

FORM ADV PART 2A

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**Important Disclosure:**

This brochure provides information about the qualifications and business practices of Metalmark Management II LLC (the “**Adviser**”), an investment adviser registered with the United States Securities and Exchange Commission (“**SEC**”). If you have any questions about the contents of this brochure, please contact us at 212-823-1900 or [vanessa.adler@metalmarkcapital.com](mailto:vanessa.adler@metalmarkcapital.com). Registration with the SEC does not imply that the Adviser or its employees possess a certain level of skill or training. The information in this brochure has not been approved or verified by the SEC or by any state securities authority.

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

## **ITEM 2. MATERIAL CHANGES**

This brochure dated March 28, 2024 does not contain any material changes to the disclosure in our last brochure dated March 31, 2023. However, the Adviser has updated the disclosure relating to its business and operations, particularly in Item 8.

Currently, our brochure may be requested by contacting Vanessa Adler at 212-823-1900 or [vanessa.adler@metalmarkcapital.com](mailto:vanessa.adler@metalmarkcapital.com).

Additional information about the Adviser is also available via the SEC's web site [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

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## **ITEM 4. ADVISORY BUSINESS**

### **Our Organization**

Metalmark Management II LLC (the “Adviser” and together with its affiliates, “Metalmark”), a Delaware limited liability company formed in 2008, is an investment adviser registered with the United States Securities and Exchange Commission (“SEC”). The Adviser was previously a “relying adviser” of Metalmark Management LLC (“Management I”), a Delaware limited liability company formed in 2004, which was an investment adviser registered with the SEC from 2005 to 2023 and was ultimately owned and controlled by the same group of Metalmark professionals as the Adviser. Following an internal reorganization of Metalmark’s business in March 2023, which did not result in a change of control or management, the Adviser succeeded to the business of Management I, which was merged into the Adviser and has ceased to exist.

### **Principal Owners**

The Adviser is a single member LLC the sole member of which is Metalmark Capital II LP. Metalmark Capital II LP has been the principal owner of the Adviser since March 2023 and is a control person of the Adviser. From 2013 through 2023, the Adviser was wholly owned by Metalmark Capital II Holdings LLC (which in turn was wholly owned by Metalmark Capital II LP) and prior to 2013, was wholly owned by Metalmark Capital Holdings LLC, another affiliate of the Adviser.

### **Types of Services Offered**

The Adviser provides certain management and administrative services to Metalmark Capital Partners II, L.P. (“Main Fund II”), Metalmark Capital Partners Cayman II, L.P. (“Cayman Fund II”), Metalmark Capital Partners TE II, L.P. (“TE Fund II”), Metalmark Capital Partners II Executive Fund, L.P. (“Executive Fund II”), Metalmark Capital Partners (Silo) II, L.P. (the “Silo Fund”), Metalmark Capital Partners II Co-Investment, L.P. (the “Co-Invest Fund”) and related parallel, feeder and co-investment funds (collectively, “Fund II”). The Adviser also provides certain management and administrative services to Metalmark Capital Partners III, L.P. (“Main Fund III”), Metalmark Capital Partners Cayman III, L.P. (“Cayman Fund III”) and related parallel, feeder and co-investment funds (“Fund III” and together with Fund II, the “Flagship Funds”) and Metalmark Fido Continuation Vehicle, L.P. (the “Fido CV”). The Adviser’s services to these entities (the Fund II and the Fund III entities and the Fido CV collectively, the “Funds”) may include investigating, analyzing, structuring and negotiating potential investments, monitoring the performance of portfolio companies and advising the Funds as to disposition opportunities. Each Fund has a general partner (referred to herein each as a “General Partner” and together as the “General Partners”).

The Funds may be organized as either non-U.S. or domestic partnerships and are not required to register as investment companies under the Investment Company Act of 1940 (the “Investment Company Act”) in reliance on certain exemptions thereunder. The Funds invest primarily in portfolio investments in equity and equity related securities in transactions where the Funds and their affiliates will have a controlling or significant equity position. The Funds may also make minority investments or invest in publicly-traded equity and equity-related securities, public or private debt securities, partnerships or other entities and instruments related to the foregoing. A description of the Funds and the terms thereof are explained in the offering memoranda for the Funds.

