

**FIRM BROCHURE**

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THIS BROCHURE DOES NOT CONSTITUTE AN OFFER, SOLICITATION OR RECOMMENDATION TO SELL OR AN OFFER TO BUY ANY SECURITIES, INVESTMENT PRODUCTS OR INVESTMENT ADVISORY SERVICES. SUCH AN OFFER MAY ONLY BE MADE TO ELIGIBLE PERSONS BY MEANS OF DELIVERY OF OFFERING DOCUMENTS AND/OR OTHER SIMILAR MATERIALS THAT CONTAIN A DESCRIPTION OF THE MATERIAL TERMS RELATING TO SUCH SECURITIES, PRODUCTS OR SERVICES.

ADDITIONAL INFORMATION ABOUT PRECEPT MANAGEMENT, LLC ALSO IS AVAILABLE ON THE SEC’S WEBSITE AT [WWW.ADVISERINFO.SEC.GOV](http://WWW.ADVISERINFO.SEC.GOV).

MARCH 27, 2024

## Item 2: Material Changes

The date of the last annual update to our firm brochure was March 17, 2023. A summary of the material changes that have been made to our firm brochure since the date of our last annual updating amendment is set forth below:

- We updated our regulatory assets under management as of December 31, 2023. **See Item 4.**

*The information set forth in this brochure is qualified in its entirety by the applicable offering materials and governing documents. In the event of a conflict between the information set forth in this brochure and the information in the applicable governing and offering documents, the governing and offering documents shall control.*

*We encourage all investors to carefully review this brochure in its entirety.*

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## Item 4: Advisory Business

### FIRM DESCRIPTION

Precept Management, LLC, a Texas limited liability company and private investment advisory firm, was formed in 1998. We provide investment management and other services to private pooled investment vehicles, interests of which are offered to investors on a private placement basis. We have full discretionary authority with respect to investment decisions, and our investment advice is made in accordance with the investment objectives and guidelines set forth in the applicable offering memoranda and governing documents.

We are registered with the SEC as a “related adviser” under common control with 9823 Capital, LP. Precept Capital Management, L.P., a Texas limited partnership, relies on our investment adviser registration instead of separately registering as an investment adviser with the Securities and Exchange Commission (the “SEC”) under the Investment Advisers Act of 1940, as amended (the “Advisers Act”). See “**Item 10: Other Financial Industry Activities and Affiliations.**” Except as the context otherwise requires, any reference to “we,” “us” or “our” in this document includes Precept Management, LLC and Precept Capital Management, L.P.

### PRINCIPAL OWNERS

We are owned and controlled by D. Blair Baker, our managing member.

### TYPES OF ADVISORY SERVICES

We and certain of our affiliates serve as general partner of and/or investment manager to various affiliated private pooled investment vehicles, including The Precept Fund, L.P., Precept Special Situation Fund, L.P., and Precept Credit Opportunities Fund, L.P. (collectively, the “Funds”). Our services consist of making, managing and disposing of investments held by the Funds. We provide investment advice directly to the Funds and not individually to any investor in the Funds.

We have caused and may from time to time in the future cause a Fund (an “investor fund”) to invest all or any portion of its assets in one or more other Funds (each, an “investee fund”). In such event, the investor fund generally will not be subject to any additional or duplicative administrative fees, management fees or incentive allocations in connection with its investment in an investee fund. See **Item 11.**

We serve as investment manager with respect to each of the Funds and are responsible for investing and re-investing the assets of each Fund in accordance with the investment objectives, policies and guidelines set forth in the applicable offering memoranda and governing documents. See **Item 8 below.**

### INVESTMENT RESTRICTIONS

We generally provide investment advice to the Funds in accordance with the investment objectives, policies and guidelines set forth in the offering and governing documents, and not in accordance with the individual needs or objectives of any particular investor in the Funds. Investors generally are not permitted to impose restrictions or limitations on the management of the Funds.

### ASSETS UNDER MANAGEMENT

As of December 31, 2023, we had approximately \$15.7 million in regulatory assets under management. All of these assets were managed on a discretionary basis.

## Item 5: Fees and Compensation

### DESCRIPTION OF COMPENSATION AND BASIC FEE SCHEDULE

In consideration of our advisory services, we and/or certain of our affiliates are entitled to receive administrative fees and/or performance-based compensation with respect to the Funds. While the applicable fees and compensation are described in detail in the applicable governing and/or offering documents, a summary of our basic fee schedule is set forth below.

#### The Precept Fund, L.P.

We or an affiliate generally are entitled to receive an administrative fee, payable quarterly in arrears, equal to:

- (i) with respect to Class A Interests, one quarter of two percent (2.0% per annum) of the aggregate capital account balance of certain previous investors, *provided* that for capital contributions after September 2020, the administrative fee was reduced to one quarter of one percent (1.0% per annum) of the aggregate capital account balance of each of those investors;
- (ii) with respect to Class B Interests, one quarter of one and one-half percent (1.5% per annum) of the aggregate capital account balance of each investor; and
- (iii) with respect to Class C Interests, one quarter of one percent (1.0% per annum) of the aggregate capital account balance of each investor.

We or an affiliate generally are entitled to receive an incentive allocation equal to:

- (i) with respect to Class A Interests and Class B Interests, twenty percent (20%) of each investor's allocable share of net profits for the applicable performance period; and
- (ii) with respect to Class C Interests, seventeen and one-half percent (17.5%) of each investor's allocable share of net profits for the applicable performance period.

Incentive allocations are subject to a "high water mark" limitation. As a result, if an investor is allocated a net loss in any period, we are not entitled to receive an incentive allocation with respect to that investor until that net loss is recouped.

#### Precept Credit Opportunities Fund, L.P.

We or an affiliate generally are entitled to receive a management fee, payable quarterly in advance, equal to one quarter of two percent (2.0% per annum) of the net asset value of each capital account of an investor as of the beginning of such calendar quarter (including for such purposes any portion of a capital account that is allocated to a special investment account).

We or an affiliate generally are entitled to receive an incentive allocation equal to twenty percent (20%) of each investor's allocable share of net profits for the applicable performance period (excluding any unrealized net profits with respect to special investments). Incentive allocations are subject to a "high water mark" limitation. As a result, if an investor's capital account is allocated a net realized loss in any period, we are not entitled to receive an incentive allocation with respect to that investor's capital account until that net realized loss is recouped. With respect to a special investment, an incentive allocation will only be allocable with respect to realized net profits.

#### Precept Special Situation Fund, L.P.

We or an affiliate generally are entitled to receive a management fee, payable quarterly in advance, equal to one quarter of two percent (2.0% per annum) of the net asset value of each capital account of an investor as of the beginning of such calendar quarter (including for such purposes any portion of a capital account that is allocated to a special investment account).

We or an affiliate generally are entitled to receive an incentive allocation equal to twenty percent (20%) of each investor's allocable share of net profits for the applicable performance period (excluding any unrealized net profits with respect to special investments). Incentive allocations are subject to a "high water mark" limitation. As a result, if an investor's capital account is allocated a net realized loss in any period, we are not entitled to receive an

incentive allocation with respect to that investor's capital account until that net realized loss is recouped. With respect to a special investment, an incentive allocation will only be allocable with respect to realized net profits.

#### General

Our advisory fees with respect to each investor generally are not negotiable. However, we may enter into side letters or similar arrangements with certain investors that grant different terms (including lower fees) to such investors than the terms generally applicable to other investors.

Each investor in the Funds generally must be, among other things, (a) an accredited investor as defined in Rule 501(a) of Regulation D under the U.S. Securities Act of 1933, as amended, and (b) a "qualified client" as defined in Rule 205-3 under the Advisers Act.

### **PAYMENT OF FEES**

#### The Precept Fund, L.P.

Administrative fees are calculated quarterly, in arrears, as of the close of business on the last day of the most recently ended calendar quarter, and are payable by investors by the tenth day after the beginning of each calendar quarter. Investors who are admitted during a calendar quarter are required to pay a *pro rata* portion of the administrative fee. Administrative fees are deducted directly from the capital account of each applicable investor.

Incentive allocations are calculated as of the end of each calendar quarter (and such other times as set forth in the applicable partnership agreement). If any interests are withdrawn during a fiscal year, the incentive allocation generally will be allocable on the withdrawal date. Incentive allocations are allocated directly from the capital account of each applicable investor.

#### Precept Credit Opportunities Fund, L.P.

Management fees are payable by investors quarterly, in advance, as of the beginning of each calendar quarter. Management fees are deducted directly from the capital account(s) of each investor.

Incentive allocations generally are calculated as of the end of each fiscal year (and such other times as set forth in the applicable partnership agreement). If any interests are withdrawn during a fiscal year, the incentive allocation generally will be allocable on the withdrawal date. Incentive allocations are allocated directly from the capital account(s) of each applicable investor.

With respect to special investments, an incentive allocation is only payable, if at all, with respect to realized net profits promptly after the realization or deemed realization of such investment.

#### Precept Special Situation Fund, L.P.

Management fees are payable by investors quarterly, in advance, as of the beginning of each calendar quarter. Management fees are deducted directly from the capital account(s) of each investor.

Incentive allocations generally are calculated as of the end of each fiscal quarter (and such other times as set forth in the applicable partnership agreement). If any interests are withdrawn during a fiscal quarter, the incentive allocation generally will be allocable on the withdrawal date. Incentive allocations are allocated directly from the capital account(s) of each applicable investor.

With respect to special investments, an incentive allocation is only payable, if at all, with respect to realized net profits promptly after the realization or deemed realization of such investment.

### **OTHER FEES AND EXPENSES**

In addition to administrative fees, management fees, and performance-based compensation, each Fund generally bears (a) all expenses incurred in connection with the offering, including, but not limited to, marketing expenses, documentation of performance and the admission of Investors, (b) all operating expenses of the Funds such as tax preparation fees (including, without limitation, any such fees related to the preparation of tax returns and Schedules K-1), governmental fees and taxes (or any other governmental charges levied against the Funds), administrator, custodial and prime brokerage fees and expenses, communications with Investors and ongoing legal, accounting, auditing, administration, appraisal, bookkeeping, consulting and other professional fees and expenses, including for litigation, and preparation of the Funds' financial statements and reports, (c) all Fund costs, expenses and charges incurred in connection with the investment and trading activities of the Funds (*e.g.*, brokerage commissions,

mark-ups, margin interest, expenses related to short sales, custodial fees, clearing and settlement charges and other transaction costs to brokers), (d) professional and other advisory and consulting expenses and travel expenses incurred in connection with investment due diligence, monitoring or the assertion of rights or pursuit of remedies (including, without limitation, pursuant to bankruptcy or other legal proceedings, or participation in informal committees of creditors or other security holders of an issuer, or obtaining and maintaining an insurance policy or policies), (e) all fees and other expenses incurred in connection with the investigation, prosecution or defense of any claims by or against the Funds, (f) interest on, and fees and expenses arising out of, all borrowings made by the Funds, (g) expenses of any meetings of the Investors, (h) the costs of any litigation and indemnification relating to the affairs of the Funds (including costs and expenses associated with obtaining and maintaining insurance with respect to the Funds and their assets and director and officer liability insurance), (i) expenses related to third party research, publications, data and data services, including real time pricing and market information (such as Bloomberg and Reuters services) and historical pricing and other data, (j) costs of compliance with applicable laws and regulations of governmental and self-regulatory bodies (including the SEC, CFTC and NFA), including costs incurred by the us and our affiliates in complying with laws and regulations that apply to any such entities as a result of their services to the Funds, (k) the Funds' expenses associated with maintaining the legal existence of the Funds, including directors' fees, administrators' fees, occupancy costs and other operating costs of entities that maintain their own offices in certain jurisdictions, (l) investment, operations, portfolio and trading-relating software, including trade order management software (*i.e.*, software used to route trade orders) and related connectivity costs; (m) all expenses and costs incurred in connection with any regulatory or legal filings (or registrations) required to be made with respect to the Funds; (n) expenses attributable to compliance with the Alternative Investment Fund Managers Directive and compliance with anti-money laundering laws and know-your-customer requirements; (o) all fees and expenses incurred in connection with obtaining and maintaining an insurance policy or policies for the Funds, their general partners, and their officers, principals, affiliates, and partners; and (p) all other reasonable expenses related to the management and operation of the Funds and/or the purchase, sale or disposition of the interests, including, in the case of any expenses directly related to the Funds' and one or more of their related funds' investments, any portion of any such joint expenses that we determine are properly and ratably allocable to the Funds. Each Fund generally is responsible for and pays all brokerage and custodial fees and expenses. **See "Item 12: Brokerage Practices."**

We generally bear all ordinary office overhead expenses, including, without limitation, rent, supplies, secretarial expenses, stationery, charges for furniture and fixtures and compensation of security analysts and personnel. However, certain of such expenses may be paid for by our brokers in exchange for the brokerage commission business they receive from us, although we intend to use these payments only for research, related services, pricing and analytical data feeds, and subscription feed services benefiting the Funds (or one or more of such Funds).

## **WITHDRAWALS**

### **The Precept Fund, L.P.**

As described more fully in the applicable offering memoranda, each investor in the Fund generally is permitted to make complete or partial withdrawals of amounts from its capital account balance as of its permitted withdrawal date. However, any withdrawals made on dates other than a permitted withdrawal date may be subject to withdrawal fees of up to six percent (6%) of the withdrawal amount. With respect to each Class A investor, a permitted withdrawal date is the last business day of the calendar month in which occurs the anniversary of the date upon which such investor made its initial capital contribution, and any last business day of a calendar month thereafter. With respect to Class B investors, a permitted withdrawal date is any December 31 after the first anniversary of the date upon which such investor made its initial capital contribution. With respect to Class C investors, a permitted withdrawal date is December 31 of the year in which occurs the third anniversary of the date upon which such investor acquired its Class C Interest, and December 31 of every third full calendar year thereafter. Notice of any withdrawal generally must be given in writing at least 45 days prior to the proposed withdrawal date. We use commercially reasonable efforts to cause at least 90% of any estimated withdrawal proceeds to be paid after the applicable withdrawal date. Any remaining balance generally will be settled within ten (10) days after the completion of the audit of the Fund's financial statements for the applicable fiscal year.

### **Precept Credit Opportunities Fund, L.P.**

As described more fully in the applicable governing documents, each investor in the Fund generally is permitted to make complete or partial withdrawal of amounts from its capital account balance as of the close of business on the last day of any calendar year (other than the portion of such capital account allocated with respect to special

investments). Notice of any withdrawal generally must be given in writing at least six months prior to the proposed withdrawal date. To the extent that sufficient liquid assets are available, withdrawal proceeds generally will be paid to a withdrawing investor as soon as reasonably practicable after the applicable withdrawal date. In the case of withdrawals of over ninety percent (90%) of an investor's aggregate capital account balance, at least ninety percent (90%) of the estimated amount due will be paid within thirty (30) days after the withdrawal date, and any remaining balance generally will be settled promptly after the completion of the audit of the Fund's financial statements for the applicable fiscal year.

An investor generally will not be permitted to withdraw any portion of its capital account that is allocated to a special investment until the realization or deemed realization of such special investment.

Precept Special Situation Fund, L.P.

As described more fully in the applicable offering memoranda, each investor in the Fund generally is permitted to make complete or partial withdrawals of amounts from its capital account balance as of its permitted withdrawal date. With respect to each Class A investor, a permitted withdrawal date is the last business day of any calendar month which occurs after the date upon which such investor made its initial capital contribution. With respect to Class B investors, a permitted withdrawal date is the last business day of each calendar quarter after the date upon which such investor made its initial capital contribution. Notice of any withdrawal generally must be given in writing at least 45 days prior to the proposed withdrawal date. We use commercially reasonable efforts to cause at least 90% of any estimated withdrawal proceeds to be paid after the applicable withdrawal date. Any remaining balance generally will be settled within ten (10) days after the completion of the audit of the Fund's financial statements for the applicable fiscal year.

