilities or asset-based leverage, to enhance the return profile of certain investments (the collateral for which can be, for example, one or more assets of a Firm client (*i.e.*, asset-backed facilities), or the unused capital commitments of investors (*i.e.*, subscription lines)). For administrative convenience, drawdowns, including those used to pay interest on subscription lines, asset-backed facilities and other indebtedness, are generally expected to be “batched” together into larger, less frequent capital calls (although actual timing and amounts may vary), with Firm client’s interim capital needs being satisfied by Firm clients borrowing money from such credit facilities and investment proceeds. Furthermore, Firm clients may borrow money from such credit facilities for the purposes of making portfolio investments with no intention of calling capital from investors to repay such borrowings. There generally is no limitation on the amount of time any such borrowing may remain outstanding and the interest expense and other costs of any such borrowings will be fund expenses and, accordingly, may decrease net returns of a Firm client. It is expected that interest will accrue on any such outstanding borrowings at a rate lower than the applicable preferred return (with the applicable preferred return beginning to accrue when capital contributions to repay borrowings used to fund such portfolio investments are actually made to Firm clients). In light of the foregoing, the Firm may have an incentive to permanently fund an acquisition and ongoing capital needs of portfolio investments and the relevant Firm clients with the proceeds of such borrowings in lieu of drawing down unused capital commitments on a just-in-time basis, and, accordingly, capital contributions to repay such borrowings may be required only at the time of disposition of portfolio investments.

To the extent that the Firm clients are unable to obtain a subscription line, or the Firm determines that the terms of such facility would not be appropriate for a Firm client or otherwise determines not to use such facility or access to such facility otherwise becomes unavailable, the Firm may draw down capital commitments in advance as pooled contributions and hold them in reserve in order to make portfolio investments, satisfy fees and expenses and other capital needs as such needs arise in the future.

***Litigation and Related Risks Associated with Origination and Servicing.*** Certain Firm clients may originate loans, which could subject such Firm clients or the Firm to various regulatory regimes. As a result of complying with such regulatory regimes, restrictions may be placed on Firm clients’ or the Firm’s ability to take certain actions to protect the value of its investments in such assets and impose compliance costs. Loan origination and servicing companies are routinely involved in legal proceedings concerning matters that arise in the ordinary course of their business. These legal proceedings range from actions involving a single plaintiff to class action lawsuits with potentially tens of thousands of class members. In addition, a number of participants in the loan origination and servicing industry (including control persons of industry participants) have been the subject of regulatory actions by state regulators, including state Attorneys General, and by the federal government. Governmental investigations, examinations or regulatory actions, or private lawsuits, including purported class action lawsuits, may adversely affect such companies’ financial results. To the extent Firm clients seek to engage in origination and/or servicing directly, or have financial interests in, or are otherwise affiliated with, an origination or servicing company, such Firm clients will be subject to enhanced risks of litigation, regulatory actions and other proceedings. As a result, Firm clients may be required to pay legal fees, settlement costs, damages, penalties or other charges, any or all of which could materially adversely affect Firm clients and their investments.

A number of regulatory authorities have recently taken action against certain loan originators and servicers for alleged violations of laws. Certain of those actions prohibit those servicers from pursuing foreclosure actions. In the future additional jurisdictions could seek similar limitations on the ability of loan servicers

to take actions (such as pursuing foreclosures) that may be essential to service and preserve the value of the loans on behalf of their holders. Any such limitations that applied to a servicer of the loans could adversely affect the holder's ability to realize proceeds on such loans.

***Securitization Vehicles.*** To finance investments, a Firm client may securitize certain of its investments, while retaining all or most of the exposure to the performance of these investments. This would involve contributing a pool of assets to a special purpose entity (a “***Securitization Vehicle***”) such as a CDO and selling debt interests in such entity on a non-recourse or limited-recourse basis to purchasers.

If a Firm client creates a Securitization Vehicle, Firm client will depend on distributions from the Securitization Vehicle's assets to enable it to make distributions to investors. The ability of a Securitization Vehicle to make distributions will be subject to various limitations, including the terms and covenants of the debt it issues. For example, tests (based on interest coverage or other financial ratios or other criteria) may restrict Firm client's ability, as holder of a Securitization Vehicle's equity interests, to receive cash flow from these investments. There is no assurance any such performance tests will be satisfied. Also, a Securitization Vehicle may take actions that delay distributions in order to preserve ratings and to keep the cost of present and future financings lower, or the Securitization Vehicle may be obligated to retain cash or other assets to satisfy over-collateralization requirements commonly provided for holders of the Securitization Vehicle's debt. As a result, there may be a lag, which could be significant, between the repayment or other realization on a loan or other assets in, and the distribution of cash out of, a Securitization Vehicle, or cash flow may be completely restricted for the life of the Securitization Vehicle. In addition, a decline in the credit quality of loans in a Securitization Vehicle due to poor operating results of the relevant borrower, declines in the value of loan collateral or increases in defaults, among other things, could force a Securitization Vehicle to sell certain assets at a loss, reducing its earnings and, in turn, cash potentially available for distribution to a Firm client for distribution.

To the extent that any losses are incurred by the Securitization Vehicle in respect of any collateral, such losses will be borne first by a Firm client as owner of equity interests. Finally, any equity interests that a Firm client retains in a Securitization Vehicle will not be secured by the assets of the Securitization Vehicle and a Firm client will rank behind all creditors of the Securitization Vehicle.

***Non-Controlling Investments.*** The Firm clients do not expect to make control investments in issuers on a regular basis. It may hold minority debt positions alone, or it may hold a minority interest in any facility or tranche with respect to debt obligations of an issuer as part of a “club” deal. In such circumstances, the Firm client may have a limited ability to exercise influence over voting decisions with respect to such loan facility or tranche or otherwise protect its investment. The Firm client may also have a limited ability to conduct comprehensive due diligence on the underlying issuers in advance of making such investments. Issues and risks relating to such issuers subsequently identified by the Firm client may adversely impact the value of such positions.

***Controlling Investments.*** Although Firm clients do not expect to make control investments in issuers on a regular basis, a Firm client may, from time to time, ultimately own a controlling interest in an investment. These investments could expose a Firm client to risk of liability for environmental damage, product defect, failure to supervise management, violation of governmental regulations and other types of liability, in which the limited liability characteristic of business operations may be ignored.

A Firm client may also be exposed to risk in connection with the disposition of these investments. When disposing of these investments, a Firm client may be required to make representations and warranties about the business and financial affairs of the investments typical of those made in connection with the sale of any business or may be responsible for the contents of disclosure documents under applicable securities

law. A Firm client may also be required to indemnify the purchasers of such investment or underwriters to the extent that any such representations and warranties or disclosure documents turn out to be incorrect, inaccurate or misleading. These arrangements may result in contingent liabilities, which will be borne by a Firm client.

As a result of the Alternative Investment Fund Managers Directive (“*AIFM Directive*”), a Firm client may be subject to regulatory filing and notification obligations and may be bound by restrictions where it takes “control” (generally 30% or more of the equity or voting capital of listed companies in the European Union or 50% of the voting capital of unlisted companies in the European Union) and notification requirements where it takes a major holding (10% or more) of a company registered in the European Union. The intention of the restrictions is to prevent an acquiring fund from using the inherited capital and reserves of a European Union target company to fund the cost of the acquisition, or to provide short term profits. The AIFM Directive, therefore, imposes restrictions on distributions, capital reductions, share redemptions or repurchase of company shares by companies “controlled” by a client during the first two years of such fund’s ownership. These obligations and restrictions may increase operational costs for a Firm client.

***Leverage.*** The Firm may cause certain Firm clients to utilize leverage, primarily (but not exclusively) by participating in total rate of return swaps, directly and indirectly. The use of leverage will increase the volatility of the Firm client. While the use of borrowed funds will increase returns if the Firm client earns a greater return on the incremental investments purchased with borrowed funds than it pays for such funds, the use of leverage will decrease returns if the Firm client fails to earn as much on such incremental investments as it pays for such investment. The effect of leverage may therefore result in a greater decrease in the net asset value of the Firm client than if the Firm client was not so leveraged. Additionally, especially during periods of extreme market volatility, the Firm may need to sell assets at prices below what the Firm believes is the intrinsic value of such assets to meet collateral requirements thereby incurring realized losses, which may be material, for such Firm clients.

***Repurchase Agreements and Other Forms of Borrowing.*** A Firm client may also borrow by entering into repurchase agreements. Under a repurchase agreement, a Firm client sells securities or other obligations and agrees to repurchase them at a specified date and price. Repurchase agreements involve the risk that the market value of the securities or other obligations purchased with the proceeds of the repurchase agreement by a Firm client may decline below the price of the securities or other obligations a Firm client has sold but is obligated to repurchase. In the event the buyer of securities or other obligations under a repurchase agreement files for bankruptcy or becomes insolvent, such buyer or its trustee or receiver may receive an extension of time to determine whether to enforce the obligation of a Firm client to repurchase the securities or other obligations and a Firm client’s use of the proceeds of the repurchase agreement may effectively be restricted pending such decision. To the extent that, in the meantime, the value of the securities or other obligations that the Firm client has purchased has decreased, a Firm client could experience a loss.

The investment returns of a Firm client may also be leveraged with options, swaps, forwards and other derivative instruments. In the futures markets, margin deposits are typically low relative to the value of the futures contracts purchased or sold. Such low margin deposits are indicative of the fact that any futures contract trading is typically accompanied by a high degree of leverage. Low margin deposits mean that a relatively small price movement in a futures contract may result in immediate and substantial losses to the investor. For example, if at the time of purchase, 10% of the price of a futures contract is deposited as margin, a 10% decrease in the price of the futures contract would, if the contract is then closed out, result in a total loss of the margin deposit before any deduction for brokerage commissions. Thus, like other leveraged investments, any purchase or sale of a futures contract may result in losses in excess of the amount invested.

***Investments in Undervalued Assets.*** Firm clients may seek to invest in undervalued assets. The identification of investment opportunities in undervalued assets is a difficult task, and there is no assurance that such opportunities will be successfully recognized or acquired, particularly when investments are made in times of extreme market volatility. While investments in undervalued assets offer the opportunity for above-average capital appreciation, these investments involve a high degree of financial risk and can result in substantial losses.

A Firm client may be required to hold undervalued assets for a substantial period of time with the expectation that the assets will appreciate in value, even though there is no assurance that such value appreciation will take place. Accordingly, a Firm client may be forced to sell such undervalued assets at a substantial loss. During this period, a portion of such Firm client's funds would be committed to undervalued assets, thus possibly preventing such Firm client from investing in other opportunities. In addition, the Firm client may finance such purchases with borrowed funds and thus will have to pay interest on such funds during this waiting period. Finally, margin calls and other events related to such Firm client's indebtedness could force such Firm client to have to sell assets at prices that are less than their fair value.

***Short Selling.*** A Firm client's investment program may include short selling. Short selling can involve an investor selling securities that it does not own and borrowing the same securities for delivery to the purchaser, with an obligation under the terms of the transaction to replace the borrowed securities at a later date. Short selling allows the investor to profit from declines in a security's price. A short sale creates the risk of a theoretically unlimited loss, in that the price of the underlying security could theoretically increase without limit, thus increasing the cost to the investor of buying those securities to cover the short position. There can be no assurance that the securities necessary to cover a short position will be available for purchase. Additionally, certain market participants could accumulate such securities in a "short squeeze," which would reduce the available supply, and thus increase the cost, of such securities. Purchasing securities to close out the short position can itself cause the price of the securities to rise further, thereby exacerbating the loss. The Firm will have discretion in determining when, whether and in what manner to engage in short selling and therefore a Firm client may be exposed to the risks outlined in this provision.

In response to dislocations in the financial services industry and other market events, the SEC and many European securities regulators including the FCA implemented certain prohibitions and disclosure requirements on short selling of securities. In Europe, the European Short Selling Regulation (No 236/2012) came into force in 2012 and restricts uncovered short sales of shares and European sovereign debt instruments, prohibits the entry into uncovered sovereign credit default swaps and requires investors to notify the relevant competent authority of any net short positions in European sovereign debt instruments and shares admitted to a trading venue in the European Union. Limitations on the short selling of securities could interfere with the ability of a Firm client to execute certain aspects of its investment strategies, including its ability to hedge certain exposures and execute transactions to implement its risk management guidelines and any such limitations may adversely affect the performance of a Firm client.

***Trading in Options.*** A Firm client may buy or sell (write) both call options and put options (either exchange-traded, over the counter or issued in private transactions), and when it writes options it may do so on a covered or an uncovered basis. A Firm client's options transactions may be part of a hedging tactic (*i.e.*, offsetting the risk involved in another securities position) or a form of leverage, in which the Firm client seeks to benefit from price movements in a large number of securities with a small commitment of capital. These activities involve risks that can be large, depending on the circumstances. In general, the principal risks involved in options trading can be described as follows, without taking into account other positions or transactions the Firm client may enter into.

A call option is “covered” when the writer owns securities of the class and amount of those as to which the call option applies. A put option is covered when the writer has an open short position in securities of the relevant class and amount.

When a Firm client buys an option, a decrease (or inadequate increase) in the price of the underlying security in the case of a call, or an increase (or inadequate decrease) in the security in the case of a put, could result in a total loss of a Firm client’s investment in the option (including commissions). A Firm client could mitigate those losses by selling short the securities as to which it holds call options or taking a long position (*i.e.*, by buying the securities or buying options on them) on securities underlying put options, but there is no requirement for the Firm to do so.

When a Firm client sells (writes) an option, the risk can be substantially greater than when it buys an option. The seller of an uncovered call option bears the risk of an increase in the market price of the underlying security above the exercise price. The risk is theoretically unlimited unless the option is covered. If it is covered, an increase in the market price of the security above the exercise price would cause a Firm client to lose the opportunity for gain on the underlying security – assuming it bought the security for less than the exercise price. If the price of the underlying security were to drop below the exercise price, the premium received on the option (after transaction costs) would provide profit that would reduce or offset any loss the Firm client might suffer as a result of owning the security.

The seller of an uncovered put option theoretically could lose an amount equal to the entire aggregate exercise price of the option, if the underlying security were to become valueless. If the option were covered with a short position in the underlying security, this risk would be limited, but a drop in the security’s price below the exercise price would cause a Firm client to lose some or all of the opportunity for profit on the covering short position – assuming a Firm client sold short for more than the exercise price. If the price of the underlying security were to increase above the exercise price, the premium on the option (after transaction costs) would provide profit that would reduce or offset any loss a Firm client might suffer in closing out its short position.