## **Assets Under Management**

As of December 31, 2023, the Adviser manages client assets on a discretionary basis in the amount of \$2,337.1 million and does not manage any client assets on a non-discretionary basis.

## **ITEM 5. FEES AND COMPENSATION**

### **Fees**

The Adviser receives an annual management fee (the “Management Fee”) with respect to each Flagship Fund generally equal to 1.5% to 2.0% of capital commitments through the end of the investment period (6 years from the initial closing of the Flagship Funds unless extended pursuant to the constituent documents of the relevant Fund or terminated earlier under certain circumstances) and 0.75% to 1.0% of invested capital outstanding thereafter. The Adviser receives a Management Fee with respect to the Fido CV equal to 0.75% of invested capital outstanding the end of the initial term (4 years from the initial closing) and 0.375% of invested capital for one additional year thereafter. The original investment period for Fund II ended on June 30, 2019. Certain investors in Fund II elected to make additional commitments to a new special investment period for Fund II which ended on October 1, 2022. The original investment period for Fund III ended on December 31, 2023. The investment period for Fido CV is ongoing. The Management Fee payable by the limited partners of each Fund is subject to reduction for certain transaction and break-up fees paid to the Adviser (or its affiliates) by portfolio companies in which the Funds invest and, in the case of the Flagship Funds, for certain organizational expenses. The Management Fee is payable by the limited partners (quarterly in advance) and is non-negotiable.

In addition to the Management Fee, the Adviser is expected to receive certain transaction, monitoring, investment banking, break-up, advisory and/or board of director fees from certain portfolio companies in which the Funds invest. A portion of such fees will reduce the Management Fee for the applicable Fund to the extent provided in the relevant partnership agreement. In addition, the terms of certain monitoring agreements in certain instances provide for an acceleration of fees paid to Metalmark upon termination of such arrangements following certain milestones (such as an initial public offering or sale). In such instances, Metalmark may be entitled to a lump-sum termination fee with respect to such arrangements.

Under the relevant partnership agreement, each of the General Partner of Main Fund II, Cayman Fund II, TE Fund II and Silo Fund, the General Partner of Main Fund III and Cayman Fund III and the General Partner of the Fido CV (and certain parallel funds of these entities) is entitled to receive a performance allocation (the “Carried Interest”) calculated on a cumulative basis of up to 20% of the gains from investments, subject to a preferred return. The Carried Interest is not allocated to the General Partner until proceeds are realized from an investment.

### **Other Fees and Expenses**

In addition to a portion of the management fee, the Funds may incur other fees and charges imposed by brokers and other third parties, such as legal fees, audit costs and bank fees. Such fees are exclusive of and in addition to the Adviser’s management fee and the Adviser shall not receive any portion of such fees, commissions and costs.

Please see Item 12 below for further discussion of the factors that the Adviser considers in selecting broker-dealers for client transactions and determining the reasonableness of their compensation (*e.g.*, commissions).

A complete description of fees and expenses can be obtained in each Flagship Fund's offering memorandum as well as in each Fund's partnership agreement.

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

As noted in Item 5 above, the General Partner of Main Fund II, Cayman Fund II, TE Fund II and Silo Fund, the General Partner of Main Fund III and Cayman Fund III and the General Partner of the Fido CV are entitled to receive Carried Interest. The Adviser will not receive any portion of the Carried Interest; however, certain investment professionals of the Adviser will participate in such Carried Interest. The Carried Interest is charged in accordance with Rule 205-3 under the Investment Advisers Act of 1940, as amended (the "Advisers Act").