An investor generally will not be permitted to withdraw any portion of its capital account that is allocated to a special investment until the realization or deemed realization of such special investment.

**COMPENSATION FOR THE SALE OF SECURITIES OR OTHER INVESTMENT PRODUCTS**

Neither we nor any of our supervised persons accept compensation for the sale of securities or other investment products.



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

### **PERFORMANCE-BASED COMPENSATION**

As noted under “**Item 5: Fees and Compensation—Description of Compensation and Fee Schedule**” above, we generally are entitled to receive performance-based fees or allocations with respect to each investor in the Funds. Performance-based allocations or fees could motivate us to make investment decisions that are riskier or more speculative than would be the case if these arrangements were not in effect. In addition, because performance-based allocations or fees with respect to the Funds may be calculated on a basis that includes both realized and unrealized appreciation in portfolios based upon values assigned by us, we face a conflict of interest in valuing those portfolios. Certain of our individual employees and affiliates who are compensated to some extent based upon investment profits for which they are responsible face the same potential conflict. We address this conflict through full and fair disclosure in the applicable governing and/or offering documents and/or this brochure.

### **SIDE-BY-SIDE MANAGEMENT**

We do not manage accounts for which we are entitled to receive performance-based fees or allocations alongside accounts for which we are not entitled to receive any performance-based fees or allocations.

## Item 7: Types of Clients

### DESCRIPTION

We currently provide investment advisory and supervisory services with respect to affiliated private pooled investment vehicles, our sole advisory clients. We may in the future provide investment advice to other types of clients including, but not limited to, other private pooled investment vehicles and separately managed accounts.

### ACCOUNT REQUIREMENTS

The minimum initial capital contribution required for an investor in each of the Funds is \$500,000, although capital contributions of lesser amounts may be accepted in our discretion.

To invest in the Funds, each investor generally is required to certify that it is, among other things, an “accredited investor” (as such term is defined in Rule 501(a) of Regulation D under the Securities Act) and a “qualified client” (as such term is defined in Rule 205-3 under the Advisers Act). Each prospective investor generally is required to complete and return various subscription documents to the applicable Fund, which are designed to provide the applicable Fund, us and our affiliates and agents with important information about the investor. Subscriptions may be accepted or rejected, in whole or in part, in the sole discretion of the general partner or directors of a Fund.

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

### METHODS OF ANALYSIS AND INVESTMENT STRATEGIES

Except with respect to Precept Credit Opportunities Fund, L.P., we generally select investments in individual security positions based on a disciplined, bottom-up approach. This approach may include, and is not limited to, conversations with management, analysis of financial statements and industry publications, conversations with competing companies, suppliers, independent marketing agents, customers, and Wall Street analysts and brokers. We attempt to more accurately and more efficiently assess appropriate valuations of potential investments through the techniques previously described. To achieve our investment objectives, we may, at any time, pursue opportunities to invest in a number of varied financial instruments and may hold, pledge, assign, sell, sell short, exchange, purchase or write options, or transfer such instruments from time to time. We may, among other things, (i) invest in publicly traded common stocks and other equity securities of U.S. corporations, (ii) purchase equity securities of foreign corporations, (iii) purchase bonds (including high-yield debt securities), notes and other debentures, (iv) engage in short sales (both speculatively and as a hedge of other investments), (v) purchase or write options of any and all types, including options on equity securities, stock market indices, over-the-counter options, debt securities and foreign currencies, (vi) hold cash equivalent investments under certain market conditions, (vii) invest in securities denominated in currencies other than U.S. Dollars, (viii) invest in securities located in other countries, and (ix) contract out a portion of the Funds' assets to third parties. We apply this underlying investment approach with respect to each of the Funds other than Precept Credit Opportunities Fund, L.P.

With respect to Precept Credit Opportunities Fund, L.P., we utilize a disciplined approach in selecting investments, focusing on making informed decisions and evaluations regarding investment opportunities in order to achieve long term capital appreciation commensurate with what we determine to be reasonable risk. In selecting securities for investment, we generally rely on the following sources of information, among others: publicly available information including tax sale candidate lists, tax assessor information, MLS information, and third party sales and marketing website such as Zillow and Trulia, general economic data, forecasts prepared by government and private sources, industry trade publications, various statistical services, materials published by publicly owned corporations, and information provided by the research departments of brokerage firms or other research providers. A factor in the compensation paid to research providers will be investment ideas furnished by such providers.

\* \* \* \*

*The investment strategies summarized above are not intended to be comprehensive and are qualified in their entirety by the information set forth in the applicable offering documents. For more information regarding the investment strategies and objectives applicable to a Fund, please see the offering and governing documents of such Fund.*

### CERTAIN RISK FACTORS

*There can be no assurance that we will achieve our investment objectives or that investments will be successful. Our investment program involves a substantial degree of risk, including risk of complete loss. Nothing in this brochure is intended to imply, and no one is or will be authorized to represent, that our investment program is low risk or risk free. Our investment program is appropriate only for sophisticated persons who fully understand and are capable of bearing the risks of investment. Prospective investors should consider the following risks, among others, before making any investment decisions. The various risks outlined below are not the only risks associated with or that may be associated with our investment strategies and processes and may not necessarily apply to each investor. Investors are urged to consult with their own independent financial, legal and tax advisors before making any investment decisions. The following risks are qualified in their entirety by the risks set forth in the offering document of each Fund.*

*Nature of Investments.* Our business involves a high degree of financial risk. Markets in which we invest are subject to a high degree of volatility. There can be no assurance that our investment objective will be realized or that investors will receive any return of capital. Moreover, we do not have a significant limitation on the types of investments we may make. We, in our sole discretion, may employ such investment and trading strategies and methods as we determine to adopt. We may also invest in securities for which no active trading market exists, and the value of any such securities shall be determined by us, in our sole discretion.

*General Market Developments.* The profitability of our investment program may be affected by general market developments and by our ability to correctly assess future developments in relevant markets, an ability that is inherently limited and unreliable. As a result, we will be subject to many different types of market risks. From time to time, including amidst the COVID-19 global pandemic and during 2008 and 2009, various markets have experienced extreme periods of volatility, illiquidity, correlation with other markets, negative (or positive) performance and other disruptions and conditions that would previously have been viewed as extremely unlikely or even impossible. Such market developments have, in the past, led to large losses and insolvencies at numerous investment funds. For example, during the second half of 2008, the state of the worldwide economy deteriorated into a severe recession. If a similar economic situation were to occur in the future, we could experience a reduction in attractive investment opportunities and our investments could be materially impaired in many ways that cannot be predicted. There can be no assurance that general market developments in the future will not have a material adverse effect on us.

*General Economic and Market Conditions.* Changes in general global, regional and U.S. economic and geopolitical conditions and national and international political circumstances and developments and other circumstances (including wars, epidemics and pandemics, terrorist acts, security operations and natural disasters), as well as changes in government policy precipitated by the foregoing, may affect our activities. Interest rates, general levels of economic activity, the price of securities and participation by other investors in the financial markets may affect the value and number of investments made by us or considered for prospective investment. Material changes and fluctuations in the economic environment, and the market changes that have resulted and may continue to result from the COVID-19 global pandemic, may affect our ability to make investments and the value of investments held by us or our ability to dispose of investments. The short-term and the longer-term impact of these events are uncertain, but they could continue to have a material effect on general economic conditions, consumer and business confidence and market liquidity. Any economic downturn resulting from volatility in the financial markets could adversely affect the financial resources of entities owned by our clients. Tariffs and other trade restrictions recently imposed by the U.S. government in U.S. trade policy have triggered some, and could trigger additional, retaliatory actions by affected countries, possibly resulting in “trade wars”. The impact of subsequent or anticipated further changes are unclear at this point. At this time, it is unknown whether and to what extent new legislation will be passed into law, pending or new regulatory proposals will be adopted, international trade agreements will be negotiated, or the effect that any such action would have, either positively or negatively, on our clients or their investments. Investments can be expected to be sensitive to the performance of the overall economy. Moreover, natural disaster, armed conflict, threats of terrorism, terrorist attacks, global pandemics or outbreaks of disease and the impact of military or other action could severely disrupt global, national and/or regional economies. A resulting negative impact on economic fundamentals and consumer and business confidence may negatively impact market value, increase market volatility and reduce liquidity, all or any of which could have an adverse effect on the performance of our clients’ investments, our clients’ returns and our ability to make and/or dispose of investments. No assurance can be given as to the effect of these events on us, our clients or their investment objectives.

*Epidemics, Pandemics, Outbreaks of Disease and Public Health Issues.* Our business activities as well as our clients’ and our respective affiliates’ and service providers’ and their operations and investments could be materially adversely affected or impacted in the future by outbreaks of disease, epidemics, pandemics and public health issues, whether globally or limited to particular regions of the world, such as diseases or public health issues caused by other novel coronaviruses or diseases (including as a result of the emergence of new coronaviruses or diseases), Ebola virus disease, H1N1 flu, H7N9 flu, H5N1 flu (and other types or subtypes of influenza viruses), Severe Acute Respiratory Syndrome, or SARS, or other epidemics, pandemics, outbreaks of disease or public health issues. Previous occurrences of epidemics, pandemics and outbreaks of disease, such as the 1918 influenza pandemic (also referred to as the Spanish flu pandemic), the 2002-2004 SARS outbreak in Asia and the COVID-19 global pandemic, had material adverse effects on the economies, capital markets and basic day-to-day operations of (and activities in) those countries and jurisdictions in which they were most prevalent.

The impact of a health crisis such as epidemics, pandemics and outbreaks of disease that may arise in the future, depends on the duration and spread of the outbreak, the severity, the actions to contain, slow down or halt the spread of the virus or treat its impact, the success of the development and implementation of vaccines, and how quickly and to what extent normal or semi-normal economic and operating conditions can resume, which could affect the global economy in ways that cannot necessarily be foreseen at the present time. A health crisis may exacerbate other pre-existing political, social and economic risks. Any such impact could adversely affect a client’s

performance or the performance, profitability, success or businesses of a client's investments, resulting in losses to investors.

The measures and steps taken by governments around the world in response to such events may cause material disruptions to (or otherwise materially impact or affect) the business operations and activities of service providers on which we and our clients rely (including the custodians and counterparties). It may also adversely impact a client's investments, the ability of us and our affiliates to access markets or implement a client's investment strategies in the manner originally contemplated, and ultimately investors in the clients.

*Terrorist Attacks, War and Natural Disasters.* Terrorist activities, anti-terrorist efforts, armed conflicts involving the United States or its interests abroad, wars and natural disasters may adversely affect the United States, its financial markets, global economies and markets and could prevent our clients and their investments from meeting our respective investment objectives and other obligations. The potential for future terrorist attacks, the national and international response to terrorist attacks, acts of war or hostility and natural disasters have created many economic and political uncertainties in the past and may do so in the future, which may adversely affect the United States and world financial markets and clients for the short or long-term in ways that cannot presently be predicted.

In February 2022, armed conflict escalated between Russia and Ukraine and Russia invaded Ukraine. In response to Russia's invasion of Ukraine, the United States, the European Union and various other countries have announced, and continue to announce and expand, sanctions against or targeting Russia and various important Russian people and companies. These sanctions currently include, among others, restrictions or bans on selling or importing goods, services or technology in or from Russia, bans on Russian energy imports, and travel bans and asset freezes impacting connected individuals and political, military, business and financial organizations in Russia. The U.S. and other countries could impose wider or more significant sanctions and take other actions against Russia or its interests should the conflict further escalate or deteriorate. The Ukraine-Russian conflict has led to, and may continue to lead to, significant political, geopolitical, economic and market turmoil and volatility, including dramatic increases in oil and gas prices and further supply chain disruptions. It is not possible to predict the broader consequences of this conflict or the sanctions imposed or applied as a result thereof, which could include further sanctions, embargoes, regional instability, geopolitical shifts, conflicts and adverse effects on macroeconomic conditions, currency exchange rates and financial markets, all of which could impact a client's or investment's business, financial condition and results of operations.

*Geopolitical Risks and Force Majeure.* An unstable geopolitical climate could have a material effect on general economic conditions, market conditions and market liquidity.

The continued threat of terrorism and the impact of military or other action have led to and will likely lead to increased volatility in prices for oil and gasoline and could affect certain investments financial results. Further, the United States government has issued public warnings indicating that energy assets might be specific targets of terrorist organizations. As a result of such a terrorist attack or of terrorist activities in general, such investments may not be able to obtain insurance coverage and other endorsements at commercially reasonable prices or at all.

Additionally, our clients or their investments may be affected by force majeure events such as events beyond the control of the party claiming the event has occurred including, without limitation, fire, flood, earthquakes, outbreaks of an infectious disease, pandemic or any other serious public health concern, war, terrorism, and labor strikes. Some force majeure events may adversely affect the ability of a party, including our clients, any subsidiaries or investment entities utilized by a client or counterparties to the client or any related investment entities to perform their obligations until they are able to remedy the force majeure event. In certain circumstances, a client or an investment entity may be a party to a contract which does not provide a remedy in favor of such client or investment entity if a force majeure event occurs. In this event, a client or an investment entity may be required to continue to comply with its obligations (including, but not limited to, payment or performance of its obligations) under the contract even though it may not receive some or all of the benefits to which it is entitled under such contract. Such a circumstance may cause a client or such investment entity to suffer economic loss, and such loss may be exaggerated if a force majeure event subsists for an extended period of time.

In addition, the cost to an investment or a client of repairing or replacing damaged assets resulting from such force majeure event could be considerable. Certain force majeure events such as war or an outbreak of an infectious

disease could have broader negative impact on the world economy and international business activity generally or in any of the countries in which the clients have invested. A resulting negative impact on economic fundamentals and consumer confidence may increase the risk of default with respect to particular investments, negatively impact market value, increase market volatility and cause credit spreads to widen and reduce liquidity, each of which could have an adverse effect on the performance of the investments, the clients' returns and our ability to make and/or dispose of investments. No assurance can be given as to the effect of these events on the value of, or markets for, investments, or a client's or an investment's ability to recover therefrom.

*Governmental Intervention.* In 2008, the global financial markets underwent disruptions that led to certain significant governmental intervention. The onset of the COVID-19 global pandemic also led, to substantial governmental intervention (both in the United States and abroad), including massive stimulus programs and legislation. Such intervention, in certain cases, has been or may be implemented on an "emergency" or unprecedented basis, suddenly and substantially eliminating market participants' ability to continue to implement certain strategies or manage the risk of their outstanding positions. In addition, these interventions were or are typically unclear in scope and application, resulting in confusion and uncertainty which in itself can be materially detrimental to the efficient functioning of the markets as well as previously successful investment strategies. If governmental intervention programs are unwound, there could likewise be uncertainty and adverse effects on the markets. In the case of any future market disruptions, it is impossible to predict what interim or permanent governmental restrictions (or easing of restrictions) may be imposed on the markets or the effect of such restrictions on our or our clients' investment strategies.

*Changes in Government Policy.* Changes in government policy, including monetary, fiscal, tax, trade, inflation, exchange and regulatory policies, among many others, have had and will continue to have a significant effect on the economy, financial markets and our investment strategies. Any such changes could be difficult or impossible to anticipate and could have significant unanticipated or unintended consequences. In addition, changes in policy implemented or threatened by one government often lead to changes in policy by other governments, which have their own significant consequences. As just one example, tariffs imposed by the U.S. government on imports from China have led to the imposition of tariffs by China on imports from the U.S., and a similar dynamic has occurred in connection with other changes in trade policy implemented or threatened by various governments. Any of the foregoing could result in a material adverse effect on the clients or advisory services to the clients.