***Loans of Portfolio Securities.*** A Firm client may lend its portfolio securities in order to increase its income through the receipt of interest on the loan. In the event of the bankruptcy of the other party to a securities loan, a Firm client could experience delays in recovering the securities it lent. To the extent that the value of the securities a Firm client lent has increased, a loss could be experienced if such securities are not recovered.

***General Risks of Real Estate Ownership.*** A Firm client may indirectly acquire debt or equity interests in real estate (including equity interests that result from all or any portion of the Firm client’s debt interests in real estate converting, as a result of foreclosure, default, or otherwise, to equity interests in real estate), including as a result of any reorganization of an issuer. The real estate investments of the Firm client will be subject to the risks generally incident to the ownership of real property, including (i) uncertainty of cash flow to meet fixed and other obligations; (ii) adverse changes in local market conditions, population trends, neighborhood values, community conditions, general economic conditions, local employment conditions, interest rates and real estate tax rates; (iii) changes in fiscal policies; (iv) competition from other properties; and (v) uninsured losses and other risks that are beyond the control of the Firm client, such as the threat of terrorism and their consequences. There can be no assurance of profitable operations because the cost of owning the Firm client’s real estate investments may exceed the income produced, particularly since certain expenses related to real estate and its development and ownership, such as property taxes, utility costs, maintenance costs and insurance, tend to increase over time and are largely beyond the control of the owner. In addition, the Firm client’s ownership of equity interests in real estate may have tax consequences for certain investors that do not apply in the case of the Firm client’s ownership of debt interests in real estate.

***Investments Backed by Financing Secured by Pools of Real Estate Assets.*** Firm clients may target investment opportunities that include privately negotiated financings secured by pools of real estate assets. The value of such investments will depend on many real estate related factors beyond the control of Firm clients. The ultimate performance of such investments will be subject to the varying degrees of risk generally incident to the ownership and operation of the underlying real property. Real estate historically has experienced significant fluctuations and cycles that may result in reductions in the value of real estate-related investments. The ultimate value of such investments in the underlying real property also depends upon the real property owner's ability to operate the real property in a manner sufficient to maintain or increase revenues in excess of operating expenses and debt service or, in the case of real property leased to a single lessee, the ability of the lessee to make rental payments. Real estate is subject to various specific risks (which can adversely affect a property's revenues), including (i) changes in national or international economic conditions and/or specific industry segments; (ii) changes in local market conditions due to changes in general or local economic conditions and neighborhood characteristics; (iii) property location and condition; (iv) tenant mix; (v) the financial condition of tenants and buyers and sellers of properties; (vi) competition from other properties offering the same or similar services; (vii) changes in interest rates and in the availability, cost and terms of mortgage funds; (viii) the ongoing need for capital improvements (particularly in older structures); (ix) changes in real estate tax rates and other operating expenses; (x) changes in governmental laws, rules and regulations (including changes in environmental laws, casualty or condemnation losses, and regulatory limitations on rents) and fiscal policies; (xi) costs of remediation and liabilities associated with environmental conditions and lawsuits; (xii) civil unrest; (xiii) acts of God, including earthquakes, hurricanes and other natural disasters; (xiv) acts of war; (xv) acts of terrorism (any of which may result in uninsured losses); (xvi) the potential for uninsured, uninsurable or underinsured property losses; (xvii) adverse changes in zoning laws; and (xviii) other factors that are beyond the control of the real property owners and Firm clients. In the event that any of the properties underlying Firm clients' investments experience any of the foregoing events or occurrences, the value of and return on such investments would likely be negatively impacted.

***Potential Downturns in the Real Estate Markets.*** Declining real estate prices can cause higher delinquencies and losses on certain mortgage loans, which could materially and adversely affect the value of such investments. With respect to such investments, Firm clients will be exposed to various risks as a result of any weakness in the real estate markets, such as declines in real estate values, declines in sales volumes, financial stress on borrowers as a result of associated rises in unemployment levels, interest rate resets on adjustable-rate mortgage loans and/or other factors, and the potential adverse effects on tenants and buyers and sellers of real estate. Any sustained period of increased payment delinquencies, foreclosures or losses could adversely affect the income received by the Firm clients from such investments. Further, declining real estate values significantly increase the likelihood of losses on such assets in the event of default, as the value of the underlying collateral could be insufficient to pay amounts owed under the related loan. Even if restructuring efforts were successfully accomplished, a risk exists that upon maturity of such mortgage loan, replacement take-out financing will not be available. Adverse changes in the real estate markets also increase the probability of default, as the incentive of the borrower to retain equity in the property declines. Furthermore, the properties which will ultimately secure Firm clients' investments that are backed by real estate assets could potentially suffer varying degrees of financial distress or be located in economically distressed areas.

***Commercial Mortgage Loans and Similar Assets.*** The value of any investments by Firm clients that are backed by commercial mortgage loans will be influenced by the rate of delinquencies and defaults experienced on the commercial mortgage loans and by the severity of loss incurred as a result of such defaults. The factors influencing delinquencies, defaults and loss severity include (i) economic and real estate market conditions; (ii) the term and structure of the mortgage loans; and (iii) any limits to enforceability or to legal and financial recourse upon a default under the terms of the mortgage loan or

applicable laws. Delinquencies, defaults and loss severity on commercial mortgage loans in general will be influenced by the effects of general and local economic conditions on real estate values and the conditions of specific industry segments (e.g., multifamily, retail and office). Performance of specific mortgage loans will be influenced by the ability of tenants to make lease payments, the ability of a property to attract and retain tenants and the ability of the owner to maintain the property and comply with applicable laws. Commercial mortgage loans generally are not amortizing or do not fully amortize, which necessitates the sale of the property or refinancing of the “balloon” amount at or prior to maturity of the mortgage loan, which increases the risk of default at that time. Accordingly, investors in commercial mortgage loans bear the risk that a borrower will be unable to refinance or otherwise repay the mortgage at maturity, thereby defaulting on its obligation.

A borrower’s ability to refinance or otherwise repay, for example by selling the property, will be dependent on factors described above. Most commercial mortgage loans provide recourse only to specific assets, such as the property, and not against the borrower’s other assets. Consequently, if the Firm clients held commercial mortgage loans, it would have to rely solely on revenues from and proceeds from the sale of collateral pledged to secure such loans for making interest and principal payments. If distributions of such proceeds are insufficient to make payments due on such loans, following liquidation of all the collateral, the obligations of the borrowers to make such payments will be extinguished. Exercise of foreclosure and other remedies often involve lengthy delays and considerable expenses in the face of declining property values. In addition, the foreclosure process can require strict compliance with formulaic rules that, if applicable, would likely pose technical hurdles to the Firm clients in connection with a foreclosure that could delay or in certain circumstances ultimately prohibit the foreclosure.

***Insurance Risks Relating to Commercial Real Estate.*** Firm clients will be exposed to the following risks in respect of any investments that are backed by real estate assets. There are certain types of losses with respect to commercial real estate, generally of a catastrophic nature, such as earthquakes, floods, hurricanes, terrorism or acts of war, that, depending on the applicable policy, will be uninsurable or not economically insurable. Inflation, changes in building codes and ordinances, environmental considerations and other factors, including terrorism or acts of war, also might make the insurance proceeds insufficient to repair or replace a property if it is damaged or destroyed. Under such circumstances, the insurance proceeds received might not be adequate to restore the owner’s economic position with respect to the affected real property. Any uninsured loss could result in both loss of cash flow from and the asset value of the affected property, which would likely in turn negatively impact the cash flow and value of a loan secured by such property. To the extent Firm clients’ investments comprise any such loans, the occurrence of any of the foregoing events could cause Firm clients to incur material losses.

***Sector Risk.*** The chance that, if a Firm client focuses on one or more sectors of the economy, its performance will correspond with the performance of those sectors. A Firm client that invests in particular sectors is particularly susceptible to the impact of market, economic, regulatory and other factors affecting those sectors. As a result, at such times, a Firm client’s portfolio value may fluctuate more widely than if it had invested across sectors.

***Environmental Hazards.*** Under environmental laws enacted by the United States and the various states within the United States, owners of property may be liable for the clean-up and removal of hazardous substances even where the owner was not responsible for placing the hazardous substances on the property or where the property was contaminated prior to the time the owner took title. Similar laws may be in effect in other jurisdictions where a Firm client invests. The costs of removal and clean-up of hazardous substances and wastes can be extremely expensive and, in some cases, can exceed the value of a property. If any property acquired by a Firm client through foreclosure or otherwise subsequently were found to have an environmental problem, such acquiring entity could incur substantial costs and suffer a complete loss of



its investment in such property as well as of other assets. Similarly, real estate is subject to loss due to so-called “special hazards” (e.g., floods, earthquakes and hurricanes). It may be impractical or impossible to fully insure against such events and, should such an event occur, a Firm client could incur substantial costs and suffer a complete loss of its investment in such property.

**Timing Risk.** A Firm client may be exposed to the following risks directly in respect of its direct investments (other than collateralized securities), as well as indirectly inasmuch that Securitization Vehicles that have issued collateralized securities held by Firm clients are subject to the following risks, either of which could cause Firm clients to incur a material loss. Many agency, corporate and municipal bonds, and all mortgage-backed securities, contain a provision that allows the issuer to call all or part of the issue before the bond’s maturity date. The issuer usually retains the right to refinance the bond in the future if market interest rates decline below the coupon rate. There are three disadvantages to the call provision. First, the cash flow pattern of a callable bond is not known with certainty. Second, because the issuer will call the bonds when interest rates have dropped, the holder of the bond is exposed to reinvestment rate risk – it will have to reinvest the proceeds received when the bond is called at lower interest rates. Finally, the capital appreciation potential of a bond will be reduced because the price of a callable bond may not rise much above the price at which the issuer may call the bond.

**Maturity Risk.** A Firm client may be exposed to the following risks directly in respect of its direct investments (other than collateralized securities), as well as indirectly inasmuch that Securitization Vehicles that have issued collateralized securities held by Firm clients are subject to the following risks, either of which could cause Firm clients to incur a material loss. In certain situations, Firm clients (or a Securitization Vehicle in which Firm clients has invested) may purchase a bond of a given maturity as an alternative to another bond of a different maturity. Ordinarily, under these circumstances, the purchaser will make an adjustment to account for the differential interest rate risks in the two bonds. This adjustment, however, makes an assumption about how the interest rates at different maturities will move. If yield movements deviate from this assumption, there is a yield-curve or maturity risk. Another situation where yield-curve risk should be considered is in the analysis of bond swap transactions where the potential incremental returns are dependent entirely on the parallel shift assumption for the yield curve.

**Unlisted Nature of Investments.** A Firm client may be exposed to the following risks directly in respect of its direct investments (other than collateralized securities), indirectly inasmuch that Securitization Vehicles that have issued collateralized securities held by Firm clients are subject to the following risks in respect of many of the underlying assets they hold, either of which could cause Firm clients to incur a material loss. Unlike publicly traded common stock which trades on national exchanges, there is no central place or exchange for loans or fixed-income instruments to trade. Loans and fixed-income instruments generally trade on an over-the-counter market, which could be any location where the buyer and seller can settle on a price. Due to the lack of centralized information and trading, the valuation of such instruments carries more risk than publicly traded common stock. Uncertainties in the conditions of the financial market, unreliable reference data, lack of transparency and inconsistency of valuation models and processes could lead to inaccurate asset pricing. In addition, other market participants may value securities differently than the Firm. As a result, Firm clients are subject to the risk that when an investment is sold, the amount received is less than its carrying book value.

**Equity Kickers.** The Firm anticipates that, in connection with some or all of Firm clients’ originated or acquired loan investments, Firm clients could be issued or otherwise receive a range of equity incentives, which would usually be in the form of a warrant to acquire a portion of a borrower’s fully diluted equity, but could also be in the form of outright shares, an exit fee or some direct participation in proceeds of a sale or listing (and may also be received in connection any workouts or restructurings of those investments) (collectively, “**Equity Kickers**”). These Equity Kickers would be intended to enable Firm clients to

participate in a borrower's long-term value which may be created by growth facilitated by a loan, and accordingly will have little or no value at issuance and will typically generate income (if at all) only upon a sale, listing or recapitalization of the borrower. Such Equity Kickers will generally involve a high degree of risk and will be subordinate to (and thus are inherently riskier than) the debt securities and other liabilities of the issuers of such Equity Kickers. Prices of Equity Kickers generally fluctuate more than prices of debt securities and are likely to be affected more rapidly, and to a greater extent, by company-specific developments and poor economic or market conditions. In addition, these Equity Kickers can be illiquid or trade at significant discounts to otherwise comparable investments. Equity Kickers may not produce any income for Firm clients and could ultimately have no recognizable value. Firm clients may experience a substantial or complete loss on such Equity Kickers to the extent of any value given in connection with the acquisition thereof.

***Reliance on Management of an Obligor.*** A Firm client may be exposed to the following risks directly in respect of its direct investments (other than collateralized securities), indirectly inasmuch that Securitization Vehicles that have issued collateralized securities held by Firm clients are subject to the following risks in respect of many of the underlying assets they hold, either of which could cause Firm clients to incur a material loss. The day-to-day operations of an obligor in which Firm clients invests, directly or indirectly, will be the responsibility of such obligor's management team, and Firm clients will, directly or indirectly, rely upon the abilities and management expertise of such persons. Firm clients are subject to the risk that an obligor in which it invests, directly or indirectly, will make business decisions with which the General Partner disagrees, and the stockholders and management of such obligor will take risks or otherwise act in ways that do not serve Firm clients' interests. As a result, such obligor could make decisions that could decrease the value of Firm clients (direct or indirect) investment and, in turn, could have a material adverse effect on Firm clients' returns.

***Multiple Levels of Fees and Expenses.*** Many of the Funds' portfolio investments are expected to be actively managed by an investment manager. Therefore, in that regard, Funds could be subject to multiple levels of expenses and management fees, as well as incentive compensation. Funds will bear these costs regardless of its profitability and will reduce the amounts otherwise payable to Funds in respect of its investments, in particular with respect to residual tranches of collateralized securities.

***Exchange-Traded Funds.*** The risks associated with investing in exchange-traded funds ("***ETFs***") include the risks of owning the underlying securities the ETF is designed to track. Lack of liquidity in an ETF could result in the ETF being more volatile than the underlying portfolio of securities. When a Firm client invests in an ETF, in addition to directly bearing expenses associated with its own operations, the Firm client will bear a pro rata portion of the ETF's expenses. As a result, it may be more costly to own an ETF than owning the underlying portfolio of securities directly.