Although the existence of the Carried Interest is intended to align the interests of the General Partners and the principals with the interests of the limited partners, it may also create an incentive for the Adviser and the individuals who are entitled to receive a portion of such fees to manage investments in a more aggressive manner than they would otherwise have in the absence of such performance-based compensation. The Adviser has procedures to ensure that the Funds and the limited partners in the Funds are treated fairly and equally and that the Adviser meets its general fiduciary obligation to act in the best interests of its clients.

#### **ITEM 7. TYPES OF CLIENTS**

The Adviser provides investment advisory services to the Funds, which are private investment funds. Please see Item 4 above for further discussion of the Funds.

While the Adviser itself did not impose a minimum investment amount on the limited partners of the Funds, under the relevant partnership agreements, Main Fund II, TE Fund II, Cayman Fund II, Main Fund III and Cayman Fund III each imposed a minimum initial investment commitment of \$10 million to become a limited partner (although the General Partner of each Fund could have agreed to a lesser commitment). In addition, each limited partner of Main Fund II, TE Fund II, Cayman Fund II, Main Fund III, Cayman Fund III and the Fido CV was required to be a "Qualified Purchaser" under the Investment Company Act.

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

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

The original investment periods of Fund II and Fund III have ended but Fund II and Fund III continue to make follow-on investments in existing portfolio companies. In addition, certain investors in Fund II have elected to participate in a new special investment period for Fund II which has also ended but Fund II continues to also make follow-on investments in existing portfolio companies in which Fund II invested during such "Special Investment Period." The Fido CV is in the process of making investments, but invests solely in follow-on investments related to its underlying portfolio company. The Flagship Funds invest primarily in portfolio investments in equity and equity related securities in transactions where the Funds and their affiliates had, have or will have a controlling or significant equity position. The Flagship Funds also make minority investments or invest in equity-related securities, debt securities, partnerships or other entities and instruments related to the foregoing.

The Adviser employs fundamental research, specific industry knowledge, proprietary relationships and partnerships with management teams. The Adviser's sources of information and investment opportunities include contacts with industry executives and established business relationships. In addition, related persons of the Adviser serve on the boards of directors of, or in advisory positions for, companies in which client assets are invested. In its research, the Adviser gathers and evaluates information from diverse sources that may include, but are not limited to, annual reports, prospectuses, filings with the SEC, company press releases, corporate rating services, company financial statements, due diligence, industry experts and analysis, professional advisors and financial newspapers and magazines.

## **Risks of Loss**

Investing involves substantial risks, including the risk of total loss of capital, and may not be suitable for all investors. Different investment strategies are subject to different types and degrees of risk and you should familiarize yourself with the risks associated with the particular investment strategy in which you intend to invest. Some of these risks are described in further detail in the relevant Funds' offering memorandum. Interests in the Funds may be very illiquid and investors should be able to bear the financial risks of an investment for an indefinite period of time.

- *Nature of Investment.* An investment in the Funds requires a long-term commitment with no certainty of return. There most likely will be little or no near-term cash flow available to a Fund's limited partners in the early stage of the investment period. Many of the Funds' investments will be highly illiquid, and there can be no assurance that a Fund will be able to realize such investments in a timely manner. Consequently, dispositions of such investments may require a lengthy time period or may result in distributions in kind to the limited partners, which may be illiquid assets. Even for those assets for which a liquid market does develop, there is no guarantee that such market will be sustained. There can be no assurance that any limited partner would be able to dispose of these investments. Additionally, the Funds typically will acquire securities that cannot be sold except pursuant to a registration statement filed under the Securities Act of 1933, as amended ("Securities Act") or in a private placement or other transaction exempt from registration under the Securities Act and that complies with any applicable non-U.S. securities laws. The securities in which the Funds will invest may be the most junior in what typically will be a complex capital structure, and thus subject to the greatest risk of loss. Certain of the Funds' investments may be in businesses with little or no operating history. Certain of the Funds' investments may be in businesses with high levels of debt or may be investments in leveraged buyouts. Leveraged investments are inherently more sensitive to declines in revenues and to increases in expenses.
- *Restrictions on Transfer and Withdrawal.* Interests in the Funds have not been registered under the Securities Act, or any other applicable securities laws. There is no public market for the interests and none is expected to develop. In addition, the interests are not transferable except with the consent of the relevant General Partner, which generally may be withheld by such General Partner in its sole discretion, and are subject to the terms and conditions of the respective partnership agreement. Limited partners may not withdraw capital from the Funds (subject to certain exceptional regulatory exigencies). Consequently, limited partners may not be able to liquidate their investments prior to the dissolution of the Funds.
- *Limited Access to Information.* Limited partners' rights to information regarding the Funds will be specified, and strictly limited, in the relevant Partnership Agreement. In particular, it is anticipated that the Funds, the General Partners, the Adviser or any of their respective affiliates