*Inflation Risk.* The rate of inflation has increased significantly and there is some concern that the rate of inflation may continue to increase or stay elevated for the foreseeable future. Inflation and rapid fluctuations in inflation rates have recently and in the past led to (and may in the future lead to) negative effects on economies and financial markets. For example, wages and prices of inputs increase during periods of inflation, which can negatively impact returns on investments. In an attempt to stabilize inflation, governments may impose wage and price controls or otherwise intervene in the economy. Governmental efforts to curb inflation often have negative effects on the level of economic activity. For example, there may be instances where certain revenues related to such client investments may be fixed by contract for meaningful periods of time whereas related expenses may not be. As a result, an unexpected risk in the rate of inflation could have a material and adverse impact on the clients and their investments.

*Supply and Demand Risk.* Our investments may be impacted by the levels of supply and demand for various commodities traded or held by our clients. Our investments could be adversely affected by reductions in the supply of or demand for commodities traded or held by our clients. The volume of production of those commodities and the volume of those commodities available for transportation, storage, processing or distribution could be affected by a variety of factors, including depletion of resources, depressed commodity prices, catastrophic events, labor relations, increased environmental or other governmental regulation, equipment malfunctions and maintenance difficulties, import volumes and international politics. Alternatively, a decline in demand for those commodities could result from factors such as adverse economic conditions (especially in key producing or consuming countries), increased taxation, increased environmental or other governmental regulation, or increased commodity prices.

The applicable offering documents and this brochure cannot address or anticipate every possible current or future laws, rules or regulation that may affect us or our business. Such laws, rules or regulations may have a significant impact us or our operations, including, without limitation, restricting the types of investments we may make,

preventing us from exercising our voting rights with regard to certain financial instruments, requiring us to disclose the identity of investors or otherwise.

*Short Selling, Options and Futures Trading.* Our investment program may include short selling and trading in options and futures (upon the receipt of any necessary regulatory exemptions or approvals). Such investments can be extremely volatile and substantially increase the impact of adverse price movements upon the sale of the investment.

*Distressed Securities.* We may invest client assets in distressed securities. Investments in distressed securities involve acquiring securities of companies that are experiencing significant financial difficulties and of companies that are, or appear likely to become, bankrupt or involved in a debt restructuring or other major capital transaction. Consequently, there is a high degree of risk associated with these investments because such companies may never recover and the value of such investments may be lost.

*Futures Contracts.* We may invest in commodities futures contracts, options on futures contracts and in other products and commodities interests that may be traded on commodities exchanges regulated by the CFTC or international exchanges or in the over-the-counter markets. The value of futures depends upon the price of the financial instruments, such as commodities, underlying them. The prices of futures are highly volatile, and price movements of futures contracts can be 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, investments in futures are also subject to the risk of the failure of any of the exchanges on which we positions trade or of our clearing houses or counterparties.

*Derivative Instruments.* We may utilize derivative instruments, including (among others) convertible bonds, convertible preferred stock, options (including speculative positions such as buying and writing call options and put options on either a covered or an uncovered basis), futures, forward contracts, repurchase agreements, reverse repurchase agreements and many different types of swaps involving payments based on a wide range of risks. In many cases, derivatives provide the economic equivalent of leverage by magnifying the potential gain or loss from an investment in much the same way that incurring indebtedness would. Many derivatives provide exposure to potential gain or loss from a change in the market price of a financial instrument (or a basket or index) or other event or circumstance in a notional amount that greatly exceeds the amount of cash or assets required to establish or maintain the derivative contract. Accordingly, relatively small price movements in the underlying financial instruments or other events or circumstances may result in immediate and substantial losses to our clients. In some cases, our clients' exposure under a derivative contract is limited to the amount invested (for example, when we buy a call option). In other cases, the derivative contract may create an open-ended obligation (for example, when we write a call option). Many derivatives, particularly those negotiated over-the-counter, are substantially illiquid or could become illiquid under certain market conditions. As a result, it may be difficult or impossible to determine the fair value of our clients' interest in such contracts. Many derivative contracts involve exposure to the credit risk of the counterparty, because our clients acquire no direct interest in the underlying financial instrument, but instead depends on the counterparty's ability to perform under the contract. Further, if and when we take economic exposure through a derivative, we generally will not have any voting rights and may not be able to pursue legal remedies that would be available if we invested directly in the underlying financial instrument.

Many derivatives also involve substantial legal risk and uncertainty, because the terms of the contract may be difficult to draft, apply, interpret and enforce, particularly in the context of unforeseen market conditions or events. In many cases, the counterparty has discretion (either pursuant to the express terms of the contract or in practice) to interpret the contract, make required calculations and demand or withhold payments in the manner most favorable to the counterparty and most unfavorable to our clients. An adverse interpretation or calculation under one derivative contract could trigger cross-defaults with other contracts and could have a materially adverse effect on our clients' liquidity and performance. Any dispute concerning a derivative contract could be expensive and time consuming to resolve, particularly given the potential for complex and novel legal issues and the involvement of multiple legal jurisdictions. Even a favorable resolution could come too late to prevent cross-defaults, trading losses and material liquidity problems.

*Forward Trading.* Forward contracts and options thereon, unlike futures contracts, are not traded on exchanges and are not standardized; rather, banks and dealers act as principals in these markets, negotiating each transaction on an individual basis. Forward and "cash" trading is substantially unregulated; there is no limitation on daily price movements and speculative position limits are not applicable. The principals who deal in the forward markets are

not required to continue to make markets in the currencies or commodities they trade, and these markets can experience periods of illiquidity, sometimes of significant duration. There have been periods during which certain participants in these markets have refused to quote prices for certain currencies or commodities or have quoted prices with an unusually wide spread between the price at which they were prepared to buy and that at which they were prepared to sell. Disruptions can occur in forward markets due to unusually high trading volume, political intervention or other factors. The imposition of controls by governmental authorities might also limit such forward (and futures) trading to the possible detriment of any or all of our clients. Market illiquidity or disruption could result in significant losses to our clients.

*General Commodity Risks.* As disclosed herein, we may trade, buy, sell, spread, swap, and otherwise acquire, hold, dispose of, and deal in interests in commodities (including any which are now, or may hereafter be, the subject of commodities or commodities contract trading), futures contracts, forward contracts, options on futures contracts and physical commodities, spot (cash) commodities and any rights pertaining thereto and interests therein that may be traded on a commodities exchange or in the over-the-counter markets (hereinafter referred to collectively as “Commodities Interests”), the prices of which can be volatile, particularly over short time periods. Investments in individual commodity futures contracts and options on futures contracts historically have had a high degree of price variability and may be subject to rapid and substantial price changes. These price changes may be magnified by computer-driven algorithmic trading, which is becoming much more prevalent in the commodities markets. Clients could incur significant losses on their investments in Commodities Interests. Movements in the prices of Commodities Interests generally are outside of our control, are extremely difficult to predict and may not be anticipated by us. Price movements are influenced by, among other things: governmental, agricultural, trade, fiscal, monetary and exchange control programs and policies; weather and climate conditions; changing supply and demand relationships; changes in international balances of payments and trade; U.S. and international rates of inflation; currency devaluations and revaluations; U.S. and international political and economic events; changes in interest and foreign currency/exchange rates; market liquidity; and changes in philosophies and emotions of market participants. In making investments, we may utilize highly speculative investment techniques, including high leverage, highly concentrated commodity portfolios and illiquid investments. Such investments may expose our clients’ assets to the risks of material financial loss. Certain of our investment techniques may, in certain circumstances, substantially increase the impact of adverse market movements to which our clients may be subject. In addition, our investments may be materially affected by conditions in the financial markets and U.S. and worldwide economic conditions.

Our methods of minimizing such risks may not accurately predict future risk exposures. Risk management techniques are based in part on the observation of historical market behavior, which may not predict market divergences that are larger than historical indicators. Also, information used to manage risks may not be accurate, complete or current, and such information may be misinterpreted.

*Changing Interests of Commodities Interest Market Participants.* In order to induce investors or speculators to take the corresponding long side of a futures contract, commodity producers must be willing to sell futures contracts at prices that are below the present value of expected future spot prices. Conversely, if the predominant participants in the futures market are the ultimate purchasers of the underlying commodity futures contracts in order to hedge against a rise in prices, then speculators should only take the short side of the futures contract if the futures price is greater than the present value of the expected future spot price of the commodity. This can have significant implications for our clients when it is time to reinvest the proceeds from a maturing futures contract into a new futures contract. If the interests of investors, hedgers and speculators in futures markets have shifted such that commodity purchasers are the predominant participants in the market, we will be constrained to reinvest at higher futures prices which could have a negative effect on client returns and may cause clients to suffer losses on their short positions. Conversely, if commodity sellers are the predominant participants in the market, we will be constrained to reinvest client assets at lower prices which could have a negative effect on client returns and may cause clients to suffer losses on its long positions.

*Risks Associated with Commodity Futures, Forwards and Related Instruments.* Futures positions may be illiquid because certain commodity exchanges limit fluctuations in certain futures contract prices during a single day by regulations referred to as “daily price fluctuation limits” or “daily limits.” These limits could prevent us and the underlying funds from promptly liquidating unfavorable positions and subject us and the underlying funds to substantial losses or from entering into desired trades. In extraordinary circumstances, a futures exchange or the



CFTC could suspend trading in a particular futures contract, or order liquidation or settlement of all open positions in such contract.

The prices of commodities contracts and all derivative instruments, including futures and options prices, can be highly volatile. Price movements of forward, futures and other derivative contracts in which our clients' assets 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, financial instrument futures and options. Such intervention often is intended directly to influence prices 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. We also will be subject to the risk of the failure of any of the exchanges on which our positions trade or of our clearinghouses.

Trading options on futures involves a high degree of risk. An option on a futures contract is a right to either buy or sell the underlying futures contract at a specific price. The risks of trading options on futures are similar to the risks of trading securities options. In addition, if the purchaser of an option on a futures contract exercises the option, the holder will, in effect, be buying or selling the underlying futures contract, and will then be subject to the same risks as are attendant to futures trading.

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

*Litigation.* Our investment activities may subject us to the risks of becoming involved in litigation with third parties. The expense of defending against claims against us by third parties and the payment of any amounts pursuant to settlements or judgments would be borne by our Investors, reduce distributions and could require Investors to return distributed capital and earnings. We will generally be indemnified by Investors in connection with any such litigation, subject to certain conditions.

*Non-U.S. Investments.* We may invest in financial instruments of non-U.S. corporations and governments. Investing in the financial instruments of companies (and, from time to time, governments) outside of the United States involves certain considerations not usually associated with investing in financial instruments of U.S. companies or the U.S. Government, including political and economic considerations, such as greater risks of expropriation, nationalization, confiscatory taxation, imposition of withholding or other taxes on interest, dividends, capital gains or other income, limitations on the removal of assets and general social, political and economic instability; the relatively small size of the securities markets in such countries and the low volume of trading, resulting in potential lack of liquidity and in price volatility; the evolving and unsophisticated laws and regulations applicable to the securities and financial services industries of certain countries; fluctuations in the rate of exchange between currencies and costs associated with currency conversion; and certain government policies that may restrict the Fund's investment opportunities. In addition, accounting and financial reporting standards that prevail outside of the U.S. generally are not as high as U.S. standards and, consequently, less information is typically available concerning companies located outside of the U.S. than for those located in the U.S. As a result, we may be unable to structure its transactions to achieve the intended results or to mitigate all risks associated with such markets. It may also be difficult to enforce our rights in such markets. For example, financial instruments traded on non-U.S. exchanges and the non-U.S. persons that trade these instruments are not subject to the jurisdiction of the SEC or the Commodity Futures Trading Commission or the securities and commodities laws and regulations of the U.S. Accordingly, the protections accorded to our clients under such laws and regulations are unavailable for transactions on foreign exchanges and with foreign counterparties.

*Limited Diversification.* Although we will seek to diversify investments as we deem appropriate and consistent with our investment objectives, the amount of investments that may be invested in a particular security is not subject to any restrictions. If the investments are concentrated in a small number of investments, they will be subject to a greater level of volatility.

*Competition.* The markets in which we participate are extremely competitive. There can be no assurance that we are able to identify or successfully pursue attractive investment opportunities in this environment. Among other factors, competition for suitable investments from other pooled investment vehicles, the public equity markets and other investors may reduce the availability of investment opportunities. Investors should expect that our investments involve substantially more company-specific and market risk and associated volatility in the future than the risks involved in such investments in the past. We compete with many firms, some of which may have substantially greater financial resources, more favorable financing arrangements, larger research staffs and more securities traders than are available to us.

*PIPE Investments.* We may invest client assets in PIPE transactions. A PIPE (Private Investment in Public Equity) is a private placement of restricted securities (common stock, convertible preferred stock, convertible debentures, warrants or other equity or equity-like securities) of a public company. Typically in such a transaction, the investor enters into a purchase agreement pursuant to which the investor commits to purchase the securities and the public company issuer commits to sell such securities and to file a resale registration statement within a specified period of time covering the resale of the securities that the investor purchased in the private placement. In connection with a PIPE investment, we may be obligated to pay all or part of the registration expenses, and, due to delays in the registration process, a considerable period may elapse between the time of our decision to sell and the time such security may be sold under an effective registration statement. If adverse market conditions were to develop during such a period, we might obtain a less favorable price than the price we could have obtained at the time of our decision to sell the security. Further, there is no assurance that the public company will satisfy its registration obligation, in which case, we may only be able to sell such securities under Rule 144 or otherwise under U.S. federal securities laws, the availability of this alternative can be (i) significantly limited where a client's ownership of securities of the issuer, or its relationship with the issuer, could result in a client being considered an affiliate of the issuer or (ii) delayed where the issuer is not current in its public information reporting requirements. Any such developments may have a material adverse effect on us.

*Illiquid Investments.* In addition to PIPE investments, it is possible that some other investments may be illiquid for an extended period of time. Furthermore, because of the speculative and non-public nature of some investments, we may, from time to time, sell or otherwise dispose of investments that later prove to be more valuable than anticipated at the time of such disposition. Any premature sales or dispositions may prevent clients from realizing as great an overall return on investment as may have been realized if such sales or dispositions had been made at a later date, which may adversely affect investment results. Certain securities may be difficult or impossible to sell at the time and price that we desire. We may have to lower the price, sell other securities instead or forego an investment opportunity, any of which could have a negative effect on our performance. We also may purchase equity securities that are restricted as to resale and are issued by issuers that have outstanding, publicly-traded equity securities of the same class, including PIPE transactions.

*Special Purpose Acquisition Companies.* We may make or recommend investments in special purpose acquisition companies ("SPACs") and securities related or relating thereto, which are publicly traded companies formed for the purpose of raising capital through an initial public offering to fund the acquisition, through a merger, capital stock exchange, asset acquisition or other similar business combination, of one or more operating businesses. Capital raised through the initial public offering of securities of a SPAC is typically placed into a trust until the target company is acquired or a predetermined period of time elapses. Investors in a SPAC would receive a return on their investment in the event that a target company is acquired and such target company's value increased. In the event that a SPAC is unable to locate and acquire target companies by the deadline, the SPAC would be forced to liquidate its assets, which may result in losses due to the expenses and liabilities of the SPAC. Investors in a SPAC are subject to the risk that, among other things, (i) such SPAC may not be able to locate or acquire target companies by the deadline, (ii) assets in the trust may be subject to third-party claims against such SPAC, which may reduce the per share liquidation price received by the investors in the SPAC, (iii) such SPAC may be exempt from the rules promulgated by the SEC to protect investors in "blank check" companies, such as Rule 419 promulgated under the Securities Act, so that investors in such SPAC may not be afforded the benefits or protections of those rules, (iv) such SPAC may only be able to complete one business combination, which may cause it to be solely dependent on a single business, (v) the value of any target company may decrease following

its acquisition by such SPAC, (vi) the value of the funds invested and held in the trust decline, (vii) the inability to redeem due to the failure to hold the securities in the SPAC on the record date or the failure to vote against the acquisition and (viii) if the SPAC is unable to consummate a business combination, public stockholders will be forced to wait until the deadline before liquidating distributions are made. In addition, to the extent that a SPAC completes a business combination, it may be affected by numerous risks inherent in the business operations of the acquired company or companies.