***Derivatives.*** Derivatives are financial contracts whose value depends on, or is derived from, the value of an underlying asset, reference rate or index. Firm clients will under certain circumstances use derivatives, including swaps, for any purpose including, among other things, as a substitute for taking a position in an underlying asset, to increase the applicable Firm client's leverage, or as part of a strategy designed to reduce or increase exposure to other risks, such as interest rate, credit or currency risk. A Firm client's use of derivative instruments involves risks different from, and possibly greater than, the risks associated with investing directly in securities and other traditional investments. Derivatives are subject to a number of risks described elsewhere in this section, such as interest rate risk, market risk, liquidity risk, credit risk and counterparty risk. They also involve the risk of mispricing or improper valuation, the risk of ambiguous documentation, and the risk that changes in the value of the derivative may not correlate perfectly with the underlying asset, rate or index. To the extent a Firm client invests in derivative instruments, counterparty exposures can develop, and such Firm client takes the risk of nonperformance by the other party on the

contract. For uncleared derivatives, this risk may differ materially from that of cleared derivatives transactions that generally are supported by guarantees of clearing organizations, daily marking-to-market and settlement, and segregation and minimum capital requirements applicable to intermediaries. Transactions entered directly between two counterparties on an over-the-counter basis generally do not benefit from such protections and expose the parties to the risk of counterparty default. In the international securities markets, the existence of less mature settlement structures and systems can result in settlement default and exposure to counterparty credits. If a Firm client invests in a derivative instrument, it could lose more than the principal amount invested; such losses could be significant and could adversely affect the Firm client's performance.

Certain derivatives that may be used by a Firm client, including futures, options on futures, certain interest rate swaps and certain credit default index swaps, are required to be cleared. In a cleared derivatives transaction, the applicable Firm client's counterparty is a central derivatives clearing organization, or clearing house, rather than a bank or broker. The credit risk of market participants with respect to cleared derivatives is concentrated in a few clearing houses, and it is not clear how an insolvency proceeding of a clearing house would be conducted and what impact an insolvency of a clearing house would have on the financial system. Since such Firm client is not a member of a clearing house, and only members of a clearing house can participate directly in the clearing house, such Firm client will hold cleared derivatives transactions through accounts at clearing members, who are registered in the United States as futures commission merchants who are members of the clearing houses. Such Firm client will make and receive payments owed under cleared derivatives transactions (including margin payments) through its accounts at clearing members. Such Firm client's clearing members guarantee such Firm client's performance of its obligations to the clearing house. Such Firm client may be subject to a risk of loss in the event of the bankruptcy of any of its clearing brokers. If such Firm client's clearing brokers become bankrupt or insolvent, commit fraud, or otherwise default on their obligations to such Firm client, such Firm client may not receive all amounts owed to it in respect of its trading, despite the clearing house fully discharging all of its obligations. Furthermore, in the event of the bankruptcy of one of the clearing brokers, such Firm client could be limited to recovering only a pro rata share of all available funds segregated on behalf of the clearing broker's combined customer accounts with respect to the relevant asset class, even though certain property specifically traceable to such Firm client (e.g., Treasury bills deposited by such Firm client with the clearing broker as margin) was held by the clearing broker. Financial difficulty, fraud or misrepresentation at any of these institutions could lead to significant losses as well as impair the operational capabilities or capital position of such Firm client. In contrast to bilateral derivatives transactions, following a period of advance notice to such Firm client, clearing members can generally require termination of existing cleared derivatives transactions at any time and increase the amount of margin required to be provided by such Firm client to the clearing member for any cleared derivatives transaction above the amount of margin that was required at the beginning of the transaction. Any such termination or increase could interfere with the ability of such Firm client to pursue its investment strategy. Also, such Firm client is subject to execution risk if it enters into a derivatives transaction that is required to be cleared (or which such Firm client expects to be cleared), and no clearing member is willing to clear the transaction on such Firm client's behalf. In that case, the transaction might have to be terminated, and such Firm client could lose some or all of the benefit of any increase in the value of the transaction after the time of the trade.

In the case of over-the-counter derivatives, the bankruptcy or insolvency of the counterparty may (or may not) allow a Firm client to elect to terminate early with respect to some or all the transactions under the agreement with that counterparty, and the relevant agreement may permit the non-defaulting party to calculate a single net payment to close out applicable transactions. However, there is no guarantee that the terms of such agreement will be enforceable, including, for example, when bankruptcy or insolvency laws impose restrictions on or prohibitions against rights to terminate, offset obligations or apply collateral to the counterparty's obligations.

Additionally, in the event of a counterparty's (or its affiliate's) insolvency, the possibility exists that a Firm client's ability to exercise remedies, such as the termination of transactions, netting of obligations or realization on collateral, could be stayed or eliminated under new special resolution regimes adopted in the United States, the European Union and various other jurisdictions. Such regimes provide governmental authorities broad authority to intervene when a financial institution is experiencing financial difficulty. In particular, in the European Union, governmental authorities could reduce, eliminate or convert to equity the liabilities of a counterparty experiencing financial difficulties (sometimes referred to as a "bail-in").

Assets held outside the United States may be subject to different and/or diminished protection in the event of the failure of a counterparty located in such jurisdiction.

Some types of derivatives are required to be executed on an exchange or on a swap execution facility. A swap execution facility is a trading platform where multiple market participants can execute derivatives by accepting bids and offers made by multiple other participants in the platform. While this execution requirement is designed to increase transparency and liquidity in the cleared derivatives market, trading on a swap execution facility can create additional costs and risks for the applicable Firm client. For example, swap execution facilities typically charge fees, and if such Firm client executes derivatives on a swap execution facility through a broker intermediary, the intermediary may impose fees as well. Also, such Firm client may indemnify a swap execution facility, or a broker intermediary who executes cleared derivatives on a swap execution facility on such Firm client's behalf, against any losses or costs that may be incurred as a result of such Firm client's transactions on the swap execution facility.

***Credit Derivative Transactions.*** As part of its investment strategy, Firm clients may be permitted to enter into credit derivative transactions. Credit derivatives are transactions between two parties that are designed to isolate and transfer the credit risk associated with a third party (the so-called "reference entity"). Credit derivative transactions in their most common form consist of credit default swap transactions under which one party (the so-called "credit protection buyer") agrees to make one or more fixed payments in exchange for the other party's (the so-called "credit protection seller") obligation to assume the risk of loss if an agreed-upon credit event occurs with respect to the reference entity. Credit events are specified in the contract and are intended to identify the occurrence of a significant deterioration in the creditworthiness of the reference entity (mainly a default on a material portion of its outstanding obligations, a bankruptcy or a restructuring of its debt). Upon the occurrence of a credit event, credit default swaps can be cash settled (either directly or by way of an auction) or physically settled. If the transaction is cash settled, the amount payable by the credit protection seller following a credit event will usually be determined by reference to the difference between the nominal value of a specified obligation of the reference entity and its market value after the occurrence of the credit event (which may be established in an industry-wide auction process). If the transaction is physically settled, the credit protection buyer will deliver to the credit protection seller an obligation of the reference entity that is either specified in the contract or that satisfies the general characteristics included in the contract in return for the payment of its nominal value.

Credit derivatives are at times used to create an exposure to the underlying asset or reference entity, to reduce existing exposure or to create a profit through trading differences in their buying and selling prices. Firm clients may be permitted to enter into credit derivatives transactions as protection buyer or seller.

Credit derivative transactions are an established feature of the financial markets and both the number of participants and range of products available have significantly increased over the years. Credit derivative transactions dependent upon credit events are priced incorporating many variables, including the pricing and volatility of the common stock and/or debt obligations of the reference entity, potential loss upon default by the reference entity on any of its obligations, and the shape of the U.S. Treasury Market curve, among other factors. As such, there are many factors upon which market participants could have divergent

views. Additionally, credit derivatives will likely require the posting of collateral. A bankruptcy of the collateral holder would likely result in losses to the extent posted collateral exceeds the obligations of the pledging party under the credit derivative transaction.

***Credit-linked Securities.*** Credit-linked securities, which are generally considered to be a type of structured investment, are debt securities that represent an interest in a pool of, or are otherwise collateralized by, one or more corporate debt obligations or credit default swaps on corporate debt or loan obligations. Firm clients may have the right to receive periodic interest payments from the issuer of the credit-linked security at an agreed-upon interest rate, and a return of principal at the maturity date. To the extent such investments are held by Firm clients, Firm clients would bear the risk of loss of its principal investment, and the periodic interest payments expected to be received for the duration of its investment, in the event that one or more of the underlying debt obligations go into default or otherwise become non-performing. In addition, to the extent such investments are held by Firm clients, Firm clients would bear the risk that the issuer of the credit-linked security will default or become bankrupt. In such an event, Firm clients could have difficulty being repaid, or fail to be repaid, the principal amount of its investment and the remaining periodic interest payments thereon. An investment in credit-linked securities also involves reliance on the counterparty to the swap entered into with the issuer to make periodic payments to the issuer under the terms of the credit default swap. Additionally, credit-linked securities are typically structured as limited recourse obligations of the issuer of such securities such that the securities issued will usually be obligations solely of the issuer and will not be obligations or responsibilities of any other person. The market for credit-linked securities can be, or suddenly can become, illiquid. The value of a credit-linked security will typically increase or decrease with any change in value of the underlying debt obligations, if any, held by the issuer and the credit default swap. Further, in cases where the credit-linked security is structured such that the payments to Firm clients are based on amounts received in respect of, or the value of performance of, any underlying debt obligations specified in the terms of the relevant credit default swap, fluctuations in the value of such obligation will usually affect the value of the credit-linked security. The collateral of a credit-linked security can be one or more credit default swaps, which are subject to additional risks.

***Risks of Acquiring Real Estate Loans, Consumer Loans and Participations.*** Consumer loans, including real estate loans, acquired by Firm clients may be at the time of their acquisition are not expected to be, but may also become after acquisition, sub-performing or non-performing for a wide variety of reasons. With respect to collateralized loans, the underlying property may be too highly leveraged, poorly managed or substantially in need of rehabilitation. Such non-performing and sub-performing real estate loans may require a substantial amount of workout negotiations or restructuring, which may entail, among other things, a substantial reduction in the interest rate and a substantial write-down of the principal of such loans. However, even if a restructuring were successfully accomplished, a risk exists that upon maturity of such real estate loan, replacement takeout financing will not be available. Purchases of participations in real estate loans raise many of the same risks as investments in real estate loans and also carry risks of illiquidity and lack of control. It is possible that the Firm may find it necessary or desirable to foreclose on collateral securing one or more real estate loans purchased by Firm clients. The foreclosure process can be lengthy and expensive. Borrowers often resist foreclosure actions by asserting numerous claims, counterclaims and defenses against the holder of a real estate loan including lender liability claims and defenses, even when such assertions may have no basis in fact, in an effort to prolong the foreclosure action. In some jurisdictions, foreclosure actions can take up to several years or more to conclude. At any time during the foreclosure proceedings, the borrower may file for bankruptcy, staying the foreclosure action and further delaying the foreclosure process. Foreclosure litigation tends to create a negative public image of the collateral property and may result in disrupting ongoing leasing and management of the property. The value of the loan will be adversely impacted by a decline in the value of the underlying collateral, which is likely to be beyond the control of Firm clients. Finally, there is unlikely to be a liquid secondary market for these types of investments. Consequently, Firm clients may not be able to dispose of these investments at prices

that reflect their value, or the amount paid by it. Changes in the real estate market may adversely affect the value of the collateral and thereby lower the value to be derived from a liquidation. In addition, adverse changes in the real estate market increase the probability of default, as the incentive of the borrower to retain equity in the property declines.

**Consumer Loans.** The Firm expects that certain Firm clients will hold or (through investments in ABS) be exposed to consumer loans, including credit card receivables, automobile loans, student loans, peer-to-peer loans or other loans. These loans are subject to risks of prepayment, delinquency and default similar to those present in mortgage loans. The ability of a borrower to repay any such loan is dependent on a number of factors, including the income and assets of the borrower. Firm clients may invest in consumer loans that have been made to borrowers of varying creditworthiness, and it may invest in consumer loans that have been extended pursuant to varying underwriting guidelines, to no underwriting guidelines at all, or to fraudulent origination practices. Consumer loans may be backed by collateral (as in automobile loans) or they may be unsecured, exposing Firm clients to default risk as an unsecured creditor of an individual borrower.

The United States Congress, regulators such as the Consumer Financial Protection Bureau (the “**CFPB**”) and the individual states may further regulate the consumer credit industry in ways that make it more difficult for servicers of such loans to collect payments on such loans, resulting in reduced collections. Such laws and regulations may, among other things, regulate interest rates and other charges, require certain disclosures, regulate the use of consumer credit information and regulate debt collection practices. Violation of certain provisions of these laws and regulations may limit a servicer’s ability to collect all or part of the principal of, or interest on, such loans, entitle the borrower to a refund of amounts previously paid by it, or subject the servicer to damages and sanctions. Changes to federal or state bankruptcy or debtor relief laws may also impede collection efforts or alter timing and amount of collections. If an obligor sought protection under federal or state bankruptcy or debtor relief laws, a court could reduce or discharge completely the obligor’s obligations to repay amounts due on its loan.

Risks specific to different categories of consumer loans may affect Firm clients’ returns on such investments. In the case of credit card loans, for example, various and unpredictable social, economic and geographic factors may affect the payment patterns and rates of default by borrowers, including consumer confidence and attitudes toward debt, rates of inflation and unemployment and prevailing interest rates. Rates of prepayment and default on student loans will similarly vary based on a number of factors but will also be affected by contractual terms present in such loans, including the extension of grace periods, deferment periods and, under some circumstances, forbearance periods. The Firm cannot predict how these, and other factors may affect Firm clients’ investments in consumer loans.

**Risks Associated with Specialty Finance Investments.** Firm clients may invest in companies and operating platforms that originate and/or service commercial and consumer credits, including credit cards, personal loans and equipment finance, and may also invest directly in those credits. Pricing and optimizing the value of such credits requires strong analytics and extensive infrastructure. The form of investment may vary and may require reliance on networks of asset managers to provide the resources necessary to originate new receivables, manage portfolios of performing receivables, and work-out portfolios of stressed or non-performing receivables. These loans may not be secured and may be subject to increasing regulation. In addition, Firm clients may access exposure to credits by acquiring interests in specialty finance companies and operating platforms. Firm clients’ portfolio companies may also include leasing businesses, companies that provide services to specialty finance companies (e.g., credit scoring agencies) and other companies that have business models related to the specialty finance sector.