will obtain certain types of material information from investments that will not be disclosed to limited partners because such disclosure is prohibited for contractual, legal or similar obligations outside of the foregoing parties' control. Decisions by the Funds, the General Partners, the Adviser or any of their respective affiliates to withhold information could have adverse consequences for limited partners in a variety of circumstances. For example, a limited partner that seeks to transfer its interest in a Fund could have difficulty in determining an appropriate price for such interest. Decisions to withhold information also could make it difficult for limited partners to monitor the Funds, the General Partners, the Adviser or any of their respective affiliates and their respective performance. Additionally, it is expected that limited partners who designate representatives to observe the board of managers or directors of a Portfolio Company will, by virtue of such observance, have more information about a Fund and investments in certain circumstances than other limited partners generally and will be disseminated information in advance of communication to other limited partners generally.

- *Competitive Nature of the Funds' Investment Activities.* The investment activities of the Funds are highly competitive. Although the Funds principals have been successful in identifying suitable opportunities in the past, the Adviser will be competing for opportunities against other groups, including investment firms, merchant banks and industrial groups.
- *Expedited Transactions.* Investment analyses and decisions by the Adviser may frequently be required to be undertaken on an expedited basis to take advantage of investment opportunities. In such cases, the information available to the Adviser at the time of making an investment decision may be limited. Therefore, no assurance can be given that the Adviser will have knowledge of all circumstances that may adversely affect an investment.
- *Risks in Effecting Operating Improvements.* The success of a Fund's investment strategy may depend, in part, on the ability of the Fund to restructure and effect improvements in the operations of a portfolio company. The activity of identifying and implementing restructuring programs and operating improvements at portfolio companies entails a high degree of uncertainty. There can be no assurance that the Adviser will be able to successfully identify and implement such restructuring programs and improvements.
- *Uncertainty of Financial Projections.* The Adviser and/or its affiliates will generally establish the pricing of transactions and the capital structure of portfolio companies on the basis of financial projections for such portfolio companies. Projected operating results will normally be based primarily on management judgments. In all cases, projections are only estimates of future results that are based upon assumptions made at the time that the projections are developed. There can be no assurance that the projected results will be obtained, and actual results may vary significantly from the projections. General economic, political and market conditions, which are not predictable, can have a material adverse impact on the reliability of such projections.
- *Dependence on Key Personnel.* The success of the Funds depends in substantial part on the skill and expertise of the principals of the Funds and other key employees of the Adviser. There can be no assurance that the principals or other key employees of the Adviser will continue to be employed by the Adviser throughout the life of the Funds.
- *No Right to Control the Funds' Operations.* Limited partners in the Funds will have no opportunity to control the day-to-day operations of the Funds, including investment and disposition decisions. In order to safeguard their limited liability for the liabilities and obligations



of the Funds, limited partners must rely entirely on the General Partners and the Adviser to conduct and manage, respectively, the affairs of the Funds.