*Long/Short.* The identification of investment opportunities in the implementation of our long/short investment strategies is a difficult task, and there are no assurances that such opportunities will be successfully recognized or acquired. In the event that the perceived opportunities underlying our positions were to fail to converge toward, or were to diverge further from values expected by us, our investment program may incur a loss. In the event of market disruptions, significant losses can be incurred which may force us to close out one or more positions. Furthermore, the valuation models used to determine whether a position presents an attractive opportunity consistent with our long/short strategies may become outdated and inaccurate as market conditions change.

*Short Selling.* We make short sales or utilize short selling on behalf of our clients. In a short sale, the seller sells a security that it does not own, typically a security borrowed from a broker or other counterparty. Because the seller remains liable to return the underlying security that it borrowed from the broker or counterparty, the seller must purchase the security prior to the date on which delivery to the broker or dealer is required. The making of short sales exposes clients to the risk of liability for the market value of the security that is sold, which is an unlimited risk in theory due to the lack of an upper limit on the price to which a security may rise. In addition, there can be no assurance that securities necessary to cover a short position will be available for purchase or that securities will be available for clients to borrow at reasonable costs. If a request for a return of borrowed securities occurs at a time when other short sellers of the security are receiving similar requests, a “short squeeze” can occur, in which case a client or account may be compelled to replace borrowed securities previously sold short with purchases on the open market at the most disadvantageous time, possibly at prices significantly in excess of the proceeds received in originally selling the securities short. A significant “short squeeze” event occurred in January 2021 with respect to the securities of GameStop Corp (GME), where retail investors utilized Robinhood and other popular commission-free trading platforms and social media platforms to execute a “short squeeze” strategy aimed at destroying the short sale efforts of prominent hedge funds and other institutional investors who were attempting to profit from the demise of GameStop stock. The efforts of these retail investors pushed the price of GameStop stock to record levels in a very short period of time, and many hedge funds and other investors lost billions of dollars as they were forced to close out their short positions on GameStop stock in connection with the short squeeze. This situation is likely to reoccur in the future, as social media and popular commission free trading platforms have made it easier for a large number of retail investors to band together and cause disruptions in the trading strategies of hedge funds and other institutional investors. The recent controversy relating to GameStop may lead to SEC scrutiny and greater regulation of such strategies.

The SEC has in the past adopted interim rules requiring reporting of all short positions above a certain *de minimis* threshold and may adopt or enact additional rules requiring public disclosure of short positions in the future. In addition, other non-U.S. jurisdictions where a client trades have adopted or may adopt reporting requirements. If a client’s short positions or its strategy become generally known, it could have a material or significant effect on our ability to implement or effect our investment strategies. In particular, it would make it more likely that other investors could cause or lead us into a “short squeeze” in the securities held short by a client, forcing us or the client to cover its positions at a loss. Such reporting requirements likely would also limit our ability to access management and other personnel at certain issuers where we seek to take or establish a short position. In addition, if other investors engage in copycat behavior by taking positions in the same issuers as our clients, the cost of borrowing securities to sell short could increase significantly and the availability of such securities to our clients could decrease significantly. The SEC has adopted various restrictions or limitations on the short sale of securities which fall more than 10% in a given day (referred to as the “circuit breaker” or “modified uptick rule”). The SEC and regulatory authorities in other jurisdictions could adopt (and in certain cases have adopted) bans or restrictions or limitations on short sales of certain securities or short sales with respect to certain issuers in response to significant market events. Restrictions, limits or bans on short selling would make it more difficult for our clients or us to execute or effect certain investment strategies and may have a material adverse effect on our clients’ ability to achieve their investment objectives and generate returns.

*Stressed Debt.* We may invest client assets in debt 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 distressed and stressed instruments are highly volatile, and the spread between the bid and the ask prices of such instruments is often unusually wide.

*Corporate Debt.* We may invest client assets in bonds, notes and debentures issued by corporations. These instruments may pay fixed, variable or floating rates of interest, and may include zero coupon obligations. We may invest client assets in corporate debt instruments that have experienced or are contemplated to experience ratings downgrades. Other instruments may have the lowest quality ratings or may be unrated. Credit ratings evaluate the safety of the principal and interest payments, not the market value risk of lower-rated instruments. Such ratings also do not reflect macroeconomic or systemic risk, including the risk of increased illiquidity in the credit markets. It is also possible that a rating agency might not change its rating of a particular issue on a timely basis and, as a result, outstanding ratings may not reflect the issuer's current credit standing. Conversely, rating agencies may re-rate an instrument which could cause substantial loss as the ratings are downgraded. Our clients' investments may experience significant credit rating volatility, which may result in significant market value volatility and the potential for substantial loss. In addition, our clients may be paid interest in kind in connection with its investments in corporate debt and related financial instruments (e.g., the principal owed to our clients 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, our clients may experience substantial losses.

*Loans of Portfolio Securities.* We may lend portfolio securities of our clients. By doing so, we attempt to increase our clients' income through the receipt of interest on the loan. While a securities loan is outstanding, our clients continue to receive the equivalent of the interest or dividends paid by the issuer on the securities, as well as interest on the investment of the collateral or a fee from the borrower. The risks in lending securities, as with other extensions of secured credit, if any, consist of possible delay in receiving additional collateral, if any, or in recovery of the securities or possible loss of rights in the collateral, if any, should the borrower fail financially. To the extent that the value of the securities lent increases, our clients could experience a loss if such securities are not recovered.

*Third-Party Contracts.* We may from time to time contract out a portion of client assets to third parties. In doing so, we will rely on investment specialists with expertise in a particular market area or investment type. There can be no assurance that any such third-party contracts entered into by us will produce successful investment results.

*Leverage and Borrowing Risks.* We may use significant leverage in our investment program, including by purchasing securities on margin. When leverage is used to control positions worth more than our investment in those positions, the amount that we may lose in the event of adverse price movements is high in relation to the amount of our investment. In order to secure our financing arrangements, we generally will pledge all investments to the prime broker providing such financing. Our investors are equity holders, and their rights are therefore junior to and generally subject to the satisfaction of the prior claims of all creditors.

If the value of our securities falls below the margin or collateral levels required by the prime broker or other financing counterparty, additional margin or collateral deposits would be required. If we are unable to satisfy any margin call, then the prime broker could terminate transactions, liquidate our position in some or all of such securities and otherwise cause us to incur significant losses. In the event of a sudden drop in the value of our assets, we might not be able to liquidate assets quickly enough to satisfy our margin or collateral requirements or other contractual obligations. In that event, we may become subject to claims by the prime broker that exceed the value of our assets.

In the event of a sudden drop in the value of our assets, we might not be able to liquidate assets quickly enough to satisfy its margin or collateral requirements or other contractual obligations. In that event, we may become subject to claims of financial intermediaries that extended margin loans or other types of credit. Such claims could exceed the value of our assets. The banks, dealers and other custodians and counterparties that provide financing to us can apply essentially discretionary margin, haircut, financing and collateral valuation policies. Changes by banks, dealers and other custodians or counterparties in any of the foregoing may result in large margin or collateral calls, loss of financing and forced liquidations of positions at disadvantageous prices. There can be no assurance that we will be able to secure or maintain adequate financing, without which our clients may not continue to be viable.

*Equity Risks.* The market price of securities we own may go up or down, sometimes rapidly or unpredictably. A risk of investing in our investment program is that the equity securities in its portfolio will decline in value due to

factors affecting equity securities markets generally or the sectors in which we invest. The values of equity securities may decline due to general market conditions which are not specifically related to a particular company, such as real or perceived adverse economic conditions, changes in the general outlook for corporate earnings, changes in interest or currency rates or adverse investor sentiment generally. They may also decline due to factors which affect a particular industry or industries, such as labor shortages or increased production costs and competitive conditions within an industry. Other risks of investing globally in equity securities may include changes in currency exchange rates, exchange control regulations, expropriation of assets or nationalization, imposition of withholding taxes on dividend or interest payments, and difficulty in obtaining and enforcing judgments against non-U.S. entities. In addition, securities which we believe are fundamentally undervalued or incorrectly valued may not ultimately be valued in the capital markets at prices and/or within the time frame we anticipate. As a result, our investment program may lose all or substantially all of its investment in any particular instance

**Interest Rate Risks.** Our borrowings subject us to risks associated with movements in interest rates. For example, we may be required to manage both curve risk, which is the risk that the slope of the yield curve will vary from the slope assumed in our strategy, and credit spread risk, which is the risk that the spreads between yields of differently rated issuers will change in a manner that adversely affects our portfolio.

**Counterparty Credit Risks.** Our investments will generally be held in the name of the prime broker or its nominee, rather than in our name. We will assume credit risk to the prime broker in connection with clearing and settlement arrangements and custody arrangements. The practical effect of the applicable contracts, laws and regulations and their application to our investments are subject to substantial legal and practical limitations and uncertainties. Investors should assume that the insolvency of the prime broker or any executing broker would result in the loss of all or a substantial portion of the assets held by such person or owed by such person to us.

**Potential for Fraud.** In spite of our efforts to invest in reputable and trustworthy companies, there is a risk that we may invest in issuers that engage in fraud. Instances of fraud can be particularly difficult to detect and prevent. To the extent that we invest in a company that engages in fraud, we could lose all or a substantial portion of our investment in such company and it could have a material adverse effect on our financial condition and results of operations.

**Foreign exchange risk.** Certain of our investments are subject to the risk of fluctuations in the U.S. dollar exchange rate against the local or reference currencies of investors.

**Disruption in the Financial Services Industry.** Our ability to make and consummate investments, secure funding and engage in other activities and transactions could be adversely affected by the actions and stability of banks and other financial institutions. Financial services institutions are interrelated as a result of trading, clearing, counterparty and other relationships. As a result, defaults by, or even rumors or questions about, one of more financial service institutions, or the industry generally, have historically led to market-wide liquidity and other problems. Losses of depositor, creditor and counterparty confidence and could lead to losses or defaults by the Funds and their investments and other banks and financial institutions (including financial institutions that the Funds and their investments deal or interact with). In response to the bank failures at Silicon Valley Bank (“SVB”) and Signature Bank and the resulting market reaction, the Secretary of the Treasury, the Federal Reserve and the FDIC indicated that all depositors of SVB and Signature Bank would have access to all deposits by utilizing the Deposit Insurance Fund, including bridge banks to assume all of the deposit obligations of the failed banks, while leaving unsecured lenders and equity holders of such institutions exposed to such losses. The Federal Reserve also created the Bank Term Funding Program to ensure banks have the ability to meet the needs of their depositors. There is no guarantee that the Department of Treasury, FDIC and the Federal Reserve will provide access to uninsured funds in the future in the event of the closure of other financial institutions (or do so in a timely fashion) and it is uncertain whether these steps by the government will be sufficient to calm the financial markets, reduce the risk of significant depositor withdrawals at other institutions and thereby reduce the risk of additional bank failures.

**Tax Certificate Risk.** We invest and may in the future invest client assets in certificates or other documentation that evidence ownership of liens for unpaid local taxes and related penalties and expenses thereon on parcels of real property. If the redemptive value of a tax certificate is not paid before the expiration of the redemptive period, we will be able to realize upon such tax certificate only by obtaining title to the property or selling the tax certificate to a third party. We will obtain such title only if we believe that the net proceeds of the sale of the property will be

sufficient to justify the costs and expenses obtaining such title. Although we will endeavor to invest in tax certificates which are likely to be redeemed, or if not redeemed, are secured by a property that has a market value exceeding the terminal value, there can be no assurance that redemption will take place or that we will realize profits upon the disposition of the tax certificates. In the event we foreclose on a property covered by a tax certificate, we may incur expenses, including, without limitation, legal fees and costs, which will be deducted from the amount recoverable, and will reduce the return on such tax certificates. We will rely on local authorities to perform statutory duties that are a precondition to the validity of tax certificates we acquire. If such authorities prejudice our rights through failure to perform their statutory duties, we may not have practical recourse for a return on the investment in the tax certificates. Municipalities have no obligation to disclose information concerning the underlying properties with respect to which tax certificates will be sold (other than information required to be disclosed in connection with statutory notices). Tax certificates may be subordinated to certain federal and state tax liens for unpaid income taxes. To the extent such government liens exist on a property related to a tax certificate, if the sale of that property does not generate enough money to satisfy those liens, we may not receive any return on its initial investment. In addition, our failure to pay subsequent taxes on tax certificates will allow the holder of such subsequent lien to have priority over our lien, and accordingly, such loss of priority status may ultimately result in loss of investment. Because tax certificates may be redeemed at any time prior to the expiration of the redemptive period, it is possible that an early redemption will reduce our anticipated rate of return. A purchaser of a tax certificate is not entitled to any specific information concerning the condition of the related property nor can a purchaser inspect such property through the exercise of a right of entry. We plan to conduct extensive pre-bid due diligence on the properties underlying the tax certificates in order to reduce risk and gather more information about the physical condition of the properties. However, due to the limited right of inspection, we cannot guarantee that we will be able to discover all risks underlying the property prior to obtaining the tax certificate. If we obtain title to a property, we expect to obtain comprehensive insurance coverage for the property. However, there are certain types of losses (generally of a catastrophic nature, such as earthquakes, floods and wars) that are either uninsurable or not economically insurable. If a disaster should affect, or cause the destruction of, a property, we could lose our investment in such property. There can be no assurance that a property, if any, acquired by us is not taken for any public or quasi-public purpose by a power or authority by the exercise of the right of condemnation or eminent domain. In such event, the relevant authority may have the power and discretion to determine the value of the property, and such value may be less than the value ascribed to such property by us, in which case, we could lose some or all of its investment in such property.

*Cyber Security Breaches and Identity Theft.* We, our clients and our respective service providers depend on information technology systems and, notwithstanding the diligence that we may perform on such service providers, we may not be in a position to verify the risks or reliability of such information technology systems. We, our clients and our respective service providers are subject to risks associated with a breach in cybersecurity. “Cybersecurity” is a generic term used to describe the technology, processes and practices designed to protect networks, systems, computers, programs and data from both intentional cyber-attacks and hacking by other computer users as well as unintentional damage or interruption that, in either case, can result in damage and disruption to hardware and software systems, loss or corruption of data, and/or misappropriation of confidential information. Our, our clients’ and our service providers’ information and technology systems are vulnerable to damage or interruption from computer viruses, network failures, computer and telecommunication failures, infiltration by unauthorized persons and security breaches, usage errors by their respective professionals, power outages and catastrophic events such as fires, tornadoes, floods, hurricanes and earthquakes. Although we and our affiliates have implemented various measures to manage risks relating to these types of events, if these systems are compromised, become inoperable for extended periods of time or cease to function properly, we and/or our clients may have to make a significant investment to fix or replace them. The failure of these systems and/or of disaster recovery plans for any reason could cause significant interruptions in our and our clients’ operations and result in a failure to maintain the security, confidentiality or privacy of sensitive data, including personal information relating to investors (and the beneficial owners of investors). Such a failure could harm our or our clients’ reputations, subject any such entity and its respective affiliates to legal claims and otherwise affect its business and financial performance. Such damage or interruptions to information technology systems may cause losses to our clients or individual Investors by interfering with our or any affiliates’ operations. Clients may also incur substantial costs as the result of a cybersecurity breach, including those associated with forensic analysis of the origin and scope of the breach, increased and upgraded cybersecurity, identity theft, unauthorized use of proprietary information, litigation, adverse investor reaction, the dissemination of confidential and proprietary information and reputational damage. Any such breach could expose one or more of our clients or us to civil, legal or regulatory liability as well as

regulatory inquiry and/or action, and clients may be required to indemnify us against any losses incurred in connection therewith. Cybersecurity issues and risks are currently a major focus area of the SEC and other regulatory authorities.