Investments in the specialty finance industry are subject to various industry-specific risks (including additional risks related to the various segments of the specialty finance industry). Specifically, various segments of the specialty finance industry are (or may become) highly regulated at both the federal and state levels in the U.S. (including as a result of the creation of the CFPB) and internationally and subject to frequent regulatory changes. Further, investments in financial services companies often require the approval of various regulatory bodies and there is no guarantee that such approvals will be obtained. While Firm clients intends to make investments in companies that comply with relevant laws and regulations, certain aspects of their operations may not have been subject to judicial or regulatory interpretation. An adverse review or determination by any one of such authorities, or an adverse change in the regulatory environment or requirements, could have a material adverse effect on the operations of the companies in which Firm clients invest. In addition, in order to comply with or not be subject to certain banking laws, rules and regulations, Firm clients may be required to invest in a manner that may not be as advantageous as the manner of making investments that are not subject to such laws, rules and regulations.

**Highly Volatile Markets.** Price movements of Firm clients' investments may be highly volatile and influenced by, among other things, interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, and national and international political and economic events and policies. In addition, governments from time to time intervene, directly and by regulation, in certain markets, particularly those in currencies, financial instruments, futures and options. Such intervention often is intended directly to influence prices and could, together with other factors, cause all of such markets to move rapidly in the same direction because of, among other things, interest rates. Firm clients are also subject to the risk of the failure of any exchanges on which the positions of Firm clients trade or of their clearinghouses.

**Rating Agencies.** In general, the ratings of nationally recognized rating organizations represent the opinions of these agencies as to the quality of securities that they rate. These ratings may be used by the Firm, in part, for the selection of Firm clients' portfolio securities. Such ratings, however, are relative and subjective; they are not absolute standards of quality and do not evaluate the market value risk of the securities. It is also possible that a rating agency might not change its rating of a particular issue on a timely basis to reflect subsequent events. With respect to MBS, such ratings do not represent any assessment of the likelihood that future prepayments will differ from current prepayment assumptions or historical prepayment rates. Hence, such ratings will not address the possibility that prepayment rates from an investment that are higher or lower than what was anticipated may cause such investment to experience a lower than anticipated yield.

**Temporary Investments.** When the Firm believes market or economic conditions are unfavorable for Limited Partners, it may invest Firm clients' assets in temporary defensive investments, including cash, cash equivalents or other high-quality short-term investment and money market funds. Unfavorable market or economic conditions generally include excessive volatility or a prolonged general decline in the securities markets, the securities in which Firm clients normally invest, or the U.S. economy or economies of other countries where Firm clients invest. Temporary defensive investments can and do experience default. The likelihood of default on a temporary defensive investment can increase in the market or economic conditions which are likely to trigger Firm clients' investment therein. The Firm may also be permitted to invest in these types of securities or hold cash while looking for suitable investment opportunities or to maintain liquidity. When Firm clients' assets are invested in temporary investments, Firm clients could struggle to achieve its investment goal.

**Inflation Risk.** The market price of debt instruments generally falls as inflation increases because the purchasing power of the future income and repaid principal is expected to be worth less when received by Firm clients. Debt investments that pay a fixed rather than variable interest rate are especially vulnerable to inflation risk because variable rate debt securities are at times able to participate, over the long term, in

rising interest rates which have historically corresponded with long-term inflationary trends. Inflation and rapid fluctuations in inflation rates have had in the past, and may in the future have, negative effects on economies and financial markets, particularly in emerging economies. Furthermore, wages, prices of inputs and borrowing costs increase during periods of inflation, which can negatively impact returns on investments. Governmental efforts to curb inflation often have negative effects on the level of economic activity. Central banks, such as the U.S. Federal Reserve, generally attempt to control inflation by regulating the pace of economic activity. They typically attempt to affect economic activity by raising and lowering short-term interest rates. At times, governments may attempt to manage inflation through fiscal policy, such as by raising taxes or reducing spending, thereby reducing economic activity; conversely, governments can attempt to combat deflation with tax cuts and increased spending designed to stimulate economic activity. Inflation rates may change frequently and significantly as a result of various factors, including unexpected shifts in the domestic or global economy and changes in economic policies, and a Firm client's investments may not keep pace with inflation, which may result in losses to the Firm client and its investors. Further, certain countries, including the U.S., have recently seen increased levels of inflation and there can be no assurance that continued and more wide-spread inflation will not become a serious problem in the future and have an adverse impact on a Firm client's returns. If inflation continues to increase, the real value of a Firm client's investments could decline and the interest payments on a Firm client's borrowings, if any, may increase.

***Dollar Rolls.*** A dollar roll transaction involves a sale by Firm clients of a security concurrently with an agreement by Firm clients to repurchase a similar security at a later date at an agreed-upon price. The securities that are repurchased will bear the same interest rate and a similar maturity as those sold, but the assets collateralizing those securities can have different prepayment histories than those sold. During the period between the sale and repurchase, Firm clients will not be entitled to receive interest and principal payments on the securities sold. Proceeds of the sale will be invested in additional investments, and the income from these investments will generate income for Firm clients. If such income does not exceed the income, capital appreciation and gain or loss that would have been realized on the securities sold as part of the dollar roll, the use of this technique will diminish the investment performance of Firm clients compared with what the performance would have been without the use of dollar rolls. Dollar rolls involve the risk that the market value of the securities subject to Firm clients' forward purchase commitment can potentially decline below, or the market value of the securities subject to Firm clients' forward sale commitment can also increase above, the exercise price of the forward commitment. In the event the buyer of the securities files for bankruptcy or becomes insolvent, Firm clients' use of the proceeds of the current sale portion of the transaction could be restricted.

***Legal Risk, Litigation and Regulatory Action.*** The Firm, Firm clients and their affiliates are subject to a number of risks, including changing laws and regulations, developing interpretations of such laws and regulations, and increased scrutiny by regulators and law enforcement authorities. Some of this evolution may be directed at the private fund industry in general or certain segments of the industry and may result in scrutiny or claims against Firm clients, the Firm or their affiliates directly for actions taken or not taken by Firm clients or the Firm. These risks and their potential consequences are often difficult or impossible to predict, avoid or mitigate in advance, and might make some investment opportunities unavailable to Firm clients or result in fines, suspensions of personnel or other sanctions, including censure, the issuance of cease-and desist orders or the suspension or expulsion of applicable licenses or members. Even if an investigation or proceeding did not result in a sanction or the sanction imposed against a Firm client or the Firm or their respective affiliates were small in monetary amounts, the adverse publicity relating to the investigation, proceeding or imposition of these sanctions could harm Firm clients, the Firm or their respective affiliates' reputations, which may adversely affect Firm clients' investment performance by hindering their ability to obtain favorable financing or consummate a potentially profitable investment. In addition, the securities market is subject to comprehensive statutes and regulations. The SEC, other



regulators and self-regulatory organizations and exchanges are authorized to take extraordinary actions in the event of market emergencies. The effect on Firm clients, the Firm or any affiliate of any such legal risk, litigation or regulatory action could be substantial and adverse.

Certain investments made by Firm clients may be materially adversely affected by such events in the future. In the longer term, there may be significant new regulations that could limit Firm clients' activities and investment opportunities or change the functioning of capital markets. As a result, there can be no assurance Firm clients will be able to achieve their investment objectives.

The enactment of these reforms or other similar legislation could have an adverse effect on the private investment funds industry generally and on the Firm or Firm clients specifically and may impede Firm clients' ability to effectively achieve their investment objectives. Any further increases in the regulations applicable to private investment funds generally or Firm clients or the Firm in particular may result in increased expenses associated with Firm clients' activities and additional resources of the Firm being devoted to such regulatory reporting and compliance-related obligations, which may reduce overall returns for investors or have an adverse effect on the ability of Firm clients to effectively achieve their investment objectives.

***Event-Oriented Situation.*** The price offered for securities of a company involved in an announced deal can generally represent a significant premium above the market price prior to the announcement. Therefore, the value of such securities, if held by a Firm client, may decline in the event the proposed transaction is not consummated and if the market price of the securities returns to a level comparable to the price prior to the announcement of the deal. Furthermore, the difference between the price paid by a Firm client for securities of a company involved in an announced deal and the anticipated value to be received for such securities upon consummation of the proposed transaction will often be very small. If the proposed transaction appears likely not to be consummated or, in fact, is not consummated or is delayed, the market price of the securities will usually decline, perhaps by more than a Firm client's anticipated profit. In addition, when a Firm client has sold short the securities it anticipates receiving in an exchange or merger, and the proposed transaction is not consummated, a Firm client may be forced to cover its short position in the market at a higher price than its short sale, with a resulting loss. If a Firm client has sold short securities that are the subject of a proposed cash tender offer or cash merger and the transaction is consummated, the Firm client also may be forced to cover its short position at a loss.

Where a Firm client has purchased put options with respect to the securities it anticipates receiving in an exchange or merger, if the proposed transaction is not consummated, the exercise price of the put options held by a Firm client may be lower than the market price of the underlying securities, with the result that the cost of the options will not be recovered. If a Firm client has purchased put options with respect to securities which are the subject of a proposed cash tender offer or cash merger and the transaction is consummated, a Firm client also may not exercise its options and may lose the premiums paid for them. In addition, premiums paid for put options increase a Firm client's transaction costs and, in certain situations, may result in a sufficient reduction in the spread between the acquisition price and the anticipated price to be received to make the arbitrage investment so unattractive based upon a return on capital/risk-reward analysis that the Firm may determine not to take a portfolio position. Since options expire on defined dates, in the event consummation of a transaction is delayed beyond the expiration of a put option held by a Firm client may lose the anticipated benefit of the option.

A Firm client may determine that the offer price for a security which is the subject of a tender offer is likely to be increased, either by the original bidder or by another party. In those circumstances, a Firm client may purchase securities above the offer price, and such purchases are subject to the added risk that the offer price will not be increased or that the offer will be withdrawn.

The consummation of refinancings, restructurings, mergers and tender and exchange offers can be prevented or delayed by a variety of factors, including (i) opposition of the management or stockholders of the target company, which will often result in litigation to enjoin the proposed transaction; (ii) intervention of a regulatory agency; (iii) efforts by the involved company to pursue a defensive strategy (e.g., merger with, or a friendly tender offer by, a company other than the offeror); (iv) in the case of a merger, failure to obtain the necessary stockholder approvals; (v) market conditions resulting in material changes in securities prices; (vi) compliance with any applicable securities laws; and (vii) inability to obtain adequate financing. Often a tender or exchange offer will be made for less than all of the outstanding securities of an issuer or a higher price will be offered for a limited amount of the securities, with the provision that, if a greater number is tendered, securities will be accepted *pro rata*. Thus, a portion of the securities tendered by a Firm client may not be accepted and may be returned to a Firm client since, after completion of the tender offer, the market price of the securities may have declined below a Firm client's cost, a sale of any returned securities may result in a loss.

***General Market and Credit Risks of Debt Securities.*** Debt portfolios are subject to credit and interest rate risk. "Credit risk" refers to the likelihood that an issuer will default in the payment of principal and/or interest on an instrument. Financial strength and solvency of an issuer are the primary factors influencing credit risk. In addition, subordination, lack or inadequacy of collateral or credit enhancement for a debt instrument may affect its credit risk. Credit risk may change over the life of an instrument and securities which are rated by rating agencies are often reviewed and may be subject to downgrade. "Interest rate risk" refers to the risks associated with market changes in interest rates. Factors that may affect market interest rates include, without limitation, inflation, slow or stagnant economic growth or recession, unemployment, money supply and the monetary policies of the Federal Reserve Board and central banks throughout the world, international disorders and instability in domestic and foreign financial markets. Interest rate changes may affect the value of a debt instrument indirectly (especially in the case of fixed rate securities) and directly (especially in the case of instruments whose rates are adjustable). In general, rising interest rates will negatively impact the price of a fixed rate debt instrument and falling interest rates will have a positive effect on price. Adjustable-rate instruments may also react to interest rate changes in a similar manner although generally to a lesser degree (depending, however, on the characteristics of the reset terms, including, among other factors the index chosen, frequency of reset and reset caps or floors). Interest rate sensitivity is generally more pronounced and less predictable in instruments with uncertain payment or prepayment schedules. The Firm expects that it will periodically experience imbalances in the interest rate sensitivities of Firm clients' assets and liabilities and the relationships of various interest rates to each other. In a changing interest rate environment, the Firm may not be able to manage this risk effectively, which in turn could adversely affect a Firm client's performance. In addition, Firm clients' investments are generally expected to include subordinated or unsecured debt investments issued with a fixed yield; thus, credit risk and interest rate risk may be greater than those generally applicable to other types of debt investments.

***Custody and Banking Risks.*** The Firm and its Funds maintain assets with one or more banks or other depository institutions (i.e., banking institutions), which may include US and non-US banking institutions, and may enter into credit facilities or have other financial relationships with banking institutions. The distress, impairment or failure of one or more banking institutions with whom the Funds and/or Firm transact may inhibit the ability of the Funds or Firm to access depository accounts or lines of credit at all or in a timely manner. In such cases, the Funds may be forced to delay or forgo investments or to call capital when it is not desirable to do so, resulting in lower performance for the Funds. In the event of such a failure of a banking institution where the Funds or Firm holds depository accounts (including accounts used for depositing principal and interest payments from borrowers on loans owned by the Fund) access to such accounts could be restricted and U.S. Federal Deposit Insurance Corporation (the "***FDIC***") protection may not be available for balances in excess of amounts insured by the FDIC (and similar considerations may apply to banking institutions in other jurisdictions not subject to FDIC protection). In such instances,

the Funds and Firm may not recover such excess, uninsured amounts and instead, would only have an unsecured claim against the banking institution and participate pro rata with other unsecured creditors in the residual value of the banking institution's assets. The loss of amounts maintained with a banking institution or the inability to access such amounts for a period of time, even if ultimately recovered, could be materially adverse to the Funds or their portfolio companies. One or more investors or a Fund could also be similarly affected and unable to fund capital calls, further delaying or deferring new investments. In addition, a Fund may not be able to identify all potential solvency or stress concerns with respect to a banking institution or to transfer assets from one bank to another in a timely manner in the event a banking institution comes under stress or fails.