- *Risk of Reliance on Management by Third Parties.* While it is the intent of the General Partners to invest in companies with proven operating management in place, there can be no assurance that such management will continue to operate successfully. Although the Adviser will monitor the performance of each investment, the Funds will rely upon management to operate the portfolio companies on a day-to-day basis.
- *Risks Upon Disposition of Investments.* In connection with the disposition of an investment in a portfolio company, the Funds may be required to make representations about the business and financial affairs of the portfolio company typical of those made in connection with the sale of any business, or may be responsible for the contents of disclosure documents under applicable securities laws. The Funds may also be required to indemnify the purchasers of such investment or underwriters to the extent that any such representations or disclosure documents turn out to be incorrect, inaccurate or misleading. These arrangements may result in contingent liabilities, which might ultimately have to be funded by the Funds' partners.
- *Indemnification.* The obligation of a limited partner to fund any indemnification under a Fund's partnership agreement will survive the dissolution of the respective Fund or a limited partner's withdrawal or exclusion from such Fund.
- *Leverage.* Subject to any limitations provided in a Fund's partnership agreement, a significant amount of leverage may be used in connection with investments. This leverage will increase the exposure of such investments to adverse economic factors such as significantly rising interest rates, severe economic downturns or deteriorations in the condition of the portfolio company or its industry. The percentage of leverage will vary depending on the ability to obtain credit facilities and the lender's and rating agencies' estimate of the stability of the particular portfolio company's cash flow. The portfolio company will be required to comply with certain financial covenants under a credit facility. Lenders or other holders of senior positions will be entitled to a preferred cash flow prior to a Fund receiving a return on leveraged investments. In the event a portfolio company is unable to generate sufficient cash flow to meet principal and interest payments on its indebtedness, the value of the investment in the portfolio company could be reduced significantly or even eliminated. The return on investments may be reduced to the extent that changes in market conditions increase the cost of financing relative to the income that can be derived from the assets acquired. Fees and expenses incurred by a Fund in connection with any Fund leverage, including any interest payments, will be borne by such Fund.

A Fund's General Partner may obtain one or more credit facilities that may be secured on a joint and several basis by a Fund and certain other entities comprising a Fund complex by, among other things, the aggregate capital commitments of the limited partners of the Fund, the limited partners' obligations to make capital contributions, a collateral account of the Fund into which the payment by the limited partners of their available capital commitments are to be made and certain other assets of the Fund. Any inability of the Fund to repay such borrowings could enable a lender to take action against any limited partner to the extent of its then available capital commitment to the Fund and against certain other assets of the Fund. A Fund's General Partner may borrow funds to fund drawdowns until such funds are otherwise made available or guarantee any obligation or otherwise become contingently liable with respect to indebtedness or other obligations of any portfolio company or affiliate of any portfolio company.

The extent to which the Funds use leverage may have important consequences to limited partners of such Funds, including, but not limited to, the following: (i) in certain circumstances it may be necessary to sell investments earlier than the General Partner of a Fund would have sold such investments to achieve optimum returns or to make larger capital calls than anticipated to service the Fund's debt obligations, (ii) the use of leverage can, under certain circumstances, (x) limit the ability of the General Partner of a Fund to consent to transfers of limited partners' interests in the Fund or (y) limit the ability of the General Partner of a Fund to make distributions to limited partners of the Fund, and (iii) expediting the receipt by the General Partner of a Fund of its carried interest and increase the risk that the General Partner will be required to return to the Fund distributions of carried interest it previously received pursuant to the applicable General Partner clawback.