*Digital Assets.* A portion of our clients' assets may be invested in cryptocurrencies, decentralized application tokens, protocol tokens and other cryptofinance coins, tokens and digital assets and instruments that are based on block chain, distributed ledger or similar technologies (collectively, "Digital Assets"). Investments in Digital Assets are subject to many specialized risks and considerations, including risks relating to technology, security, regulation, user/market acceptance, volatility and timing.

*Virtual Currencies and Virtual Currency Derivatives.* We may trade, and our clients may have exposure to, virtual currencies and virtual currency derivatives. Virtual currencies are relatively new instruments, not legal tender in the U.S. and subject to a variety of known and unknown risks. The price of a virtual currency is based on the perceived value of such virtual currency and, given their novel and evolving characteristics, subject to changes in public sentiment. These factors make virtual currencies, virtual currency derivatives and their related products highly volatile and subject to substantial price fluctuations that could result in significant losses to our clients. Virtual currencies can be traded through privately negotiated transactions and through numerous virtual currency exchanges and intermediaries around the world. The lack of a centralized pricing source poses a variety of valuation challenges and substantial risk. In addition, the dispersed liquidity of virtual currencies may pose a challenge to any of our clients as it tries to exit a virtual currency position. Upon the transfer of a virtual currency, a unique numerical code known as a "private key" is created. We are responsible for safeguarding such private keys. In the event that the private key corresponding to a virtual currency held by our clients is not the correct private key, such virtual currency shall be inaccessible for use, resulting in an irreversible loss to such client. Virtual currency derivatives and the initial margin posted therefor may be set as a percentage of the value of a particular futures contract, which may result in an increase in the margin requirement of a virtual currency long position if the price of the corresponding futures contract rises. Furthermore, some futures commission merchants may impose restrictions on us trading in virtual currency derivatives, such as requiring additional margin, imposing position limits, prohibiting naked shorting or prohibiting give-in transactions. The rules of certain designated contract markets impose trading halts that may restrict our ability to exit a virtual currency derivative position during a period of high volatility.

The cybersecurity risks of virtual currencies and related "wallets" or spot exchanges include hacking vulnerabilities and a risk that publicly distributed ledgers may not be immutable. Even a minor cybersecurity event with respect to a virtual currency is likely to result in downward price pressure on such virtual currency and potentially other virtual currencies, and could result in a substantial, immediate and irreversible loss for our clients.

Virtual currency balances are generally maintained as an address on the corresponding blockchain and are accessed through private keys, which may be held by us or a custodian thereof. Although virtual currency transactions are typically publicly available on a blockchain or distributed ledger, the public address does not identify the controller, owner or holder of the private key. Unlike bank and brokerage accounts, virtual currency exchanges and custodians that hold virtual currencies do not always identify the owner of the virtual currency. The opacity underlying such structure poses asset verification challenges for us, its regulators and its auditors and gives rise to an increased risk of manipulation and fraud with respect to virtual currencies held by us, including the potential for the introduction of "junk altcoins", Ponzi schemes, bucket shops, pump and dump schemes and initial coin offerings that are backed or guaranteed by insufficient amounts of collateral.

Virtual currency exchanges on which we may trade, as well as other intermediaries, custodians and vendors used by us to facilitate our clients' virtual currency transactions, are relatively new and largely unregulated in both the U.S. and many foreign jurisdictions. Such virtual currency exchanges generally purchase virtual currencies for their own account on the public ledger and allocate positions to customers such as our clients through internal bookkeeping entries while maintaining exclusive control of the corresponding private keys. Under this structure, such virtual currency exchanges collect large amounts of customer funds for the purpose of buying and holding virtual currencies on behalf of their customers such as our clients. The opacity underlying such structure and the lack of regulatory oversight creates a risk that a virtual currency exchange may not hold sufficient virtual currencies and funds to satisfy its obligations and that such deficiency may not be easily identified or discovered. In addition, many virtual currency exchanges have experienced significant outages, downtime and transaction processing delays and may have a higher level of operational risk than regulated futures or securities exchanges.

All virtual currencies and derivatives, such as tokens, rely upon the support of a blockchain system. Any blockchain must be supported by well-crafted and constantly improving software; a network of developers, programmers, software engineers, validators, independent ledger hosts; and an investing community. Failures, instability, or even perceived weakness in these areas routinely cause virtual currencies and currency derivatives to decline in value, sometimes rapidly. Since a blockchain employs peer-to-peer technology, it relies upon the collaboration of its developers, hosts (miners), and the relative interest of the holders to sustain value and liquidity. Various incentives are therefore provided to such parties, which decrease the return to less vested parties. Additionally, since the operation of this software is intended to operate independent of a central authority, its operation relies upon the integrity and autonomous operation of the cryptographic and algorithmic protocols.

The development team and administrators of a Digital Asset's source code could propose amendments to the network's protocols and software that, if accepted and authorized, or not accepted, by the digital asset network community, could adversely affect the supply, security, value, or market share of the Digital Assets, and thus an investment in our clients. Further, client's may be adversely affected by a manipulation of a digital asset source code.

The price of a virtual currency is based on the perceived value of such virtual currency and, given their novel and evolving characteristics, subject to changes in public sentiment. These factors make virtual currencies, virtual currency derivatives and their related products highly volatile and subject to substantial price fluctuations that could result in significant losses to our client's.

Virtual currencies can be traded through privately negotiated transactions and through numerous virtual currency exchanges and intermediaries around the world. The lack of a centralized pricing source poses a variety of valuation challenges and substantial risk, while, at the same time, offering market participants arbitrage opportunities. In addition, the dispersed liquidity of virtual currencies may pose a challenge to our client's when exiting a virtual currency position.

Virtual currency derivatives and the initial margin posted therefor may be set as a percentage of the value of a particular futures contract, which may result in an increase in the margin requirement of a virtual currency long position if the price of the corresponding futures contract rises. Furthermore, some futures commission merchants may impose restrictions on our client's trading in virtual currency derivatives, such as requiring additional margin, imposing position limits, prohibiting naked shorting or prohibiting give-in transactions. The rules of certain designated contract markets impose trading halts that may restrict our client's ability to exit a virtual currency derivative position during a period of high volatility.

The cybersecurity risks of virtual currencies and related "wallets" or spot exchanges include hacking vulnerabilities and a risk that publicly distributed ledgers may not be immutable. Even a minor cybersecurity event with respect to a virtual currency is likely to result in downward price pressure on such virtual currency and potentially other virtual currencies, and could result in a substantial, immediate and irreversible loss for our clients.

Although virtual currency transactions are typically publicly available on a blockchain or distributed ledger, the public address does not identify the controller, owner or holder of the private key. Unlike bank and brokerage accounts, virtual currency exchanges and custodians that hold virtual currencies do not always identify the owner of the virtual currency. The opacity underlying such structure may pose asset verification challenges for our client's, regulators and auditors and gives rise to an increased risk of manipulation and fraud with respect to virtual currencies held by our clients, including the potential for the introduction of "junk altcoins," Ponzi schemes, bucket shops, pump and dump schemes and initial coin offerings that are backed or guaranteed by insufficient amounts of collateral.

Virtual currency exchanges on which we may trade, as well as other intermediaries, custodians and vendors used by us to facilitate our client's virtual currency transactions, are relatively new and largely unregulated in both the U.S. and many foreign jurisdictions. Such virtual currency exchanges generally purchase virtual currencies for their own account on the public ledger and allocate positions to customers such as our clients through internal bookkeeping entries while maintaining exclusive control of the corresponding private keys. Under this structure, such virtual currency exchanges collect large amounts of customer funds for the purpose of buying and holding virtual currencies on behalf of their customers such as our clients. The opacity underlying such structure and the lack of regulatory oversight creates a risk that a virtual currency exchange may not hold sufficient virtual currencies and funds to satisfy its obligations and that such deficiency may not be easily identified or discovered. In addition, many virtual currency exchanges have experienced significant outages, downtime and transaction processing delays and may have a higher level of operational



risk than regulated futures or securities exchanges.

Virtual currencies currently face an uncertain regulatory landscape in the U.S. and many foreign jurisdictions. In the U.S., virtual currencies are not subject to federal regulatory oversight but may be regulated by one or more state regulatory bodies. In addition, many virtual currency derivatives are regulated by the CFTC, and the SEC has cautioned that many initial coin offerings are likely to fall within the definition of a “security” and subject to U.S. securities laws. One or more jurisdictions may, in the future, adopt laws, regulations or directives that affect virtual currency networks and their users, including our clients. Such laws, regulations or directives may impact the price of virtual currencies held by our clients and their acceptance by its merchants and service providers.

Virtual currencies’ underlying blockchain technology can serve a “utility” function that may exempt the corresponding token from regulation as a “security” according to the SEC and other regulators. Instead of conferring ownership of the firm that issues such a utility token, an investment therein could lead to participation in a future revenue stream or a redemption for cash at a later date once the utility function is successful. Given the complex nature of such utility functions, only investors with technical expertise in evaluating them should participate. Because many tokens are offered with minimal disclosure and a lack of transparency, investments in initial coin offerings are extremely high risk and could result in losses to our clients. The relatively new and rapidly evolving technology underlying virtual currencies introduces unique risks. While virtual currencies are cryptographically signed to keep them secure, such a cryptographic signature merely identifies the currency itself, not the underlying owner. Because there is no way to identify the underlying owner, there is no way for the public to identify it as being owned by our clients, and our clients will generally have little to no recourse in the event such virtual currency is lost, stolen or destroyed.

Certain virtual currency software, such as the Bitcoin protocol, are open source. Any user can download such software, modify it and then propose that particular users and miners of such virtual currency adopt the modification. When a modification is introduced and a substantial majority of users and miners consent to the modification, the change is implemented and the particular virtual currency network remains uninterrupted. However, if less than a substantial majority of users and miners consent to the proposed modification, and the modification is not compatible with the software prior to its modification, the consequence would be what is known as a “fork” (*i.e.*, “split”) of the particular network and corresponding blockchain, with one prong running the pre- modified software and the other running the modified software. The effect of such a fork would be the existence of two versions of the virtual currency network running in parallel, but with each version’s token (asset) lacking interchangeability.

Additionally, forks can be introduced by an unintentional, unanticipated software flaw in the multiple versions of otherwise compatible software. Although chain forks would likely be addressed by community-led efforts to merge the two chains, such an event could adversely affect a particular virtual currency’s viability. On the other hand, a substantial number of a particular virtual currency’s users and miners could adopt an incompatible version of the particular virtual currency while resisting community-led efforts to merge the two chains. This would result in a permanent fork. If a permanent fork occurs, then our clients’ holding the corresponding virtual currency would hold equal amounts of both the original virtual currency, the alternative new virtual currency or both. We would need to decide whether to continue to hold the original virtual currency, the alternative new virtual currency or both. Our decision to continue to hold either the original or alternative new forked token would be based on factors such as the market value and liquidity of the original virtual currency token versus the alternative virtual currency token. The uncertainty surrounding such forks could adversely affect our clients.

Furthermore, our clients will be subject to additional transaction fees and expenses with respect to virtual currencies that are imposed by virtual currency exchanges, wallet providers and other custodians (*e.g.*, in connection with the “mining” of such virtual currencies). The amounts of such fees and expenses are subject to market forces and it is possible that such fees and expenses could increase substantially during a period of stress.

*Custody of Digital Assets.* We may maintain custody of some or all of our clients’ Digital Assets, by generating the private keys that control movement of the various Digital Assets. In addition to maintaining custody of our clients’ Digital Assets in a “wallet,” we may store certain of our clients’ Digital Assets on various Digital Asset exchanges or with other counterparties. Digital Asset exchanges or other counterparties may also require us to provide control of the private keys when utilized by one of our clients. We are responsible for taking such steps as we determine, in our sole judgment, to be required to maintain access to these keys, and prevent their exposure from hacking, malware and general security threats. We are not liable to any of our clients or their investors for the failure or

penetration of one of our client's security system absent gross negligence, fraud or criminal behavior on our part. Digital Assets are particularly susceptible to loss or theft. Blockchain-based payment and transfer systems trade transaction speed for safeguards and protections from error, mistake, fraud, or third-party inference; such that, there are heightened and real risks of total investment loss due to the lack of such safeguards and protections.

*Digital Asset Trading is Volatile and Speculative.* Digital Assets represent a speculative investment and involve a high degree of risk. As relatively new products and technologies, Digital Assets have not been widely adopted as a means of payment for goods and services by major retail and commercial outlets. Conversely, a significant portion of the demand for Digital Assets is generated by speculators and investors seeking to profit from the short or long-term holding of Digital Assets. The relative lack of acceptance of Digital Assets in the retail and commercial marketplace limits the ability of end-users to pay for goods and services with Digital Assets. A lack of expansion by Digital Assets into retail and commercial markets, or a contraction of such use, may result in increased volatility. Digital Asset values can be sharply affected by subjective factors, and certain Digital Assets can plummet in value or lose value entirely simply by falling out of general favor.

*Risk of Loss of Private Key.* Various Digital Assets are controllable only by the possessor of unique private keys relating to the addresses in which the Digital Assets are held. The theft, loss or destructions of a private key required to access a Digital Asset is irreversible, and such private keys would not be capable of being restored by us. Any loss of private keys relating to digital wallets used to store our clients' Digital Assets could result in the loss of the Digital Assets and an investor in such client could incur a substantial, or even total, loss of capital.

*Initial Coin Offerings Risk.* We may invest some of our clients' Digital Assets in initial coin offerings ("ICOs"). ICOs allow for investors to purchase certain Digital Assets offered or created by blockchain based companies on various platforms in exchange for dollars or already established Digital Assets which can then be converted to dollars on a Digital Asset exchange. Prior to an ICO, many blockchain based companies offer presale tokens or Digital Assets. Presale tokens or currencies may be sold or used to buy additional tokens or currencies at a later point in time for a potentially higher value than originally purchased for. We may invest on behalf of our clients in all stages, including presale rounds of ICOs. ICOs and various token presales are currently unregulated and are subject to fraud, security breaches, regulatory developments, enforcement actions, and technological developments. There is no guarantee that the token or currency purchased will have any value or worth. ICOs can at any point become subject to federal and state securities laws, federal commodity laws, and various international regulations, among other restrictions. The SEC has issued a release stating that, depending on the specific facts and circumstances of the Digital Asset in question, some ICOs may fall under securities regulation. Such future restrictions may have an adverse impact on our clients' assets or on our ability to sell our clients' assets. As investors can purchase new tokens with already existing Digital Assets, investments in ICOs and presales subject our clients to all risks associated with Digital Assets in general.

*Market Manipulation.* The Digital Asset markets are new and unregulated. In the past, such markets have been targets of market manipulation, which could adversely affect holders of the underlying assets, and thus our clients. Digital Asset transaction validators or other syndicates could collude to raise and lower prices artificially. Individuals, entities, or groups could conspire to manipulate prices through "pump and dump" strategies, or other tactics. Other schemes, syndicates, groups, or individuals could play a part in manipulating markets to the detriment of our clients.

*Exchange Issues.* The online and offline exchanges on which Digital Assets trade are relatively new and largely unregulated and may therefore be more exposed to fraud and failure than established, regulated exchanges for other products. To the extent that the exchanges representing a substantial portion of the volume in Digital Asset trading are involved in fraud or experience security failures or other operational issues, such exchanges' failures may result in a reduction in the value of Digital Assets and can adversely affect an investment in our clients. Errors in pricing, communication, recording transactions, or other errors may occur frequently.