***Recent Financial Market Fluctuations.*** Various sectors of the U.S. and global financial markets and the broader current financial environment have been, and continue to be, characterized by uncertainty, volatility and instability. The financial services industry generally and investment activities are affected by general economic and market conditions, including interest rates, availability of credit, lack of price transparency, inflation rates, economic uncertainty, changes in tax and other applicable laws and regulations, trade barriers, national and international and environmental and socioeconomic circumstances. These financial market fluctuations have the tendency to reduce the availability of attractive investment opportunities for Firm clients and may affect their ability to make investments and the value of the investments held by such clients. Instability in the securities markets and economic conditions generally may also increase the risks inherent in a Firm client's investments. The public securities markets have seen increased volatility and the ability of companies to obtain financing for ongoing operations or expansions may be severely hampered by the tightening of the credit markets and the ongoing financial turmoil. It is unclear what the repercussions of this market turmoil may be. Moreover, it remains unknown whether governmental measures undertaken in response to such turmoil (whether regulatory or financial in nature) will have a positive or negative effect on market conditions.

There can be no assurance that the market will, in the future, become more liquid than it is at present, and it may well continue to be volatile for the foreseeable future. The ability to realize investments depends not only on portfolio companies and their historical results and prospects, but also on political, market and economic conditions at the time of such realizations. Continued or renewed volatility in the financial sector may have an adverse material effect on the ability of Firm clients to buy, sell and partially dispose of their portfolio company investments. Such clients may be adversely affected to the extent that they seek to dispose of any of their portfolio investments into an illiquid or volatile market, and a Firm client may find itself unable to dispose of investments at prices that the Firm believes reflect the fair value of such investments. The duration and ultimate effect of current market conditions and whether such conditions may worsen cannot be predicted and there can be no assurances that conditions in the financial markets will not worsen or adversely affect one or more a Firm client's portfolio companies. The ability of portfolio companies to refinance debt securities depends on their ability to sell new securities in the public high yield debt market or otherwise.

***Investments in Equity Securities Generally.*** A Firm client may invest in preferred stock, common stock or other equity securities directly, or may hold such securities as the result of certain restructuring activities. Investments in equity securities of small or medium-sized market capitalization companies will have more limited marketability than the securities of larger companies. In addition, securities of smaller companies may have greater price volatility. All of a Firm client's equity investments will be subject to normal market risks. While diversification among issuers may mitigate these risks, investors must expect fluctuations in value of equity securities held by a Firm client based on market conditions. Because equity securities rank lower in the capital structure of an issuer, such investments may subject investors to additional risks not applicable to debt securities. In addition, holders of equity securities may be wiped out or substantially reduced in value in a bankruptcy proceeding or corporate restructuring.

***Middle Market Companies.*** Certain Firm clients may invest in small and/or less well-established companies. While smaller companies may have potential for rapid growth, they often involve higher risks because they lack the management experience, financial resources, product diversification and competitive strength of larger corporations, all of which may contribute to illiquidity, which may, in turn adversely affect the price and timing of liquidation of the Firm's investments.

***Adverse Effect of Economic Conditions.*** Firm clients and the companies in which they invest may be adversely affected by deteriorations in the financial markets and economic conditions throughout the world, some of which may magnify the risks described herein and may have other adverse effects. Deteriorating market conditions could result in increasing volatility and illiquidity in the global credit, debt and equity markets generally. The duration and ultimate effect of recent market conditions cannot be forecast, nor is it known whether or the degree to which such conditions may remain stable or worsen. Deteriorating market conditions and uncertainty regarding economic markets generally could result in declines in the market values of potential investments or declines in the market values of investments after they are made or acquired by the Firm clients. Such declines may be exacerbated by other events, such as the failure of significant financial institutions or hedge funds, dislocations in other investment markets or other extrinsic events. In addition, such declines could lead to weakened investment opportunities for Firm clients, could prevent Firm clients from successfully meeting their investment objectives and/or could require Firm clients to dispose of investments at a loss while such unfavorable market conditions prevail.

***Interest Rate, Currency Exchange and Investment Risk Management.*** Certain Firm clients may be authorized to use various investment strategies to hedge interest rate or currency exchange risks. These strategies are generally accepted as portfolio management techniques and are regularly used by many investment funds and other institutional investors. Techniques and instruments may change over time as new instruments and strategies are developed or regulatory changes occur. A Firm client may use any or all such types of interest rate hedging transactions and currency hedging transactions at any time and no particular strategy will dictate the use of one transaction rather than another. The choice of any particular interest rate hedging transactions and currency hedging transactions will be a function of numerous variables including market conditions.

Although the Firm may cause its clients to engage in any interest rate hedging transactions and currency hedging transactions only for hedging purposes and not for speculation, use of interest rate hedging transactions and currency hedging transactions involves certain inherent risks. These risks include (i) the possibility that the market will move in a manner or direction that would have resulted in gain for a Firm client had an interest rate hedging transaction or currency hedging transaction not been utilized, in which case it would have been better had such Firm client not engaged in the interest rate hedging transaction or currency hedging transaction; (ii) the risk of imperfect correlation between the risk sought to be hedged and the interest rate hedging transaction or currency hedging transaction utilized; (iii) potential illiquidity for the hedging instrument utilized, which may make it difficult for the relevant Firm client to close-out or unwind an interest rate hedging transaction or currency hedging transaction; and (iv) credit risk with respect to the counterparty to the interest rate hedging transaction or currency hedging transaction.

The Firm clients may also enter into certain hedging transactions for the purpose of protecting the market value of an investment made by such Firm client for a period of time without having to currently dispose of such investment. Such defensive hedge transactions may be entered into when a Firm client is legally restricted from selling an investment or when the Firm otherwise determines that it is advisable to decrease its exposure to the risk of a decline in the market value of an investment. Such defensive hedging transactions may expose the relevant Firm client to the counterparty's credit risk. There also can be no assurance that the Firm will accurately assess the risk of a market value decline with respect to an investment or will advise or cause a Firm client to enter into an appropriate defensive hedge transaction to

protect against such risk. Furthermore, the Firm clients are in no event obligated to enter into any defensive hedge transaction.

The Firm clients may from time to time employ various investment programs including the use of derivatives, short sales, swap transactions, currency hedging transactions, securities lending agreements and repurchase agreements. There can be no assurance that any such investment program will be undertaken successfully.

***Exposure to Originated Investments.*** A Firm client may originate certain of its investments with the expectation of later syndicating a portion of such investment to other parties. Prior to such syndication, or if such syndication is not successful, such Firm client's exposure to the originated investment may exceed the exposure that the Firm intends for such Firm client to have over the long-term or would have had had it purchased such investment in the secondary market rather than originating it.

***Third Party Litigation.*** In addition to litigation relating to the bankruptcy process as described above, the Firm clients' investment activities subject them to the normal risks of becoming involved in litigation by third parties. This risk is somewhat greater where the relevant Firm client exercises control or significant influence over a company's direction. The expense of defending against claims by third parties and paying any amounts pursuant to settlements or judgments would generally be borne by the relevant Firm client and would reduce net assets.

***Operating and Financial Risks of Investments.*** Companies in which Firm clients invest may face intense competition, including competition from companies with greater financial resources, more extensive development, manufacturing, marketing and other capabilities, or a larger number of qualified managerial and technical personnel. As a result, portfolio companies which the Firm expects to be stable may operate at a loss or have significant variations in operating results, may require substantial additional capital to support their operations or to maintain their competitive position or may otherwise have a weak financial condition or be experiencing financial distress.

Portfolio companies may issue certain types of debt, such as mezzanine or high yield, in connection with leveraged acquisitions or recapitalizations in which the portfolio company incurs a substantially higher amount of indebtedness than the level at which it had previously operated.

***Third-Party Involvement.*** The Firm clients may co-invest with third parties through partnerships, joint ventures or other entities. Such investments may involve risks not present in investments where a third-party is not involved, including the possibility that a third-party co-venturer or partner may have financial, legal or regulatory difficulties, resulting in a negative effect on such investment, have economic or business interests or goals which are inconsistent with those of the relevant Firm client, or may be in a position to take (or block) action in a manner contrary to the investment objective of the Firm client. In addition, the Firm clients may in certain circumstances be liable for actions of its third-party co-venturer or partner. In addition, a Firm client may, in certain circumstances, be liable for the actions of its third-party co-investors or operating partners. Investments made with third parties in joint ventures or other entities also may involve compensation arrangements, including carried interest distributions and/or other fees and profit-sharing arrangements payable to such third-party co-investors or operating partners. There can be no assurance that minority rights will be available or that such rights will provide sufficient protection of the Firm client's interests. Further, there can be no assurance that the return of a Firm client participating in a transaction with a third-party would be equal to and not less than another Firm client participating in the same transaction or that it would have been as favorable as it would have been had such conflict not existed.

By way of example, the terms and conditions of loan agreements and related assignments may be amended, modified or waived only by the agreement of the lenders. Generally, any such agreement must include a majority or a supermajority (measured by outstanding loans or commitments) or, in certain circumstances, a unanimous vote of the lenders. Consequently, the terms and conditions of the payment obligation arising from loan agreements could be modified, amended or waived in a manner contrary to the preferences of a Firm client if a sufficient number of the other lenders co-investing with and Firm client concurred with such modification, amendment or waiver. There can be no assurance that any obligations arising from a loan agreement will maintain the terms and conditions to which a Firm client originally agreed.

***Toehold Investments.*** Although not intended, a Firm client may accumulate minority positions in the outstanding voting stock or securities convertible into the voting stock, of potential investments or may otherwise accumulate positions in debt securities of issuers, with the intention of accumulating a sufficient position to enable a Firm client to influence the activities of the issuers including through investor activism. While a Firm client will seek to achieve such accumulation through open market purchases, registered tender offers, negotiated transactions or private placements, they may be unable to accumulate a sufficiently large position in a target company to execute the investment strategy formulated in respect of that company. In such circumstances, a Firm client may dispose of its position in the target company within a short time of acquiring it; there can be no assurance that the price at which a Firm client can sell such securities will not have declined since the time of acquisition. This may be exacerbated by the fact that securities of the companies that the Firm client may target may be thinly traded and that a Firm client's position may nevertheless have been substantial, and its disposal may depress the market price for such stock.

***Fluctuations of Investment Values and Potential Illiquidity of Investments.*** The market value of the investments of each Firm client will fluctuate with, among other things, changes in market rates of interest, general economic conditions and economic conditions in particular industries, the condition of financial markets and the financial condition of the issuers of the Firm client's investments. At times, certain sectors of the credit markets have experienced significant declines in liquidity. While such events may sometimes be attributable to changes in interest rates or other factors, the cause is not always apparent. During such periods of market illiquidity, the Firm client may not be able to sell assets in its portfolio or may only be able to do so at unfavorable prices. Such liquidity risk could adversely impact the value of a Firm client's portfolio and may be difficult or impossible to hedge against. In addition, the lack of an established, liquid secondary market for some of the Firm clients' investments may have an adverse effect on the market value of such investments and on the Firm clients' ability to dispose of them. Additionally, the Firm clients' investments may be subject to certain transfer restrictions that may also contribute to illiquidity. Finally, assets of Firm clients that are typically traded in a liquid market may become illiquid if the applicable trading market tightens as a result of a significant macro-economic shock or for any other reason. Therefore, no assurance can be given that, if the Firm is determined to cause the disposal of a particular such investment held by a Firm client, it could dispose of such investment at the prevailing market price. Such illiquidity may adversely affect the price and timing of liquidation of the Firm clients' investments upon the redemption of a Fund investor's interest, to pay expenses of the Firm clients or to pay fees.

A Firm client may invest in securities and other obligations that are subject to legal or other restrictions on transfer or for which no liquid market exists. The market prices, if any, for such securities and other obligations tend to be volatile and a Firm client may not be able to sell such securities when it desires to do so or to realize what it perceives to be their fair value in the event of a sale. The sale of restricted and illiquid securities often requires more time and results in higher brokerage charges or dealer discounts and other selling expenses than does the sale of securities eligible for trading on national securities exchanges or in the over-the-counter markets. Restricted securities may sell at a price lower than similar securities that are not subject to restrictions on resale. Because the markets for such securities are still evolving, liquidity in

these securities is limited and liquidity with respect to lower-rated and unrated subordinated classes may be even more limited. As a result, calculating the fair market value of a Firm client's holdings may be difficult and there can be no assurance that the Firm's valuation will accurately reflect the value that will be realized by a Firm client upon the eventual disposition of such investment. The Firm may not necessarily aggregate illiquid investments in classes, and the Firm (or its designee) may use valuation methodologies for such assets involving subjective determinations.

A portion of a Firm client's investments may consist of securities that are subject to restrictions on resale by such Firm client because they were acquired in a private placement transaction or because such Firm client is deemed to be an affiliate of the issuer of such securities. Generally, a Firm client will be able to sell such securities only under Rule 144 under the Securities Act, which permits limited sales under specified conditions, or pursuant to a registration statement under the Securities Act. When restricted securities are sold to the public, a Firm client may be deemed to be an underwriter or possibly a controlling person, with respect thereto for the purposes of the Securities Act and be subject to liability as such under the Securities Act.

In addition, the Firm may, from time to time, possess material, non-public information about a borrower or issuer or the Firm may be an affiliate of a borrower or an issuer. Such information or affiliation may limit the ability of the applicable Firm client to buy and sell investments.

***Illiquidity.*** Firm clients will invest in securities, bank debt and other claims, and other assets that are subject to legal or other restrictions on transfer or for which no liquid market exists. The market prices, if any, for such investments tend to be volatile and may not be readily ascertainable, and a Firm client at times will not be able to sell them when it desires to do so or to realize what it perceives to be their fair value in the event of a sale. The sale of restricted and illiquid assets often requires more time and results in higher brokerage charges or dealer discounts and other selling expenses than does the sale of securities eligible for trading on national securities exchanges or in the over-the-counter markets.

***Valuation of Investments.*** The Firm (or its designee) is responsible for valuing the assets of a Firm client in accordance with the Firm's then-current valuation policy. Such valuation will affect a Firm client's reported performance. Although the Firm (or its designee) will be performing its valuation of the assets of a Firm client pursuant to the Firm then-current valuation policy, which generally is based on current market price information, there will be investments as to which current or reliable market price information is unavailable, in which event the Firm (or its designee) has discretion in determining the appropriate means of valuation. There can be no assurance that the value assigned to an investment at a certain time will equal the value that a Firm client is ultimately able to realize. Moreover, because the Firm will determine in its discretion the value of certain assets (including, for instance, determination of when an investment should be written down or written off), the Firm in certain situations will have a conflict of interest making that determination, given the potential impact of such valuations on fees and a Firm client's performance results.

***Currency Exchange Risk.*** Investments or liabilities of the Firm clients may be denominated in currencies other than the U.S. dollar, and hence the value of such investments, or the amount of such liabilities, will depend in part on the relative strength of the U.S. dollar. The Firm clients may be affected favorably or unfavorably by exchange control regulations or changes in the exchange rate between foreign currencies and the U.S. dollar. Changes in foreign currency exchange rates may also affect the value of dividends and interest earned, and the level of gains and losses realized on the sale of securities. The rates of exchange between the U.S. dollar and other currencies are affected by many factors, including forces of supply and demand in the foreign exchange markets. These rates are also affected by the international balance of payments and other economic and financial conditions, government intervention, speculation and other

factors. The Firm clients are not obligated to engage in any currency hedging operations, and there can be no assurance as to the success of any hedging operations that a Firm client may implement.

***Participation on Creditors' Committees.*** The Firm may participate on behalf of a Firm client on committees formed by creditors to negotiate the management of financially troubled companies that may or may not be in bankruptcy or the Firm may seek to negotiate on behalf of a Firm client directly with the debtors with respect to restructuring issues. If the Firm does join a creditors' committee on behalf of a Firm client, the participants of the committee would be interested in obtaining an outcome that is in their respective individual best interests and there can be no assurance of obtaining results most favorable to the applicable Firm client in such proceedings. By participating on such committees, the Firm may be deemed to have duties to other creditors represented by the committees, which might thereby expose the Firm clients to liability to such other creditors who disagree with the actions.

The Firm may also be provided with material non-public information that may restrict the Firm's ability to purchase or sell, or otherwise trade in, the company's securities on a Firm client's behalf. While the Firm and the Firm clients intend to comply with all applicable securities laws and to make judgments concerning restrictions on trading in good faith, the Firm may trade in the company's securities on a Firm client's behalf while engaged in the company's restructuring activities. Such trading creates a risk of litigation and liability that may cause the Firm client to incur significant legal fees and potential losses.

***Lender Liability Considerations and Equitable Subordination.*** In recent years, a number of judicial decisions in the United States have upheld the right of borrowers to sue lending institutions on the basis of various evolving legal theories (collectively termed "lender liability"). Generally, lender liability is founded upon the premise that an institutional lender has violated a duty (whether implied or contractual) of good faith and fair dealing owed to the borrower or has assumed a degree of control over the borrower resulting in creation of a fiduciary duty owed to the borrower or its other creditors or shareholders. Because of the nature of certain of the Firm clients' investments, a Firm client could be subject to allegations of lender liability.

In addition, under common law principles that in some cases form the basis for lender liability claims, if a lending institution (i) intentionally takes an action that results in the undercapitalization of a borrower to the detriment of other creditors of such borrower; (ii) engages in other inequitable conduct to the detriment of such other creditors; (iii) engages in fraud with respect to, or makes misrepresentations to, such other creditors; or (iv) uses its influence as a stockholder to dominate or control a borrower to the detriment of the other creditors of such borrower, a court may elect to subordinate the claim of the offending lending institution to the claims of the disadvantaged creditor or creditors, a remedy called "equitable subordination." Because of the nature of certain of the Firm clients' and their affiliates' investments, a Firm client could be subject to claims from creditors of an obligor that such Firm client's investments issued by such obligor should be equitably subordinated. The preceding discussion regarding lender liability is based upon principles of U.S. federal and state laws. With respect to a Firm client's investments in European or other non-U.S. issuers, the laws of such non-U.S. jurisdictions may also impose liability upon lenders or bondholders under factual circumstances similar to those described above, with consequences that may or may not be analogous to those described above under U.S. federal and state laws.

Some of the investments of the Firm clients will involve investments in which the applicable Firm client would not be the lead creditor. It is, accordingly, possible that lender liability or equitable subordination claims affecting the investments of a Firm client could arise without the direct involvement of such Firm client.



If a Firm client purchases debt securities of an affiliate in the secondary market at a discount, (i) a court might require such Firm client to disgorge profit it realizes if the opportunity to purchase such securities at a discount should have been made available to the issuer of such securities or (ii) such Firm client might be prevented from enforcing such securities at their full-face value if the issuer of such securities becomes bankrupt. The effect of these transactions will vary from jurisdiction to jurisdiction.

***Fraudulent Conveyance and Preference Considerations.*** Various federal and state laws enacted for the protection of creditors may apply to the purchase of Firm clients' investments, or payments or liens related thereto, by virtue of certain Firm clients' role as creditors with respect to the borrowers under such investments. If a court, in a lawsuit brought by an unpaid creditor, a debtor-in-possession, a trustee in bankruptcy, or their respective representatives were to find that the borrower took any action to intentionally delay or frustrate recoveries by creditors, or did not receive fair consideration or reasonably equivalent value for incurring indebtedness evidenced by an investment and the grant of any security interest or other lien securing such investment, and, after giving effect to such indebtedness and/or grant of any security interest or other lien, the issuer or obligor (i) was insolvent, (ii) was engaged in a business for which the remaining assets of such issuer constituted unreasonably small capital or (iii) intended to incur, or believed that it would incur, debts beyond its ability to pay such debts as they mature, such court could, under certain circumstances, invalidate, in whole or in part, such indebtedness and such security interest or other lien as fraudulent conveyances, could subordinate such indebtedness to existing or future creditors of the borrower and could allow the borrower to recover amounts previously paid by the borrower to the creditor (including to the applicable Firm client) in satisfaction of such indebtedness or proceeds of such security interest or other lien previously applied in satisfaction of such indebtedness.

The measure of insolvency for purposes of the foregoing will vary. Generally, an issuer or obligor would be considered insolvent at a particular time if the sum of its debts were then greater than all of its property at a fair valuation, or if the present fair saleable value of its assets were less than the amount that would be required to pay its probable liabilities on its existing debts as they became absolute and matured. There can be no assurance as to what standard a court would apply in order to determine whether the issuer or obligor was insolvent after giving effect to the incurrence of the indebtedness and/or the granting of any security interest or other lien or that, regardless of the method of valuation, a court would not determine that the issuer was insolvent upon giving effect to such incurrence of indebtedness and/or grant of security interests or other lien.

Firm clients may invest in bank debt or other indebtedness issued by a borrower which is guaranteed by other entities within the borrower's corporate family. In such circumstances, the borrower often has little or no assets other than the stock of its subsidiaries and, as a result, any recovery is often available only, if at all, from the entities that guaranteed the indebtedness. There is a risk, however, that the obligations of such guarantors and any security interests or other liens issued by the guarantors to secure such obligations may be avoided as fraudulent conveyances in the event that a court were to determine that such guarantors did not receive reasonably equivalent value in exchange for the issuance of the guarantees and for the security interests or other liens. A court could determine that the guarantors did not receive reasonably equivalent value or fair consideration in incurring the obligations and granting the security interests or other liens despite the existence of "indirect" benefits to the guarantors, such as the strengthening of the corporate enterprise in the transaction. Additionally, provisions in guarantees and other similar documents governing similar obligations by which fraudulent conveyance exposure is sought to be reduced or eliminated, such as so-called "savings clauses," may not be enforceable. As a result, Firm clients' investments in corporate bank debt or other indebtedness could be subject to avoidance as a fraudulent conveyance. Certain Firm clients whose investment mandates include holding debt of portfolio companies of a Firm affiliate may bear a greater degree of exposure to the risks described herein.

If a transaction is found to have been a fraudulent conveyance, the transferee may be compelled to return the value of the assets transferred as of the time of the transfer, even if the then current value is substantially less. In addition, unless the transferee is deemed to be a good faith transferee, the return of the asset may not even provide for the compensation back to the transferee of the value paid to the transferor.

In addition, in the event of the insolvency (as determined by a court based on the law of the jurisdiction which is being applied) of an issuer of an investment, payments made on a Firm client's investment, or new liens granted, could be subject to avoidance as a preference if made within a certain period of time (which may be as long as one year) before insolvency depending on a number of factors.

In general, if payments on a Firm client's investment are avoidable, whether as a fraudulent conveyance or preference, such payments can be recaptured either from the initial recipient (such as the applicable Firm client) or from subsequent transferees of such payments, including investors. Additionally, if the grant of a security interest or other lien is avoidable, whether as a fraudulent conveyance or preference, the value of the security interest or other lien can be recovered from the initial transferee or the entity for whose benefit such transfer was made (such as the applicable Firm client), and such recovery could include the diminution in value of the property which was subject to the security interest or other lien from the date of transfer.

There can be no assurance that a successful cause of action for fraudulent conveyance or preference will not occur, or as to whether any fund, lending institution or other party from which a Firm client may directly or indirectly acquire an investment engaged in any conduct to give rise to such causes of action, and if it did, as to whether such causes of action could be asserted against the Firm clients and/or its investors.

***Investment in Non-U.S. Issuers.*** Certain Firm clients may invest in the securities of non-U.S. issuers. There may be less information publicly available about a non-U.S. issuer than about a U.S. issuer, and non-U.S. issuers may not be subject to accounting, auditing and financial reporting standards and practices comparable to those in the United States. In addition, with respect to certain countries, there is a possibility of expropriation, imposition of non-U.S. withholding or other taxes on dividends, interest, capital gains or other income, limitations on the removal of funds or other assets of a Firm client, political or social instability or diplomatic developments that could affect investments in those countries. An issuer of securities may be domiciled in a country other than the country in whose currency the instrument is denominated. The values and relative yields of investments in the securities markets of different countries, and their associated risks, are expected to change independently of each other.

Bankruptcy law and process in non-U.S. jurisdictions may differ substantially from that in the United States, which may result in greater uncertainty as to the rights of creditors, the enforceability of such rights, reorganization timing and the classification, seniority and treatment of claims. In certain developing countries, although bankruptcy laws have been enacted, the process for reorganization remains highly uncertain, while other developing countries may have no bankruptcy laws enacted, adding further uncertainty to the process for reorganization.

***Exchange Rate Risk Exposure.*** Interests are denominated in U.S. dollars and cash distributions therefrom will be made in U.S. dollars. Firm clients may be permitted to invest a portion of assets in principal instruments denominated in currencies other than U.S. dollars, the price of which is determined with reference to currencies other than U.S. dollars. Firm clients will, however, value its securities and other assets in U.S. dollars. To the extent unhedged, the value of Firm clients' assets will fluctuate with U.S. dollar exchange rates, as well as the price changes of Firm client's investments in the various local markets and currencies. Thus, an increase in the value of U.S. dollars compared to the other currencies in which Firm clients make its investments will reduce the effect of increases in the prices of Firm clients' investments and magnify the U.S. dollar equivalent of the effect of decreases in the prices of Firm clients'

investments in their local markets. Conversely, a decrease in the value of U.S. dollars will have the opposite effect on Firm clients' non-U.S. dollar investments. Firm clients may also be permitted to utilize options and forward contracts to hedge against currency fluctuations, but there can be no assurance that such hedging transactions will be entered into, or, if entered into, will be effective. Prospective Fund investors whose assets and liabilities are predominantly in other currencies should take into account the potential risk of loss arising from fluctuations in value between U.S. dollars and such other currencies.

***Reliance on Creditors' Committees.*** Firm clients and/or the Firm may participate on committees formed by creditors to negotiate the management of financially troubled companies that may or may not be in bankruptcy or the Firm may seek to negotiate directly with the debtors with respect to restructuring issues. If a Firm client does join a creditors' committee, the participants of the committee would be interested in obtaining an outcome that is in their respective individual best interests and there can be no assurance of obtaining results most favorable to a Firm client in such proceedings. By participating on such committees, a Firm client may be deemed to have duties to other creditors represented by the committees, which might expose a Firm client to liability to such other creditors who disagree with a Firm client's actions.

***Potential Early Redemption of Some Investments.*** The terms of loans acquired or originated by a Firm client may be subject to early prepayment options or similar provisions which, in each case, could result in a Firm client realizing such loans earlier than expected, sometimes with no or a nominal prepayment premium. Such prepayments may result in a Firm client receiving a lower than anticipated yield on such investments. This may happen when there is a decline in interest rates, when the portfolio company's improved credit or operating or financial performance allows the refinancing of certain classes of debt with lower cost debt or when the general credit market conditions improve. In the event a Firm client receives proceeds from an investment earlier than it had anticipated, a Firm client may be permitted to reinvest such proceeds, but there is no assurance that a Firm client will be able to reinvest such proceeds even where they are received during the investment period. A Firm client's inability to reinvest such proceeds may materially affect the performance of a Firm client.

***Limited Amortization Requirements.*** Firm clients may invest in loans that will typically have limited mandatory amortization and interim repayment requirements. While these loans may obligate an issuer to repay the loan out of asset sale proceeds or with annual excess cash flow, repayment requirements may be subject to substantial limitations that would allow an issuer to retain such asset sale proceeds or cash flow, thereby extending the expected weighted average life of the investment. A low level of amortization of any debt, over the life of the investment, may increase the risk that a portfolio company will not be able to repay or refinance the debt held by a Firm client when it comes due at its final stated maturity.

***Widening Risk.*** For reasons not necessarily attributable to any of the risks set forth herein, the prices of the securities and other financial assets in which the Firm clients invest may decline substantially. In particular, purchasing assets at what may appear to be undervalued levels is no guarantee that these assets will not be trading at even lower levels at a time of valuation or at the time of sale. It is not possible to predict, or to hedge against, such spread widening risk.

***Financially Troubled Companies.*** Firm clients may invest in the obligations of companies that are financially troubled and that are either engaged in a reorganization or expect to file for bankruptcy. Investments in financially troubled companies involve significantly greater risk than investments in non-troubled companies, and the repayment of obligations of financially troubled companies is subject to significant uncertainties. Such companies generally are more vulnerable to real or perceived economic changes, political changes or adverse industry developments, and if their financial condition deteriorates, accurate financial and business information may be limited or unavailable. In addition, securities of such companies may be thinly traded and there may be no established secondary or public market. The level of

analytical sophistication, both financial and legal, necessary for successful financing to companies experiencing significant business and financial difficulties is unusually high. There is no assurance that the Partnership will correctly evaluate the value of the assets collateralizing a Firm client's loans or the prospects for a successful reorganization or similar action. Additionally, a Firm client may invest in the securities of financially troubled companies that are non-U.S. issuers. Such non-U.S. issuers may be subject to bankruptcy and reorganization processes and proceedings that are not comparable to those in the United States and that may be less favorable to the rights of lenders.