Some Digital Asset exchanges have been closed due to fraud, failure (lack of sufficient capitalization or low profit margins), security breaches or operational difficulties. In many of these instances, the customers of such exchanges were not compensated or made whole for the partial or complete losses of their account balances in such exchanges. While smaller exchanges are less likely to have the infrastructure and capitalization that make larger exchanges more stable, larger exchanges are more likely to be appealing targets for hackers and "malware" (*i.e.*, software used or programmed by attackers to disrupt computer operation, gather sensitive information or gain access to private computer systems).

A lack of stability in the Digital Asset exchanges and the closure or temporary shutdown of exchanges due to fraud, business failure, or hackers or malware may reduce confidence in Digital Assets and result in greater volatility in the value of Digital Assets. These potential consequences of an exchange's failure could adversely affect an investment in our clients.

*Errors in Execution of Transactions or Theft.* Digital Asset transactions are generally irrevocable, and stolen or incorrectly transferred Digital Assets are likely irretrievable. As a result, any incorrectly executed Digital Assets transactions could adversely affect an investment in one of our clients. Digital Asset transactions are not normally, from an administrative perspective, reversible. Once a transaction has been verified and recorded, an incorrect transfer of Digital Assets or a theft of Digital Assets generally will not be reversible and we will normally not be capable of seeking compensation for any such transfer or theft on our clients' behalf. Although our clients' transfers of Digital Assets may be regularly made to or from such client's accounts, it is possible that, through computer or human error, or through theft or criminal action, the client's Digital Assets could be transferred from the client's accounts in incorrect quantities or to unauthorized third parties. To the extent that we are unable to seek a corrective transaction with such third party or is incapable of identifying the third party which has received the client's Digital Assets through error or theft, the client will be unable to revert or otherwise recover incorrectly transferred Digital Assets. It is more likely than not that we will be unable to seek redress for such error or theft, and such loss could adversely affect an investment in such client. Further, at this time, there is no U.S. or foreign governmental, regulatory, investigative, or prosecutorial authority or mechanism through which to bring an action or complaint regarding missing or stolen Digital Assets.

*Effect of Inability to Effectively Monitor, Maintain, or Update Digital Assets Protocols, Software, or other Technology.* The software, protocols, or other technology associated with a Digital Asset can sometimes prove insufficient to handle the volume, speed, or type of transactions demanded by users of that Digital Asset. In these cases, a change or upgrade in the network's protocol, software or technology may be required. If there is no centralized authority to determine the required changes, the peers in the network (transaction validators), or other actors, must determine what change is to occur and how that change will be handled. If one group of transaction validators does not agree with another on the type of protocol/software change/upgrade that should occur, a fork can occur. If a disagreement occurs, this can negatively affect the value of one or more Digital Assets. There may also be a lack of incentive for transaction validators to work on solutions for network protocol, software, or other issues. If transaction validators are not compensated sufficiently for their work on such solutions, they may not attempt to create a solution. It is also possible that groups of transaction validators could collude to create a solution that would negatively affect the value of one or more Digital Assets. It is also possible that a new update is successfully launched, but the new update turns out to negatively affect the value of one or more Digital Assets. It is also possible that protocol or software upgrades fail due to limitations inherent in a specific Digital Asset's underlying technology or structure. Regardless of whether a Digital Asset's governance and/or ledgering is centralized or decentralized, it may encounter similar or different difficulties in monitoring, maintaining, or updating their protocols, software, or other technology.

*Hacking.* Hackers or malicious actors may launch attacks to steal, compromise, or secure Digital Assets, such as by attacking Digital Asset network source code, exchange servers, third-party platforms, cold and hot storage locations or software, or Digital Asset transaction history, or by other means. As our clients increase in size, clients may become a more appealing target of hackers, malware, cyber-attacks or other security threats. As a result, we will undertake efforts to secure and safeguard the Digital Assets in its custody from theft, loss, damage, destruction, malware, hackers or cyber-attacks, which may add significant expenses to the operation of our clients. There can be no assurance that such security measures will be effective. At this time, there is no U.S. or foreign governmental, regulatory, investigative, or prosecutorial authority or mechanism through which to bring an action or complaint regarding missing or stolen Digital Assets. Consequently, our clients may be unable to replace missing Digital Assets or seek reimbursement for any theft of Digital Assets, adversely affecting an investment in our clients.

*Constant World-Wide Trading.* A blockchain is constantly active, and so are Digital Asset exchanges, such that trading occurs on a 24/7 basis worldwide. We do not maintain constant engagement with this worldwide and constant ecosystem.

*Evolving and Non-Existent Regulation.* Regulation of Digital Assets and associated exchanges and enterprises is currently being developed and likely to continue to rapidly evolve. The promulgation of any additional U.S. or international laws or rules, a material change in applicable legal or regulatory requirements, or an adverse review by

an applicable judicial authority of any such law or regulation, could have a material (and potentially adverse) effect upon the price of any such Digital Assets and on the operations and/or financial performance of investments with exposure to any such Digital Assets, and may severely impact the development and growth of the Digital Asset market. Further, any such additional regulation or change in existing regulation, and the uncertainty surrounding Digital Asset regulation more generally, will or may, to the extent of our clients' investment in such Digital Assets, subject our clients to increased costs to comply with new or developing requirements or regulations as well as to monitor for compliance with any new requirements or regulations going forward.

*Underlying Currency Risk.* Many Blockchain-Related Opportunities and Investments require exposure to a coin, token or other Digital Asset that forms the basis of the opportunity or investment, such that such opportunities or investments entail additional risk due to the fluctuation, instability, or other risks arising from the coin, token, or Digital Asset in question.

A potential investor in one of our clients should note that the prices of Digital Assets, and other instruments in which our clients, directly or indirectly, invest may be unavailable. Market movements are difficult to predict and are influenced by, among other things, government trade, fiscal, monetary and exchange control programs and policies; changing supply and demand relationships; national and international political and economic events; changes in interest rates; and the inherent volatility of the marketplace. In addition, governments from time to time intervene, directly and by regulation, in certain markets, often with the intent to influence prices directly. The effects of governmental intervention may be particularly significant at certain times in the financial instrument and currency markets, and such intervention (as well as other factors) may cause these markets and related investments to move rapidly.

Several factors may affect the price of Digital Assets, including, but not limited to: supply and demand, reputation of the Digital Asset, perceptions of Digital Assets generally, traditional market factors, hacking and other security events, performance of the underlying blockchain including both the relative speed and security of the blockchain, but also intentional obstruction of competing blockchains or secondary platforms, investors' expectations with respect to the rate of inflation, interest rates, currency exchange rates or future regulatory measures (if any) that restrict the trading of Digital Assets or the use of Digital Assets as a form of payment. There is no assurance that Digital Assets will maintain their long-term value in terms of purchasing power in the future, or that acceptance of Digital Asset payments by mainstream retail merchants and commercial businesses will continue to grow.

*Insecurity of the Internet.* While we intend to use best practices for data storage and transmission, at some points during transferring client Digital Assets, clients may be required to interface with outside entities whose methods, practices and standards may be outside of our control or who may be under the influence of bad actors. Events may occur where a client transfer is penetrated by bad actors, which could compromise our client's operation or result in loss of Digital Assets, adversely affecting an investment in our clients.

*Risks Common to Traditional Markets and Investments and Blockchain-Related Opportunities and Investments.* The risks described herein in regard to traditional markets and investments apply, in many respects, due to the fact that participants in, and developers of, blockchain-related opportunities and investments are fashioning analogues to traditional markets and investments. In other words, the same flaws and risks and malfeasance present in traditional markets are inherently introduced to the blockchain ecosystem when developers and market participants rely upon, or act in light of, their experience with traditional markets, investments, and techniques. Such risk disclosures are therefore relevant to blockchain-related opportunities and investments, as one can reasonably expect to encounter the same risks albeit under the guise of the particular nomenclature and structure of the blockchain landscape.

*CFTC or SEC Regulation.* In regard to Digital Assets and related investments, there are a number of risks that arise from the fact the CFTC, SEC, and other government agencies are still presently working to develop proposals for regulating Digital Asset markets and offerings, and are also, in the meantime, initiating investigations and enforcement actions that seek to apply rules originally formulated well before the invention of blockchain technology. Current and future legislation, CFTC and SEC rulemaking and other regulatory developments may impact the manner in which Digital Assets are treated for classification and clearing purposes. In particular, certain Digital Assets are not excluded from the definition of a "commodity future" or "security" under CFTC and SEC

rules. We cannot be certain as to how future regulatory developments will impact the treatment of Digital Assets under the law.

To the extent that Digital Assets are deemed to fall further within the definition of a commodity future or further within the scope of CFTC jurisdiction pursuant to subsequent rulemaking by the CFTC, our clients and/or we may be required to register and comply with additional regulation under the CEA. Moreover, we may be subject to further requirements with the CFTC through the National Futures Association. Such additional registrations or disclosures may result in extraordinary, non-recurring expenses for our clients. If we determine not to comply with such additional regulatory and registration requirements, our clients may terminate and liquidate at a time that may be disadvantageous to investors.

*Future Regulatory Change is Impossible to Predict.* The securities and derivatives markets are subject to comprehensive statutes, regulations and margin requirements. Certain Digital Assets are, as discussed below, regulated as securities or commodities. The SEC, the CFTC, and the exchanges are authorized to take extraordinary actions in the event of a market emergency, including, for example, the retroactive implementation of speculative position limits or higher margin requirements, the establishment of daily price limits and the suspension of trading. The regulation of securities and derivatives both inside and outside the United States is a rapidly changing area of law and is subject to modification by government and judicial action.

We will invest in various types of Digital Assets, such as cryptocurrency, which are currently either not regulated, or are in the early stages of regulation by U.S. federal and state governments, or self-regulatory organizations. As Digital Assets have grown in popularity, certain U.S. agencies, such as FinCEN and the CFTC, have begun to examine most Digital Assets and the operations of Digital Assets in depth. Currently, the SEC has not formally asserted regulatory authority over Digital Assets. The CFTC has declared that some Digital Assets are commodities, but currently, only certain kinds of Digital Assets may be subject to CFTC jurisdiction. To the extent that any type of Digital Asset is determined to be a security, commodity, future or other regulated asset, or to the extent that a U.S. or foreign government or quasi-governmental agency exerts additional regulatory authority over the Digital Assets, our clients may be adversely affected.

Digital Assets currently face an uncertain regulatory landscape in not only the United States, but also in many foreign jurisdictions such as the European Union. Various foreign jurisdictions may, in the near future, adopt laws, regulations or directives that affect the Digital Asset network and its users, particularly Digital Asset exchanges and service providers that fall within such jurisdictions' regulatory scope. Such laws, regulations or directives may conflict with those of the United States and may negatively impact the acceptance of Digital Assets by users, merchants and service providers outside of the United States and may therefore impede the growth of the Digital Asset economy.

The effect of any future regulatory change on our clients is impossible to predict, but such change could be substantial and adverse.

*Risks Arising From a Lack of Regulatory Guidance and Ongoing Development of the Law as to the Custody Rule.* There are a number of risks that arise from the fact the SEC, CFTC, and other government agencies are still presently working to develop proposals for regulating Digital Asset markets and offerings, and are also, in the meantime, initiating investigations and enforcement actions that seek to apply rules originally formulated well before the invention of blockchain technology. As a result, our clients will incur legal costs as they seek to anticipate an evolving regulatory environment and to comply with new laws and regulations.

One area of particular uncertainty is how asset custody rules will ultimately be applied or revised. As explained more fully below, it is our intention to seek to follow the underlying principles of existing law, but it will be difficult to ensure we are correctly anticipating what the law will ultimately be or what regulators may decide to do in the interim, as one is presently obligated to seek analogous situations and apply the principles of law found there to comparable situations found in blockchain-based networks. That said, the persons who are creating Digital Assets and the blockchain framework are themselves generally working from traditional asset conceptions, such that many principles can reasonably be transferred. We are anticipating regulators will take the same approach.

Applying this approach to the issue of asset custody, we have looked first to determine what is the objective of asset custody rules. We have observed that the Congressional and Senate legislative histories identify this purpose.

Specifically, the legislative history of the Investment Company Act of 1940 (the ICA) expressly states Congress was concerned with the potential for misappropriation of liquid client assets.

These concerns are still valid. From Charles Ponzi to Bernie Madoff, there have been numerous instances where unscrupulous parties have convinced their clients they held cash and/or securities when, in fact, they did not. Ponzi's scheme collapsed spectacularly within a short time. Madoff, on the other hand, evaded regulatory scrutiny for years. One of the principal means by which Madoff was able to perpetrate his scheme was a lack of actual independent reconciliation of the bank accounts to the financial statements. By implication, the companion statute, the Investment Advisers Act of 1940 (the Advisers Act), has the same objective.

We looked next to determine what mechanism legislators chose to address this issue and determined that the rule requires liquid assets be held by persons who create objective records that auditors can periodically check to verify financial statements. To explain, Rule 206(4)-2 (the "custody rule") applies where a registered investment advisor ("RIA") has "custody" of client assets, meaning when the RIA (or its related person) directly or indirectly holds client funds or securities, or has any authority to obtain possession of them. This authority can arise out of custodial or advisory arrangements. Specifically, arrangements in which an RIA is presumed to have custody of client assets include when an RIA or an affiliate acts as general partner or managing member to a private fund. Where the custody rule applies, the regulations require that the liquid assets be held by a party who maintains objective records that can be accessed by auditors to ensure the assets are still where they should be. Such a person is called a qualified custodian. Specifically, if an RIA or its "related person" has custody of a client's assets (including funds and securities), Rule 206(4)-2(a)(1) requires the RIA to use a "qualified custodian" to maintain those client funds and securities in a separate account for the client under the client's name; or in accounts that contain only the client's funds and securities, under the RIA's name as agent or trustee for the client. A "qualified custodian" includes:

- (a) many federal and state chartered banks;
- (b) registered broker-dealers holding client assets in customer accounts;
- (c) registered futures commission merchants holding client assets in customer accounts (but generally only with respect to futures contracts and other securities incidental to transactions in futures and related options); and
- (d) foreign financial institutions that customarily hold financial assets for customers, provided that they keep advisory clients' assets in customer accounts segregated from its proprietary assets.

All of these parties keep records that auditors can use to reconcile financial statements against objective records. The regulations further require certain steps be taken to ensure accessibility to the records. For example, Rules 206(4)-2(a)(2), (a)(3) and (a)(4) impose certain notice, account statement, and examination requirements on RIAs if RIAs or their "related persons" have custody of client funds or securities (unless an exemption is met). When an adviser opens an account with a qualified custodian on the client's behalf, Rule 206(4)-2(a)(3) requires the RIA to notify the client in writing of the qualified custodian's name, address, and the manner in which the custodian maintains the funds or securities in the account, promptly when the account is opened and following any changes to this information. Rule 206(4)-2(a)(3) requires that the qualified custodian send account statements to each client for which it maintains funds or securities, unless an exemption applies. The statements, which must be sent at least quarterly, must identify the amount of funds and each security in the account at the end of the period, and all transactions during the period. RIAs must "have a reasonable basis, after due inquiry" for believing that the qualified custodian has sent the required account statements. Advisers have the option of sending their own account statements to their clients, in addition to those required to be sent by the qualified custodian. In this event, the notice to clients (summarized above) must include a statement "urging the client to compare the account statements from the custodian with those from the adviser." When the RIA (or a related person of the RIA) serves as general partner or the equivalent of a pooled investment vehicle, the qualified custodian must send the account statement to each beneficial owner of the fund. This is so unless the audit exception for pooled investment vehicles (described below) applies.

In sum, we determined the point of the asset custody rule is to deter the theft of liquid assets, and the means by which this is accomplished is to ensure assets are kept in locations that can be objectively verified by third-party records.