A Firm client may make investments that become distressed due to factors outside the control of the Firm. There is no assurance that there will be sufficient collateral to cover the value of the loans and/or other investments purchased by a Firm client or that there will be a successful reorganization or similar action of the company or investment which becomes distressed. In any reorganization or liquidation proceeding relating to a company in which a Firm client invests, a Firm client may lose its entire investment, may be required to accept cash or securities with a value less than a Firm client's original investment and/or may be required to accept payment over an extended period of time. Under these circumstances, the returns generated from a Firm client's investments may not compensate the limited partners thereof adequately for the risks assumed. For example, under certain circumstances, a lender who has inappropriately exercised control of the management and policies of a debtor may have its claims subordinated, or disallowed, or may be found liable for damage suffered by parties as a result of such actions. In addition, under circumstances involving a portfolio company's insolvency, payments to a Firm client and distributions by a Firm client to the limited partners thereof may be reclaimed if any such payment or distribution is later determined to have been a fraudulent conveyance or a preferential payment.

Troubled company investments require active monitoring and may, at times, require significant participation in business strategy or reorganization proceedings by the Firm. In addition, involvement by the Firm in a company's reorganization proceedings could result in the imposition of restrictions limiting a Firm client's ability to liquidate its position in the company.

**Trading Risk.** Although the Firm's traders endeavor to take the utmost care in implementing investment decisions on behalf of each Firm client, trade errors do occur and could have a material adverse impact on the performance of any or all Firm clients.

**Regulated Industries.** A Firm client may invest in issuers that operate in regulated industries. Examples include, without limitation, communications, financial services, aerospace, energy and consumer-oriented healthcare. To the extent that a Firm client makes investments in issuers that are involved in industries that are subject to greater amounts of regulation than other industries generally, such investments would pose additional risks relative to investments in other issuers. The operations of such issuers will be subject to compliance with applicable regulations, and such issuers may be subject to increased regulations resulting from both new requirements and re-regulation of previously de-regulated markets. Prices may be artificially controlled, and regulatory burdens may increase costs of operations. Additionally, such issuers may be highly dependent on government contracts, which could further increase the risks of investing in such issuers. Issuers also could be materially and adversely affected as a result of statutory or regulatory changes or judicial or administrative interpretations of existing laws and regulations that impose more comprehensive or stringent requirements on them. Governments have considerable discretion in implementing regulations that could impact an issuer's business, and governments may be influenced by political considerations and may make decisions that adversely affect an issuer's business. Additionally, certain issuers may have a unionized workforce or employees who are covered by a collective bargaining agreement, which could subject their activities and labor relations matters to complex laws and regulations relating thereto. Moreover, their operations and profitability could suffer if they experience labor relations problems. Upon the expiration of their collective bargaining agreements, they may be unable to negotiate

new collective bargaining agreements on terms favorable to them, and their business operations at one or more of their facilities may be interrupted as a result of labor disputes or difficulties and delays in the process of renegotiating their collective bargaining agreements. Work stoppages could have a material adverse effect on the business, results of operations and financial condition of any such issuers. Any such problems could impact the credit quality of any such issuer or otherwise adversely impact an investment in such issuer by a Firm client and additionally may bring scrutiny and attention to a Firm client itself, which could adversely affect a Firm client's ability to implement its investment objectives.

Consumer lending is subject to greater regulatory complexity and regulatory attention than is commercial lending and engaging in consumer lending results in higher staffing and administrative costs and regulatory and litigation risks. The applicable federal consumer financial laws include, among others, the Truth in Lending Act, the Equal Credit Opportunity Act, the Real Estate Settlement Procedures Act, the Fair Debt Collection Practices Act, the Fair Credit Reporting Act, privacy protections of Title V of the Gramm-Leach Bliley Act, and the Bank Secrecy Act, and their implementing regulations and related supervisory guidance and interpretations. States have additional consumer protection laws regulating financial transactions, such as usury and fee limits, and laws that are analogous to the above listed federal laws. Additional legislation and regulation could amend or increase Firm client obligations and regulatory oversight when engaging in consumer finance activities.

***Tax-Related Risks.*** Investment in a Firm client involves numerous tax risks. Firm clients or their investors may be subject to income or other tax in jurisdictions in which Firm clients invest. Additionally, withholding taxes or branch taxes may be imposed on earnings of Firm clients from investments in such jurisdictions. Also, local tax incurred in a jurisdiction by Firm clients or vehicles through which they invest may not entitle investors to either (i) a credit against tax that may be owed in their respective home tax jurisdictions or (ii) a deduction against income taxable in such home jurisdictions by the investors.

The Firm typically takes into account tax consequences when structuring the activities of the Firm client. However, there is a risk that the United States Internal Revenue Service (and similar state and international taxing bodies) will not concur with the Firm as to these tax consequences, resulting in a less favorable tax outcome than the Firm had anticipated. In addition, tax laws and regulations applicable to a Firm client are subject to change, and unanticipated tax liabilities could be incurred by investors as a result of such changes.

***Hedging Transactions.*** A Firm client may utilize a variety of financial instruments such as derivatives, swaps, caps and floors and forward contracts, both for investment purposes and for risk management purposes in order to (i) protect against possible changes in the market value of a Firm client's investments resulting from fluctuations in the securities markets and changes in interest rates; (ii) protect a Firm client's unrealized gains in the value of a Firm client's investments; (iii) facilitate the sale of any such investments; (iv) establish a position as a temporary substitute for other securities; (v) enhance or preserve returns, spreads or gains on any investment; (vi) hedge the interest rate or currency exchange rate on any of a Firm client's liabilities or assets; (vii) protect against any increase in the price of any securities a Firm client anticipates purchasing at a later date; or (viii) for any other reason that the Firm deems appropriate. Some of the hedging techniques that a Firm client may utilize may result in a Firm client incurring leverage and, as a result, entail many of the same risks associated with the Firm client's direct use of leverage.

Hedging against a decline in the value of an investment does not eliminate fluctuations in the values of investments or prevent losses if the values of such investments decline, but establishes other positions designed to gain from those same developments, thus moderating the decline in the applicable investment's value. Such hedging transactions also limit the opportunity for gain if the value of the investment increases. Moreover, it may not be possible for a Firm client to hedge against an exchange rate, interest rate or security price fluctuation that is so generally anticipated that a Firm client is unable to enter into a hedging

transaction at a price sufficient to protect its assets from the decline in value of the investments anticipated as a result of such fluctuations.

A Firm client is not required to attempt to hedge portfolio positions and, for various reasons, may determine not to do so. Moreover, a Firm client is not obligated to hedge against fluctuations in the value of the Firm client's investments as a result of changes in market interest rates or any other developments. Furthermore, a Firm client may not anticipate a particular risk so as to hedge against it. While a Firm client may enter into hedging transactions to seek to reduce risk, such transactions may result in a poorer overall performance for a Firm client than if a Firm client had not engaged in any such hedging transactions. In addition, the degree of correlation between price movements of the instruments used in a hedging strategy and price movements in the investment(s) being hedged may vary. For a variety of reasons, a Firm client may not seek to establish a perfect correlation between such hedging instruments and the investment(s) being hedged. Such imperfect correlation may prevent a Firm client from achieving the intended hedge or expose the Firm client to risk of loss. The successful utilization of hedging and risk management transactions requires skills complementary to those needed in the selection of a Firm client's investments. Moreover, it should be noted that the Firm client's investments will always be exposed to certain risks that cannot be hedged.

***Subscription Facility, Other Financings and Cross-Default Risk.*** A Firm client may utilize indebtedness or another asset-level financing. A Firm clients' use of borrowings to create leverage subjects the Firm clients to additional risks. For example, depending on the type of facility, a decrease in the market value of the Firm clients' investments, which, among other things, can be caused by a decrease in the credit rating or asset value of the investments, would increase the effective amount of leverage and could result in the possibility of a margin call, pursuant to which the Firm clients must either deposit additional funds or collateral with the lender, which could require the investors to make additional capital contributions to Firm clients, cause sales of Firm clients' assets at prices below what the Firm may believe is the intrinsic value if held to maturity or suffer mandatory liquidation of the pledged collateral to compensate for the decline in value. Liquidation of their investments at an inopportune time in order to satisfy a margin call would adversely impact the performance of Firm clients and could, if the value of their collateral has declined enough, cause Firm clients to lose all or a substantial amount of their capital. Moreover, if additional capital contributions were required to satisfy a margin call, this would effectively reduce the amount of capital available for other investments and could adversely affect the diversification of Firm clients' portfolios. In the event of a sudden, precipitous drop in the value of Firm clients' assets, Firm clients might not be able to liquidate assets quickly enough to pay off their debts.

In addition, the indebtedness or financing used by a Firm client may be structured in a way that (i) Firm clients are jointly responsible on a cross-collateralized basis for the repayment of the indebtedness or financing and (ii) the commitments of the investors in a Firm client are pledged to secure indebtedness or financing obtained for the benefit of other Firm clients. To the extent that providers of such indebtedness or financing require that it be secured by, or have the credit support of, a particular Firm client, the investors may be called upon to fund their entire commitment to repay indebtedness, which may or may not be indebtedness of the Firm client in which such investor is a limited partner, and the failure of other investors to honor their commitments may result in an investor's payments exceeding its pro rata share of the indebtedness. In addition, a Firm client may be subject to cross-default risk with respect to other parties in connection with repurchase agreements or other asset financings to which they are a party. The Firm clients intend, where appropriate, to enter into back-to-back agreements with such other parties in respect of any such credit support.

***Bank Debt Ratings.*** In general, the ratings of nationally recognized rating organizations represent the opinions of these agencies as to the quality of securities that they rate. These ratings may be used by the

Firm, in part, for the selection of portfolio securities. Such ratings, however, are relative and subjective; they are not absolute standards of quality and do not evaluate the market value risk of the securities. It is also possible that a rating agency might not change its rating of a particular issue on a timely basis to reflect subsequent events. No assurance can be given that ratings assigned will not be withdrawn or revised downward if, in the view of such credit rating agency, circumstances so warrant. With respect to mortgage-backed securities, such ratings do not represent any assessment of the likelihood that future prepayments will differ from current prepayment assumptions or historical prepayment rates. Hence, such ratings will not address the possibility that prepayment rates from an investment that are higher or lower than what was anticipated by an investor may cause such investment to experience a lower than anticipated yield.

***Longer Settlement for the Purchase of Bank Loans.*** The settlement process for the purchase of bank loans can take several days and, in certain instances, several weeks longer than a bond trade. The longer a trade is outstanding between the counterparties may increase the risk of additional operational and settlement issues and the potential for a Firm client's counterparty to fail to perform.

***Expedited Transactions.*** Investment analyses and decisions by the Firm will often be undertaken on an expedited basis in order for a Firm client to take advantage of investment opportunities. In such cases, the information available to the Firm at the time of an investment decision may be limited, and the Firm may not have access to the detailed information necessary for a full evaluation of the investment opportunity. In addition, the Firm may rely upon independent consultants in connection with its evaluation of proposed investments. There can be no assurance that these consultants will accurately evaluate such investments.

***Fraud.*** A Firm client will seek to obtain structural, covenant and other contractual protections with respect to the terms of its investments as determined appropriate under the circumstances. There can be no assurance that such attempts to provide downside protection with respect to its investments will achieve their desired effect, and potential investors should regard an investment in a Firm client as being speculative and having a high degree of risk. Of paramount concern with respect to a Firm client's investments is the possibility of material misrepresentation or omission on the part of the borrower or other credit support providers or breach of covenant by such parties. Such inaccuracy or incompleteness or breach of covenants may adversely affect the valuation of the collateral underlying such loans, notes or bonds or may adversely affect the ability of a Firm client to perfect or effectuate a lien on the collateral securing the loan or otherwise realize on the investment. A Firm client will rely upon the accuracy and completeness of representations made by borrowers and their agents to the extent reasonable when it makes its investments but cannot guarantee such accuracy or completeness.

## **Item 9. Disciplinary Information**

Neither the Firm nor any of its managers, officers or principals has been involved in any criminal or civil action in a domestic, foreign or military court that is material to a client's or prospective client's evaluation of the Firm's advisory business or the integrity of the Firm's management.

Neither the Firm nor any of its managers, officers or principals has been involved in any administrative proceedings before the SEC, any other federal regulatory agency, any state regulatory agency or any foreign financial regulatory authority.

Neither the Firm nor any of its managers, officers or principals has been involved in any self-regulatory organization proceedings.

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

### **A. Broker-Dealer Registrations**

Neither the Firm nor any of its managers, officers or principals is registered, or has an application pending to register, as a broker-dealer or registered representative of a broker-dealer.

### **B. CFTC Registrations**

Neither the Firm nor any of its managers, officers or principals is registered, or has an application pending to register, as a futures commission merchant, commodity pool operator or commodity trading advisor, or is an associated person of any of the above.

### **C. Affiliates**

The Firm is affiliated with the following Firms, broker-dealers and insurance companies, although the Firm does not believe at this time that its affiliation with any of them creates a material conflict of interest with respect to the Firm's clients:

- 1851 Securities Inc.
- Concord Re, Inc.
- GGC Opportunity Fund Management, L.P.
- Golden Gate Private Equity Inc.
- Lynbrook Re, Inc.
- Magni Re Ltd.
- Nassau Alternative Investments LLC
- Nassau Global Credit LLC
- Nassau Global Credit (UK) LLP
- Nassau Life and Annuity Company
- Nassau Life Insurance Company
- Nassau Life Insurance Company of Kansas
- Nassau Private Credit LLC
- Nassau Private Credit GP LLC
- Nassau Re (Cayman) Ltd.
- NGC CLO Manager LLC
- NPC Credit Opportunities Fund GP, LLC
- PHL Variable Insurance Company
- Sunrise Re, Inc.

The Firm has entered into a shared services agreement (the “***Shared Services Agreement***”) with certain of its affiliates (the “***Shared Services Providers***”) pursuant to which the Shared Service Providers and their agents perform certain back-office, credit analysis and reporting functions among other functions that are delegated to them by the Firm. In performing its services, the Firm depends, in large part, upon the skill and expertise of certain personnel of the Shared Service Providers that are made available to the Firm pursuant to the Shared Services Agreement who are responsible for the day-to-day operations and management of the Firm and who provide services to other affiliates of the Firm as well as to the Firm.

As noted above in Item 4.A., Alexander E. Dias and Jonathan Insull are the Chief Executive Officer and Chief Investment Officer, respectively, of each of NGCCM, NGC GP and AIC GP. Messrs. Dias and Insull are also officers of each of NGC-US, NGCLOM and NGC-UK.