We next sought to apply these principles to the blockchain ecosystem. We first determined there are analogous means of ensuring that auditors can periodically verify from third-party records that the assets stated on our clients' financial statements are, in fact, where they should be. Specifically, we determined:

- When funds are moved from traditional markets to the blockchain ecosystem, it is necessary to first transfer funds to a third-party on-ramp provider, such as Coinbase. Additionally, these platforms permit trading in Digital Assets in a similar manner to traditional exchanges, and, in fact, these platforms are commonly referred to as exchanges. These platforms function in a manner that is analogous to the services of prime brokers. As such, the platforms maintain records of trades and, most importantly, current positions, that auditors can utilize to verify client holdings.
- These platforms also permit the withdrawal of Digital Assets onto the native blockchain records systems that support particular digital assets. However, when this occurs, the blockchain itself provides an address that is analogous to a safe-deposit box. So-called "public" blockchains permit access to the contents of the address in real time through widely available software. Only the name of the holder is private, and this knowledge can be provided by the holder. Thus, at any time, we may provide auditors with access to the addresses where a client is holding its assets, and the auditors may examine and verify those contents. Blockchain records are, by design, maintained in hundreds of independent locations that the blockchain software constantly and automatically cross-checks and safeguards. To explain, a blockchain is comprised of redundant ledgers held in multiple locations that are constantly being reconciled against each other to validate transactions. Efforts to insert an unauthorized transaction into a ledger are prevented by this process of constant validation. Validated transactions are stored in addresses on the blockchain that can be observed by anyone yet cannot be manipulated. Thus, the blockchain itself is analogous to a bank, although the blockchain is more transparent (imagine safety-deposit boxes with glass doors that one can observe walking past the bank) and access to blockchain records is considerably easier and the records instantaneously show exact current holdings.
- Blockchains support various types of Digital Assets. In some cases, these Digital Assets have derivatives to which access is provided by the issuers of those Digital Assets. In other words, a person may withdraw a digital coin from an exchange onto the blockchain, and may later trade that coin for a token by means of a swap-site. In such a transaction, the swap-site functions in a manner that is, again, analogous to a bank, since the records of tokens issued to the holder are instantly accessible to the holder and therefore can be provided to an auditor at any time.

Having identified these mechanisms, we fashioned and adopted internal policies that permit the fundamental regulatory objective of asset custody rules to blockchain-based systems. Specifically, it is our policy to:

- Only utilize on-ramps / exchanges that provide records a client's auditors can access on demand.
- Only utilize blockchains that publish the contents of addresses that a client's auditors can access with private keys provided by the client. In other words, a client uses public blockchains such as Bitcoin, and not encrypted blockchains, such as Monero.
- Only utilize blockchains that effectively validate and preserve transaction ledgers.
- Conform a client's transaction record in such a manner as to permit a client's auditors to confirm transactions and present holdings at any time.

While we believe these measures appropriately and faithfully apply existing regulatory objectives and principles, we still face uncertainty because of the unavailability of comparable regulatory guidance. Our clients' conduct in traditional markets is governed by eighty years of legislation and regulation. But, the most recent regulations in regard to custody are out of date in regard to Digital Assets. The most recent revisions were made in 2009. These revisions were made to address the Madoff scandal. They have not been updated to address blockchain technology and therefore can only provide guidance by analogy. Moreover, the blockchain ecosystem is rapidly and constantly

evolving, such that we are constantly having to adapt our procedures without the benefit of legislative or regulatory guidance.

Indeed, the regulators themselves have expressed uncertainty as to how laws and regulations will ultimately be adapted to blockchain-based systems. The staff of the SEC raised these issues in a letter dated January 18, 2018 by Dalia Blass, Director of the Division of Investment Management:

The 1940 Act imposes safeguards to ensure that registered funds maintain custody of their holdings. These safeguards include standards regarding who may act as a custodian and when funds must verify their holdings. To the extent a fund plans to hold cryptocurrency directly, how would it satisfy the custody requirements of the 1940 Act and relevant rules? We note, for example, that we are not aware of a custodian currently providing fund custodial services for cryptocurrencies. In addition, how would a fund intend to validate existence, exclusive ownership and software functionality of private cryptocurrency keys and other ownership records?

These custody issues carry over to settlement of Digital Asset-related derivatives. That is, when a client holds derivatives that are based on the value of an underlying Digital Asset, the futures commission merchant, which holds the derivative position for the benefit of our client, will satisfy the qualified custodian requirements. But a client that takes a long position in a Bitcoin futures contract may be required to accept Bitcoin when the contract matures, or to deliver Bitcoin to a futures commission merchant upon settlement of a short position. The Blass Digital Asset letter noted the challenges that registered funds will face when taking positions in Digital Asset-based derivatives:

While the currently available bitcoin futures contracts are cash settled, we understand that other derivatives related to cryptocurrencies may provide for physical settlement, and physically settled cryptocurrency futures contracts may be developed. To the extent a fund plans to hold cryptocurrency-related derivatives that are physically settled, under what circumstances could the fund have to hold cryptocurrency directly? If the fund may take delivery of cryptocurrencies in settlement, what plans would it have in place to provide for the custody of the cryptocurrency?

While we believe these challenges can be addressed, and indeed we believe our policies appropriately do so, the fact regulators are still in the design stage introduces considerable uncertainty. Moreover, in the absence of legislative action, regulators have been developing the law by means of issuing Wells notices and, worse, bringing enforcement actions in order to attempt to obtain legal precedents. In other words, instead of being able to rely upon clear legislation and regulatory safe-harbors and guidance, our clients and ourselves may be targets of an enforcement action designed principally to set a precedent.

In sum, we presently anticipate this issue will resolve in two ways. First, because blockchain technology provides for rapid validation and transparency, regulations could be written that mirror what has already been developed to comply with the substantive objective of the custody rule. Second, some qualified custodians have begun to accept Digital Asset custody accounts, and more are expected to enter that business, even though, at present, our attempts to utilize parties holding themselves out as qualified custodians have shown these parties do not have the capacity to provide the requisite records or operational support one would expect from a qualified custodian. In one case, for example, the qualified custodian's records were hopelessly inaccurate.

To be sure, however, the current environment of persistent uncertainty cannot last; as the markets for Digital Assets mature, so too will custody standards. Custodians, auditors and other trusted parties that comprise the infrastructure for reliable custody in the securities markets will develop a battery of tailored procedures appropriate to this new and growing asset class.

We will comply with these laws and regulations as they emerge. Additionally, we are presently expending resources in an attempt to establish procedures, as referenced above, that regulators may ultimately adopt. If so, we will have correctly anticipated future law. If not, we may be forced to expend additional resources to conform to the law as it ultimately develops.

One concern we observe is that the purpose of the asset custody rules is sometimes confused with the notion of reasonable safeguarding of a fund's assets. To be clear, Digital Assets are essentially bearer assets. In general, a bad actor who obtains possession of the private key can, in theory, misappropriate the asset, no matter where the private key is maintained. That said, this is also true of traditional assets. We have the capacity to move any liquid asset. Thus, we do not believe a discussion of risk management issues should be interwoven with a discussion of



whether checks and balances in traditional financial systems are available in blockchain-based payment systems. Yet, we have observed this issue comes up regularly, both in presentations of regulators and in compliance commentaries.

We have, of course, disclosed that there are different tradeoffs made in traditional payment systems and blockchain-based payment systems. In a traditional payment system, such as the ACH system, there are built-in delays that afford users of the system opportunities to object and to reverse unauthorized transactions. In contrast, blockchain systems prioritize speed over a safety net. Traditional systems have also been hardened against external tampering by many years of practice and incremental improvement. Blockchain systems are still vulnerable in many respects. Hackers are constantly attempting to circumvent security measures, and technicians are constantly improving those measures utilizing, in some cases, costly failures as methods of learning the hard way. On the other hand, notwithstanding these challenges, blockchain systems present efficiencies in regard to trade execution and positioning that are simply not available in any other forum. We also perceive that investors desire early access to the benefits inherent in participation in a developing economic system, and also to present access to very large marketplaces that cannot be obtained without the development of competence in the unique and constantly evolving procedures being used to exploit the advantages of blockchain technology.

*Legality of Digital Assets.* It may be illegal, now or in the future, to own, hold, sell or use certain Digital Assets in one or more countries, including the United States. Although currently most Digital Assets are not regulated or are lightly regulated in most countries, including the United States, one or more countries may take regulatory actions in the future that severely restrict the right to acquire, own, hold, sell or use Digital Assets or to exchange Digital Assets for fiat currency. Such an action may restrict our clients' ability to hold or trade Digital Assets, and could result in termination and liquidation of our clients at a time that is disadvantageous to Limited Partners, or may adversely affect an investment in our clients.

There exists the possibility that while acquiring or disposing of Digital Assets, our clients unknowingly engage in transactions with bad actors who are under the scrutiny of government investigative agencies. As such, our clients' systems or a portion thereof may be taken off-line pursuant to legal process such as the service of a search and/or seizure warrant. Such action could result in the loss of Digital Assets previously under the clients' control.

*Malicious Actor or Botnet.* Malware is software used or programmed by malicious actors to disrupt computer operation, gather sensitive information or gain access to private computer systems. "Botnet" refers generally to a group of computers that use malware to compromise computers whose security defenses have been breached. To the extent that a malicious actor, cyber-criminal, computer virus, hacker, or botnet obtains a majority of the processing power on a Digital Asset network; alters the source code and blockchain on which all of a Digital Asset's transactions rely; or prevents the use, transfer, ownership, or integrity of a Digital Asset, an investment in our clients could be adversely affected.

*Risk Associated with Smart Contracts and Decentralized Finance (DeFi).* We may invest and engage in automated protocols that function via smart contracts (Smart Contracts). A Smart Contract is a self-executing contract with the terms of the agreement between buyer and seller being directly written into lines of code. The code and the agreements contained therein exist across a distributed, decentralized blockchain network. The code controls the execution, and transactions are trackable and irreversible. Smart Contracts allow buyers and sellers to exchange money, property, shares, or anything of value in a transparent way while avoiding the services of a middleman. Our clients may particularly engage in Decentralized Finance (DeFi) protocols. DeFi protocols promote the use of decentralized networks and open-source software to create multiple types of financial services and products such as peer-to-peer lending, borrowing, automated asset management, derivatives, synthetic assets creation, staking certificates, decentralized exchanges and prediction markets. Each DeFi application and protocol holds its specific risks, such as liquidity risks, risks related to the malfunctioning of the algorithm that automated some of the protocols, technical risks arising from Smart Contracts not operating as intended due to, among other things, inherent risks with new software, risks related to external information influencing how the Smart Contracts operate to the detriment of other users (for example, an oracle could provide malicious data, and an administrator could change a system parameter or governance procedures could be co-opted), and risks associated with the fact many Smart Contract protocols, especially in the DeFi space rely on economic incentives to encourage network

participants to perform certain actions, which may change over time or be inadequate to persuade cooperation as intended by the creator of the Smart Contract.

*Proposed Private Fund Adviser Rules.* On February 9, 2022, the SEC proposed new rules and rule amendments under the Advisers Act that would, if adopted, significantly impact and effect private fund advisers, including those registered with the SEC and those exempt from registration (the “Proposed Private Fund Adviser Rules”). The Proposed Private Fund Adviser Rules generally provide for (i) increased transparency with respect to fee and expense disclosure and financial performance disclosures, (ii) mandatory annual audits of private funds and guidance on reporting standards and record-keeping requirements, (iii) new requirements with respect to certain adviser-led secondary transactions, including requirements to obtain third-party fairness opinions in connection with such transactions, and (iv) prohibitions and restrictions on certain practices and activities of private fund advisers with respect to private funds managed thereby, including, but not limited to, exculpation, standard of care and indemnification provisions relating to private fund advisers, charging fees or expenses related to a portfolio investment on a non-pro rata basis, borrowing from a private fund and certain types of preferential treatment of particular investors. It is anticipated that the Proposed Private Fund Adviser Rules will be subject to substantial public and industry comment. Accordingly, it is not clear whether or not any or all of the proposed new rules will ultimately be adopted by the SEC or materially changed from their current form. If adopted, however, the Proposed Private Fund Adviser Rules could significantly increase the costs of compliance for private funds and private fund advisers, including us and the Funds, and require significant amendments and revisions to the governing documents of the Funds.

**THE FOREGOING RISK FACTORS DO NOT PURPORT TO BE A COMPLETE DESCRIPTION OF ALL OF THE RISKS ASSOCIATED WITH OUR INVESTMENT PROGRAM. PROSPECTIVE INVESTORS SHOULD CAREFULLY REVIEW THE APPLICABLE OFFERING MATERIALS IN THEIR ENTIRETY BEFORE MAKING ANY INVESTMENT DECISIONS.**

### **Item 9: Disciplinary Information**

Neither we nor any of our employees have been involved in any legal or disciplinary events related to past or present investment clients or investors.

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

### **AFFILIATED GENERAL PARTNER AND INVESTMENT MANAGER**

As mentioned in Item 4 above, Precept Capital Management, L.P., our affiliate (the “PCM”), serves as general partner of the Funds and, in such capacity, may be deemed to be an “investment adviser” (as such term is defined in the Advisers Act). While we and PCM has been organized as a separate legal entity, we collectively conduct a single advisory business. Accordingly, PCM relies on our investment adviser registration instead of separately registering as an investment adviser with the SEC under the Advisers Act. To rely on our registration, we have entered into an investment management supervisory agreement with PCM, pursuant to which, among other things, (i) PCM, its employees and persons acting on its behalf are “persons associated with” and “supervised persons” (as each term is defined in the Advisers Act) of Precept Management, LLC, (ii) the investment advisory services of PCM, its employees and persons acting on its behalf are subject to our supervision and control, (iii) any investment advisory functions of PCM are subject to the Advisers Act and the rules and regulations thereunder, and (iv) the activities and books and records of PCM are subject to inspection and examination by the SEC. PCM is subject to our compliance policies and procedures.

### **ADVISORY AFFILIATES**

We are affiliated and under common control with other SEC-registered investment advisers including, without limitation, 9823 Capital, L.P. (collectively, the “Affiliated Advisers”), which are ultimately owned and controlled by D. Blair Baker. We and the Advisory Affiliates pursue or may pursue the same or similar investment strategies and/or invest in the same investments. We share or may share office and personnel with the Affiliated Advisers, and our Chief Compliance Officer also serves as Chief Compliance Officer with respect to the Affiliated Advisers. The activities, investments and operations of the Affiliated Advisers and the private funds and other clients managed thereby pose or raise actual or potential conflicts of interest.

### **COMMODITY POOL OPERATOR, COMMODITY TRADING ADVISOR, FUTURES COMMISSION MERCHANT REGISTRATION**

Precept Capital Management, L.P. is currently not registered with the Commodity Futures Trading Commission (the “CFTC”) as a commodity pool operator with respect to the Funds pursuant to an exemption provided by CFTC Rule 4.13(a)(3), as applicable.

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

### **CODE OF ETHICS**

We have adopted and implemented a code of ethics, which sets forth standards of business conduct for our employees. Our code of ethics is primarily designed to educate employees about our philosophy regarding ethics and professionalism, emphasize our fiduciary duties to clients, encourage employees to comply with applicable laws, prevent the misuse of material non-public information and address conflicts of interest that arise from personal trading by our employees. Among other things, we impose restrictions on all access persons relating to the purchase or sale of securities for their own accounts and the accounts of certain affiliated persons. Our code of ethics generally requires for our access persons to assure that personal trades in securities present no conflict with trades being conducted by or considered for the Funds. The Chief Compliance Officer is responsible for reviewing all personal trading by access persons on a regular basis. Investments by our access persons in initial public offerings or private placements must be approved by our Chief Compliance Officer. Our access persons must also report all trades in which they had or acquired any direct or indirect beneficial ownership on a regular basis, and must report all securities holdings on a regular basis. We will furnish a copy of our code of ethics to investors and prospective investors upon request.

### **PERSONAL TRADING**

Subject to various restrictions set forth in our code of ethics, our employees, principals and access persons may purchase for themselves securities purchased for, or recommended to, the Funds. Allowing employees, principals and access persons to purchase these securities may motivate those employees, principals or access persons to engage in “piggy backing,” which is the practice of conducting a personal securities transaction based on information they have received in the course of conducting a similar transaction on behalf of a client, or in the practice of “front running,” which is the practice of executing orders on an employee’s personal account while taking advantage of advance knowledge of pending orders from its clients. To prevent these practices, we closely monitor the investments made by our employees and principals and strictly prohibit “piggy backing” and “front running.”

### **PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS**

Some of our principals, employees and access persons also invest in the Funds as limited partners and may, from time to time, allocate a portion of their compensation to capital contributions to these accounts.

We periodically engage in cross trades between Funds when price fluctuations of a particular Fund’s holdings cause target asset allocation ratios in one or more of its Funds to become imbalanced, for tax or liquidity purposes, or to reduce transaction costs that may arise in an open market transaction. A Fund could be a purchaser or a seller in a cross transaction. We also may seek to rebalance the portfolios of the Funds on a monthly or quarterly basis to reflect contributions and redemptions that are disproportionate among the Funds (“rebalancing transactions”). In rebalancing transactions, we may sell securities from one or more Funds and purchase the securities for one or more other Funds in a simultaneous transaction so that each Fund maintains the same *pro rata* ownership of each securities position. A Fund could be a purchaser or a seller in a “rebalancing” transaction. We generally expect to execute cross trades (if applicable) with the assistance of a broker that executes and books the transaction at the close of the market on the day of the transaction. We generally do not receive compensation in connection with such rebalancing transactions.

As disclosed above in Item 4, we have caused and may from time to time in the future cause a Fund to invest all or any portion of its assets in one or more other Funds. Where we effect a transaction between one or more of the Funds, we may be deemed to engage in a principal transaction if our controlling person(s) (or affiliates thereof) owns (directly or indirectly) more than 25% of any one of such Funds. In such situation, we will endeavor to comply in all material respects with the requirements of Section 206(3) of the Advisers Act including, without limitation, by providing written disclosures to the applicable investors and obtaining the consent of at least a majority in interest of such applicable investors.

Our employees, principals, access persons and affiliates generally are permitted to co-invest alongside a Fund in an investment opportunity, subject to our Chief Compliance Officer’s approval. Allowing employees, principals, access persons and affiliates to invest for their personal accounts at the same time, or about the same time, as they invest for the Fund(s) may motivate such employees, principals and affiliates to favor their personal accounts. To prevent any conflict of interest, the Funds will have first priority to investment opportunities, and such employees,

principals, access persons and affiliates must allow clients a reasonable time to act on such investment opportunities before personally acting on them. Additionally, any employee, principal, access person or affiliate investment must be approved by our Chief Compliance Officer.

In addition to the foregoing, we may cause a Fund to engage or enter into transactions and arrangements involving actual or potential conflicts of interest. We will review any such transactions involving material conflicts of interest and take such actions as we deem necessary or appropriate under the circumstances in an attempt to ensure that the terms of such transactions are fair and reasonable (including, without limitation, obtaining the consent of a majority in interest of the applicable investors).

## Item 12: Brokerage Practices

### SELECTING BROKERAGE FIRMS

In general, we have authority to determine the brokers, futures commission merchants and other counterparties to be used for client transactions and negotiate commission rates and other monies paid by clients. We select broker-dealers on the basis of obtaining the best overall terms available (*i.e.*, best price and execution of transactions), which we evaluate based on a variety of factors, including among other things: the ability to effect prompt and reliable executions at favorable prices (including the applicable dealer spread or commission, if any); the operational efficiency with which transactions are effected, taking into account the size of order and difficulty of execution; the financial strength, integrity and stability of the broker; the broker's risk in positioning a block of securities; the quality, comprehensiveness and frequency of available research services and other services considered by us to be of value; and the competitiveness of commission rates in comparison with other brokers satisfying our other selection criteria. Research and related services furnished by brokers include written information and analyses concerning specific securities, companies or sectors; market, financial and economic studies and forecasts; statistics and pricing services; discussions with research personnel; and hardware, software, data bases and other news, technical and telecommunications services and equipment used in the investment management process. We may pay commissions in excess of that which another broker might charge for effecting the same or similar transactions, in recognition of the value of the brokerage and/or research services provided by brokers. Because commission rates in the United States as well as other jurisdictions are negotiable, selecting brokers on the basis of considerations which are not limited to applicable commission rates may at times result in higher transaction costs than would otherwise be obtainable. The investor accounts that ultimately bear the cost of such a commission for a particular trade will not necessarily be the sole beneficiary of such research. Subject to being satisfied that we are obtaining best execution, we may consider referrals of investors in selecting among brokers that otherwise satisfy our selection criteria.

### BEST EXECUTION

In placing orders to purchase and sell securities, our policy is to seek the best net execution, which includes both commissions and execution prices. Orders are placed with brokers or dealers, which we believe are responsible and provide effective execution of such orders under conditions most favorable to the accounts.

### SOFT DOLLAR PRACTICES

We have the option to use "soft dollars" generated by the Funds to pay for the research and non-research related services provided by brokers. The term "soft dollars" refers to the receipt by an investment manager of products and services provided by brokers (including research), without any cash payment by us, based on the volume of revenues generated from brokerage commissions for transactions executed for our clients. The products and services available from brokers include both internally generated items (such as research reports prepared by employees of the broker) as well as items acquired by the broker from third parties (such as quotation equipment).

Using "soft dollars" to obtain investment research and/or related services creates a conflict of interest between us and our managed accounts, because the soft dollars may be used to acquire such products and services that are not exclusively for the benefit of the managed accounts which paid such commissions and that may primarily or exclusively benefit us. To the extent that we are able to acquire these products and services without expending our own resources (including management fees paid by managed accounts), our use of "soft dollars" would tend to increase our profitability. Furthermore, we may have an incentive to select or recommend brokers based on our interest in receiving research or other products or services, rather than on our clients' interest in receiving most favorable execution. We may cause clients to pay commissions (or markups or markdowns) higher than those charged by other brokers in return for soft dollar benefits.

Soft dollar benefits generally are used to service all of our clients. We seek to allocate soft dollar benefits among client accounts in a fair and equitable manner under the circumstances, but there can be no assurance that we will be successful in this regard.

During the last fiscal year, we acquired research services, pricing services and news feeds as soft dollar items.

Section 28(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), provides a safe harbor to advisers who use soft dollars generated by client accounts to obtain investment research and brokerage services

that provide lawful and appropriate assistance to us in the performance of investment decision-making responsibilities. We intend that any soft dollars that we receive in connection with client-related matters would be within the limitations set forth in Section 28(e) of the Exchange Act.

#### **BROKERAGE FOR CLIENT REFERRALS**

In selecting or recommending brokers, we do not consider whether we or our related persons receive client or investor referrals from such brokers.

#### **DIRECTED BROKERAGE**

We do not routinely recommend, request or require that a client direct us to execute transactions through a specified broker-dealer, nor do we allow our clients to direct brokerage for order execution purposes.

#### **ORDER AGGREGATION**

We may place aggregated orders or block trades for multiple clients when such action is in the clients' best interests to do so. For example, we may be able to obtain a more favorable price or a better commission rate based upon the volume of a particular transaction. However, we are not required to, or may not be able to, aggregate client trades in all circumstances or with respect to all transactions or any particular transaction. When an aggregated order is completely filled, we generally allocate the securities purchased or sale order. Adjustments or changes may be made under certain circumstances, such as to avoid odd lots or excessively small allocations. If the order at a particular broker is filled at several different prices, through multiple trades, generally all such participating client accounts generally will receive the average price and pay the average commission, subject to odd lots, rounding and market practice. If an aggregated order is only partially filled, our procedure generally is to allocate the securities or proceeds in a manner that we deem to be fair and equitable to the participating clients. Depending on the investment strategy pursued and the type of security, this may result in a pro rata allocation to all participating clients.

#### **ALLOCATION OF INVESTMENT OPPORTUNITIES**

We generally allocate investment opportunities among our clients in a fair and equitable manner based upon, among other things, the investment objectives, guidelines and restrictions, risk profiles, financial conditions and tax status of each client. If each participating client receives less than its full allocation, then each participating client generally receives its *pro rata* portion of the executed order. Under certain circumstances, we have discretion to utilize alternative allocation procedures, provided that all participating clients are treated fairly and equitably.



### **Item 13: Review of Accounts**

#### **PERIODIC REVIEWS**

Except with respect to Precept Credit Opportunities Fund, L.P., D. Blair Baker, our President, Chief Executive Officer and Manager, generally conducts reviews of all client accounts on a daily basis. With respect to Precept Credit Opportunities Fund, L.P., Mr. Baker generally conducts reviews of its portfolio on at least a monthly or quarterly basis. With respect to accounting matters, we have engaged Spicer Jeffries LLP to conduct an annual audit of each Fund.

We invest client assets in securities and other financial instruments. In monitoring the performance of the investments, we perform various levels of review. Among other items, we consider short and long-term rates of return, investment diversification and risk allocations as part of our regular review.

#### **ADDITIONAL REVIEWS**

We may conduct additional or more frequent reviews upon the occurrence of major market movements, earnings announcements or other news events.

#### **REPORTS TO INVESTORS/CLIENTS**

We generally provide investors in each of the Funds with annual audited financial statements, quarterly capital account statements, and annual U.S. income tax information. All such statements and reports are written.

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

### **THIRD PARTY COMPENSATION**

Except as described in “**Item 12: Brokerage Practices**,” we currently do not receive any economic benefit from any person who is not a client for providing investment advice or other advisory services to our clients.

### **REFERRALS**

We currently do not compensate any other person for client or investor referrals.

### **Item 15: Custody**

We have, or may be deemed to have, “custody” of each Fund’s cash and securities as general partner of the Funds. In accordance with Rule 206(4)-2 under the Advisers Act, each Fund’s cash and securities (except for privately offered securities or as otherwise set forth in Rule 206(4)-2) are held with one or more qualified custodians. Goldman, Sachs & Co., JP Morgan Securities, LLC, Interactive Brokers, LLC, Merrill Lynch Professional Clearing Corporation, and U.S. Bank National Association currently serve as qualified custodians to The Precept Fund, L.P. Merrill Lynch Professional Clearing Corporation serves as qualified custodian to Precept Special Situation Fund, L.P. The Funds each have bank accounts with Texas Capital Bank, N.A. We may change the custodians at any time and from time to time without the consent of, or notice to, investors. We have engaged Spicer Jeffries LLP to conduct an annual audit of each Fund, and audited financial statements (prepared in accordance with generally accepted accounting principles) are provided annually to investors. We attempt to provide such statements to investors within 120 days after the end of each fiscal year, but there can be no assurance that we will be successful in this regard. Qualified custodians do not send account statements directly to investors.

## Item 16: Investment Discretion

### **DISCRETIONARY AUTHORITY**

We and our Advisory Affiliate generally have discretionary power and authority to determine the types of financial instruments to be bought or sold, as well as the amount to be bought or sold on behalf of our clients. We and our Advisory Affiliate have authority to determine the broker-dealers, futures commission merchants or other counterparties used for client transactions and the negotiation of commission rates and other consideration to be paid by the Funds.

### **LIMITED POWER OF ATTORNEY**

Each investor in the U.S. Funds generally grants to us or our affiliate a limited power of attorney to enable us to execute the applicable partnership agreement (and take various other limited actions) on their behalf. We have authority to conduct authorized trading on behalf of each of the Funds.

## Item 17: Voting Client Securities

### **VOTING POLICIES**

We have the authority to vote proxies on behalf of the Funds. Rule 206(4)-6 under the Advisers Act requires registered investment advisers that exercise voting authority over client securities to implement proxy voting policies and procedures. In accordance with such rule, we have adopted proxy voting policies and procedures in our compliance manual. In general, our policy is to vote proxy proposals, amendments, consents or resolutions relating to Fund securities in a manner that serves the best interests of the Funds, as determined in our discretion, taking into account various factors. Investors generally may not direct or otherwise influence our vote with respect to any particular proxy solicitation. Investors may obtain copies of our proxy voting policy, together with information regarding how we have voted past proxies, by contacting us.

### **CONFLICT OF INTEREST**

Where a material conflict of interest has been identified and the matter is covered by our proxy voting policy, the Chief Compliance Officer will vote proxies in accordance with our proxy voting policy.

Where a material conflict of interest has been identified, the Chief Compliance Officer will disclose the conflict to D. Blair Baker. The Chief Compliance Officer will then determine the manner in which to vote the proxy proposal, considering, without limitation, the following: (i) whether adoption of the proposal would have a positive or negative impact on the issuer's short-term or long-term value; (ii) whether the proposal itself is well framed and reasonable; (iii) whether implementation of the proposal would achieve the objectives sought in the proposal; and (iv) whether the issues presented would best be handled through government or issuer-specific action. Our Chief Compliance Officer will determine the appropriate course of action, document the basis for the decision and will furnish the documentation to us.

If an appropriate course of action cannot be determined, we will, at our expense, engage the services of an outside proxy voting service or consultant, and we will vote in accordance with such voting service's or consultant's recommendation.

### **Item 18: Financial Information**

We do not have any financial commitment that impairs our ability to meet contractual and fiduciary commitments to our clients, nor have we been the subject of any bankruptcy proceeding.

## General Information

### PRIVACY POLICY

We have adopted policies and procedures reasonably designed to protect various records and information of clients and investors. We will acquire and retain only personal information that is required for the effective operation of our business or that is required by law in the jurisdictions in which we operate. Access to such information will be restricted internally to those with a legitimate need to know. Except as set forth in the applicable offering materials and as otherwise authorized by each client and/or investor, private information about investors in the Funds is only disclosed as permitted by applicable law to our affiliates and service providers, including our accountants, attorneys, brokers, custodians, transfer agents and any other parties whose services are necessary or convenient to the operation of the Funds.

### TRADE ERRORS

We may on occasion experience errors with respect to trades executed on behalf of our clients. Trade errors can result from a variety of situations, including, for example, when the wrong security is purchased or sold, the correct security is purchased or sold but for the wrong account, or the wrong quantity is purchased or sold (*e.g.*, 1,000 shares instead of 10,000 shares are traded). Trade errors may result in losses or gains. We will endeavor to detect trade errors prior to settlement and correct and/or mitigate them in an expeditious manner. To the extent an error is caused by a counterparty, such as a broker, we will strive to recover any losses associated with such error from the counterparty. The applicable governing documents generally provide that each Fund will, to the fullest extent permitted by law, indemnify and hold harmless us, our employees and our affiliates from and against any and all losses, costs or expenses suffered or sustained by such party, and we will not be entitled to indemnification unless it is determined that we have acted in good faith and, in our case, reasonably believed that our conduct was in our official capacity and in the Fund's best interests, or, in the case of our employees and affiliates, not opposed to the Fund's best interest. As a result of these provisions, the applicable Fund (and not us or our affiliates) generally will be responsible for any losses resulting from trading errors and similar human errors, if we acted in good faith and reasonably believed that our conduct was in our official capacity and in the Fund's best interests, or, in the case of our employees or affiliates, not opposed to the Fund's best interests. Given the large volume of transactions executed by us on behalf of the Funds, investors should assume that trading errors (and similar errors) will occur and that the applicable Fund will be responsible for any resulting losses, even if such losses result from the negligence of our employees. To the extent that we determine that we are responsible for a trade error, we will seek to resolve the error in a fair and equitable manner, taking into consideration whether the error resulted from gross negligence on our part, the materiality of the error relative to the overall size of the affected Fund's portfolio, and any recent gains or losses due to our errors.