## **D. Other Investment Firms**

The Firm does not recommend or select other investment Firms for its clients, nor does the Firm have other business relationships with Firms that create material conflicts of interest.

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

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

The Firm has adopted a Code of Ethics, which is designed to comply with SEC requirements. The purpose of the Code of Ethics is to identify the ethical and legal framework in which the Firm and its personnel are required to operate and to highlight some of the guiding principles and mechanisms for upholding the Firm's standard of business conduct. The Firm's Code of Ethics is designed to ensure that all applicable personnel are aware of and adhere to the Firm's policies and procedures. The description below is a summary only. The Firm will provide a complete copy of its Code of Ethics to clients and prospective clients.

***Standard of Business Conduct.*** The Firm and its personnel have a fiduciary duty to the Firm's clients, and in this fiduciary capacity, the Firm must place the interests of its clients before the Firm's own interests.

***Basic Principles.*** The Firm's Code of Ethics is based on a few basic principles: (i) the Firm and its personnel must place the interests of the Firm's clients above their own; (ii) the professional activities and personal investment activities of the Firm's personnel must be consistent with the Code of Ethics and avoid any actual or potential conflict between the interests of clients and those of the Firm or its personnel; (iii) the activities of the Firm's personnel must be conducted in a way that avoids any abuse of any such person's position of trust with and responsibility to the Firm and its clients; (iv) the Firm's personnel must not take any inappropriate advantage of their positions with the Firm; (v) the Firm must maintain independence in its investment decision-making process; and (vi) the Firm's personnel may not engage in any act, practice or course of conduct that would violate the provisions of Rule 204A-1 of the Investment Firms Act of 1940, as amended (the "***Firms Act***"), and other applicable securities laws.

***Conflicts of Interest.*** As a fiduciary, the Firm has an affirmative duty of care, loyalty, honesty and good faith to act in the best interests of its clients. The Firm makes every effort to avoid conflicts of interest and fully disclose all material facts concerning any conflict of interest that may arise with respect to any of its clients. The Firm stresses that individuals subject to its Code of Ethics must try to avoid situations that have even the appearance of conflict or impropriety.

***Insider Trading.*** The Firm's personnel may not trade, either personally or on behalf of another, on material non-public information or communicate material non-public information to another person in violation of the law. This policy applies to all of the Firm's personnel and extends to their activities both within and outside their duties for the Firm. The Firm has also implemented policies and procedures designed to detect and prevent insider trading.

***Personal Securities Transactions.*** All personnel must comply with the Firm's policy on personal trading. Except with respect to certain excepted personnel, securities (including, indices, mutual funds, exchange-traded funds and certain government securities) and/or accounts for which a person does not exercise investment discretion, personal securities transactions by the Firm's personnel must be pre-approved by the Firm's Chief Compliance Officer (the "***Chief Compliance Officer***").

***Holdings and Transactions Reports.*** Every employee and access person must submit both initial and annual holdings reports to the Chief Compliance Officer that disclose all covered securities held in any

personal account. Every employee and access person must also submit a quarterly transaction report to the Chief Compliance Officer for each covered securities transaction in any personal account.

***Service as a Director.*** The Firm's personnel are prohibited from serving on the boards of directors of any outside company, unless the service (i) would be in the best interests of the Firm or its clients and (ii) has been approved in writing by the Chief Compliance Officer; provided that the Firm's personnel will not be required to obtain prior written approval for service on the boards of directors of charitable or civic organizations. In addition, any Firm personnel serving on the board of a private company which is about to go public may be required to resign either immediately or at the end of the current term.

***Reporting of Violations.*** The Firm has implemented policies and procedures whereby its personnel are required to report any violation, apparent violation or potential violation of the Firm's Code of Ethics to the Chief Compliance Officer.

***Review and Enforcement.*** The Chief Compliance Officer is responsible for ensuring adequate supervision over the activities of all persons who act on the Firm's behalf in order to prevent and detect violations of the Firm's Code of Ethics by such persons.

## **B. Material Financial Interest in Client Transactions**

Generally, neither the Firm nor any related person of the Firm recommends to the Firm's clients, or buys or sells for the Firm's clients, securities in which the Firm or a related person of the Firm has a material financial interest, except with respect to investing in (i) securities issued by companies over which an affiliate of the Firm has direct or indirect voting control or (ii) securities or other financial instruments that are the same, senior or junior to securities or financial instruments issued by the same issuer that the Firm caused a client to invest in. The Firm and its affiliates recognize that conflicts may arise under such circumstances and will endeavor to treat each of their respective clients fairly and equitably.

## **C. Participation in Client Transactions**

Generally, neither the Firm and nor any related persons of the Firm invest in the same securities or related securities that the Firm or a related person of the Firm recommends to the Firm's clients, except with respect to (i) the purchase by the Firm or affiliates of the Firm of notes issued by a CDO, (ii) investing in securities issued by companies over which an affiliate of the Firm has direct or indirect voting control, or (iii) investing in securities or other financial instruments that are the same, senior or junior to securities or financial instruments issued by the same issuer that the Firm caused a client to invest in. The Firm and its affiliates recognize that conflicts may arise under such circumstances and will endeavor to treat each of their respective clients fairly and equitably

## **D. Transactions Simultaneous with Client Transactions**

Generally, neither the Firm nor any related persons of the Firm recommends securities to the Firm's clients, or buys or sells securities for the Firm's clients, at or about the same time that the Firm or a related person buys or sells the same securities for the Firm's own (or the related person's own) account, except (i) transactions made on behalf of insurance companies with which the Firm is affiliated, (ii) the purchase of notes issued by CDOs by special purpose vehicles through which personnel of the Firm and its affiliates invest in certain vehicles manage by the Firm or its affiliates, or (iii) when exceptions are made under limited circumstances.

From time to time, subject to client or investment guidelines and restrictions, the Firm is authorized to direct one of its clients to sell investments to another of the Firm's clients through an internal cross transaction in

which the Firm will receive no compensation. In most cases, an independent pricing mechanism will be used to ensure objectivity. However, there could be times in which that pricing mechanism is not feasible or fair to the Firm's clients, in which case the Firm will seek some pricing mechanism that is fair to both such clients.

To the extent that any such transaction may be viewed as a principal transaction due to the ownership interest in the client by the Firm and its personnel, the Firm will comply with the requirements of Section 206(3) of the Firms Act, and provide written notification to such client and obtain client consent either prior to the principal transaction or prior to its settlement.

In addition, the Firm may give advice or take action with respect to investments of one or more of its clients that may not be given or taken with respect to other clients with similar investment programs, objectives and strategies. Accordingly, the Firm's clients with similar investment strategies may not hold the same investments or achieve the same performance. The Firm may also advise clients with conflicting programs, objectives or strategies. These activities may adversely affect the prices and availability of other investments held or potentially considered for one or more clients.

From time to time, the Firm may acquire securities or other financial instruments of an issuer for one of its clients which are senior or junior to securities or financial instruments of the same issuer that are held by, or acquired by, another of the Firm's clients. The Firm recognizes that conflicts may arise under such circumstances and will endeavor to treat all of its clients fairly and equitably.

## **Item 12. Brokerage Practices**

### **A. Selection of Broker-Dealers**

The Firm has full authority to select broker-dealers to execute its clients' investment transactions. The Firm allocates a portion of each client's brokerage business to such brokers on the basis of certain considerations, which may include:

- The amount of commission;
- The quality of execution;
- Reputation, financial strength and stability;
- Block trading and block positioning capabilities;
- Willingness to execute difficult transactions;
- Willingness and ability to commit capital;
- Access to underwritten offerings and secondary markets;
- Ongoing reliability;
- Overall costs of a trade;
- Nature of the security and the available market makers;
- Desired timing of the transaction and size of trade;
- Confidentiality of trading activity; and/or
- Market intelligence regarding trading activity.

Although the Firm seeks competitive rates, it may not necessarily obtain the lowest possible commission for client account transactions. The commissions and/or transaction fees charged by a broker-dealer may be higher or lower than those charged by other broker-dealers.

Neither the Firm nor any related person receives client referrals from any broker-dealer or third party that provides brokerage services to the Firm's clients.

At this time the Firm is not a party to, and does not anticipate entering into, any formal "soft dollar" arrangements. However, one or more of the Firm's clients may permit the Firm to use "soft dollars" generated by such clients to pay for the research related services. In the event that the Firm utilizes allocations of commission dollars, it would do so solely to pay for products or services that qualify as "research and brokerage services" within the "safe harbor" of Section 28(e) of the Securities Exchange Act of 1934, as amended.

## **B. Aggregation of Orders**

From time to time, the Firm places, as an aggregated order for execution, orders for publicly traded securities at the same time for the accounts of two or more of its clients. This practice enables the Firm's clients to seek more favorable executions and net prices for the combined order. If the order cannot be executed in full at the same price or time, the securities actually purchased or sold by the close of each business day are generally allocated *pro rata* among the participating clients in accordance with the initial amounts ordered by each client. However, the *pro rata* allocation may be adjusted, such as to avoid having odd amounts of shares held in any client's account, to avoid deviations from any pre-determined minimum/maximum holdings limits established for any client. Each client that participates in the order shall do so at the average price for all the transactions and shall share in commissions or other transaction costs on a *pro rata* basis.

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

Mr. Insull, in his capacity as the Firm's Chief Investment Officer, reviews client portfolios on a continuous basis.

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

### **A. Non-Client Economic Benefits**

The Firm does not, nor do any of its principals or employees, receive any economic benefit from non-clients for providing advisory services to the Firm's clients.

### **B. Compensation for Client Referrals**

At this time the Firm is not a party to an arrangement to pay a third party for the referral or solicitation of clients or investors in the Funds or CDOs to which the Firm provides investment advisory services.

## **Item 15. Custody**

Although the Firm does not have custody of certificated securities (which are typically custodied by the Firm's clients' third party custodian), the Firm is deemed to have custody over the assets of the Funds according to the custody rule set forth in Rule 206(4)-2 under the Investment Firms Act of 1940, as amended. The Firm will comply with such custody rule by providing audited financial statements of each

Fund to investors in such Fund client within 120 days of the end of the fiscal year to satisfy the reporting requirement.

#### **Item 16. Investment Discretion**

The Firm has been provided with discretionary authority to manage the investment accounts of the Funds and CDOs, as well as certain of the SMAs, to which the Firm provides investment advisory services as set forth in, and limited by, the terms and conditions of the relevant advisory agreement, offering document, organizational agreement or other governing documents of such Fund, CDO or SMA.

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

The Firm has been provided with authority to vote proxies relating to securities in certain client accounts. Accordingly, the Firm has adopted policies and procedures governing the voting of proxies that include the elements set forth below.

**General Policy.** The general policy is to vote proxies, which includes proxy proposals, amendments, consents or resolutions relating to client securities, including interests in private investment funds, if any, in a manner that serves the best interests of the investing client(s), as determined by the Firm in its discretion, and taking into account relevant factors, including, but not limited to:

- The impact on the value of the securities;
- The anticipated costs and benefits associated with the proposal;
- The effect on liquidity; and
- Customary industry and business practices.

**Specific Policies.** Specific policies set forth in the Firm's policies and procedures include:

- Routine matters are typically proposed by company's management, directors, general partners, managing members or trustees and (i) do not measurably change the structure, management, control or operation of the company; (ii) do not measurably change the terms of, or fees or expenses associated with, an investment in the company; and (iii) are consistent with customary industry standards and practices, as well as the laws of the state of incorporation applicable to the company. For routine matters, the Firm will vote in accordance with the recommendation of the company's management, directors, general partners, managing members or trustees, as applicable, unless, in our opinion, such recommendation is not in the best interests of the investing client(s).
- Non-routine matters involve a variety of issues and may be proposed by a company's management or beneficial owners, and may involve (i) a measurable change in the structure, management, control or operation of the company; (ii) a measurable change in the terms of, or fees or expenses associated with, an investment in the company; or (iii) a change that is inconsistent with industry standards and/or the laws of the state of incorporation applicable to the company. The Firm has specific proxy voting policies for non-routine matters, and in some cases, the Firm votes on a case-by-case basis.

**Abstaining from Voting or Affirmatively Not Voting.** The Firm will abstain from voting (which generally requires submission of a proxy voting card) or affirmatively decide not to vote if the Firm determines that abstaining or not voting is in the best interests of the investing client(s). In making such a determination,

we will consider various factors including, but not limited to, (i) the costs associated with exercising the proxy (e.g., translation or travel costs); and (ii) any legal restrictions on trading resulting from the exercise of a proxy. Furthermore, the Firm will not abstain from voting or affirmatively decide not to vote merely to avoid a conflict of interest.

**Conflicts of Interest.** At times, conflicts may arise between the interests of the investing client(s), on the one hand, and the interests of the Firm or its affiliates, on the other hand. If the Firm determines that it has, or may be perceived to have, a conflict of interest when voting a proxy, we will address matters involving such conflicts of interest as follows:

- If a proposal is addressed by the specific policies in these procedures, the Firm will vote in accordance with such policies.
- If we believe it is in the best interest of the investing client(s) to depart from the specific policies provided for in these procedures, the Firm will be subject to the requirements of the third and fourth bullet points below, as applicable.
- If the proxy proposal is (i) not addressed by the specific policies or (ii) requires a case-by-case determination by the Firm, we may vote such proxy as we determine to be in the best interest of the investing client(s), without taking any action described in the fourth bullet point below, provided that such vote would be against the Firm's own interest in the matter (*i.e.*, against the perceived or actual conflict).
- If the proxy proposal is (i) not addressed by the specific policies or (ii) requires a case-by-case determination by the Firm, and (iii) we believe we should vote in a way that may also benefit, or be perceived to benefit, the Firm's own interest, then the Firm must take one of the following actions in voting such proxy:
  - Delegate the voting decision for such proxy proposal to an independent third party;
  - Delegate the voting decision to an independent committee of partners, members, directors or other representatives of the investing client, as applicable;
  - Inform the investing client of the conflict of interest and obtain consent to vote the proxy as recommended by the Firm; or
  - Obtain approval of the decision from the Chief Compliance Officer and third party legal advisors.

A complete copy of the Firm's policies and procedures governing the voting of proxies, together with information regarding how we voted particular proxies, will be provided to clients and prospective clients upon request.

## **Item 18. Financial Information**

The Firm does not require, nor does it solicit, prepayment of more than \$1,200 in fees per client, six months or more in advance.

The Firm has never been the subject of a bankruptcy petition.