- *Recourse to the Funds' Assets.* The Funds' assets, including any investment made by a Fund and any funds held by a Fund, are available to satisfy all liabilities and other obligations of such Fund. If a Fund becomes subject to a liability, parties seeking to have the liability satisfied may have recourse to such Fund's assets generally and such recourse may not be limited to any particular asset, such as the asset representing the investment giving rise to the liability.
- *Risk of Bridge Financing.* The Funds are permitted to make bridge investments, subject to certain limitations. If a Fund makes an investment in a single transaction with the intent of refinancing the portion of that investment consisting of bridge investments, there is a risk that such Fund will be unable to complete successfully such a refinancing. This could lead to a Fund having a long-term investment in a debt security.
- *Investments in Partnerships and Other Entities.* The Funds make investments through partnerships, joint ventures or other entities. Such investments may involve risks not present in direct investments, including, for example, the possibility that a joint venture partner of a Fund might become bankrupt, or may at any time have economic or business interests or goals which are inconsistent with those of such Fund, or that such joint venture partner may be in a position to take action contrary to such Fund's objectives. In addition, a Fund may be liable for actions of its joint venture partners. While the General Partners will review the qualifications and previous experience of joint venture partners, they do not expect to obtain financial information from, or to undertake private investigations with respect to, prospective joint venture partners.
- *Bankruptcy of Portfolio Companies.* The Funds' portfolio companies may experience financial difficulties and become insolvent or file for bankruptcy protection. Various U.S. federal and state and non-U.S. laws in connection with such bankruptcy proceedings could operate to the detriment of the Funds. There is also a risk that a court may subordinate a Fund's investment to other creditors or require such Fund to return amounts previously paid to it by a portfolio company that became insolvent or files for bankruptcy, a risk that could increase if such Fund has management rights in such portfolio company.
- *Defaulting Partners; Exclusion from Investments.* A limited partner that defaults in respect of its obligation to make capital contributions pursuant to the terms of the respective partnership agreement will be subject to customary default provisions, including forfeiture of a portion of its interest in the respective Fund.

- *Involuntary Sale of Interest.* Pursuant to the respective partnership agreement, a General Partner may, upon written request, cause a limited partner to sell its interest to such General Partner if such General Partner determines, in its sole discretion, that the continued participation of such limited partner in the relevant Fund would have a material adverse effect on such General Partner, such Fund, any Fund portfolio company or any of their respective affiliates.
- *Investments Longer than Term.* A Fund may make investments which may not be advantageously disposed of prior to the date such Fund's dissolution, either by expiration of such Fund's term or otherwise. Although the General Partners expect investments to be disposed of during a reasonable wind-up period following the dissolution of their respective Fund or be suitable for in-kind distribution during such wind-up period, a Fund may have to sell, distribute or otherwise dispose of investments at a disadvantageous time as such Fund seeks to wind up its affairs.
- *Follow-on Investments.* The Funds may be called upon to provide follow-on funding for its portfolio companies or may have the opportunity to increase its investment in such portfolio companies. There can be no assurance that the Funds will wish to make follow-on investments or that it will have sufficient funds to do so. Any decision by the Funds not to make follow-on investments or its inability to make them may have a substantial negative impact on a portfolio company in need of such an investment or may diminish the Funds ability to influence the portfolio company's future development.
- *Risk of Minority Positions.* If, as part of its overall investment strategy, the Funds elect at any time to hold a minority position in one or more portfolio companies, they may not be able to exercise control over such companies.
- *Control Person Liability.* A Fund may have a controlling interest in some of its portfolio companies. The exercise of control over a company may impose additional risks of liability for environmental damage, product defects, failure to supervise management, violation of governmental regulations (including securities laws) or other types of liability in which the limited liability generally characteristic of business ownership may be ignored. If these liabilities were to arise, the Fund might suffer a significant loss.
- *Certain Regulatory Considerations.* The Funds made investments in a number of different industries, some of which are or may become subject to regulation by one or more U.S. federal agencies and by various agencies of the states, localities, and counties in which they operate. New and existing regulations, changing regulatory schemes, and the burdens of regulatory compliance all may have a material negative impact on the performance of portfolio companies that operate in certain industries. The General Partners cannot predict whether new legislation or regulation governing certain industries will be enacted by legislative bodies or governmental agencies, nor can it predict what effect such legislation or regulation might have.
- *Enhanced Scrutiny and Regulations of the Private Funds and Financial Services Industries; Proposed SEC Funds Regulation.* The growth of the private funds industry, and the increasing size and reach of its transactions, as well as the increased attention to private funds, has prompted governmental and public attention to the private funds industry and its practices over the past fifteen years. In particular, on July 21, 2010, former U.S. President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"). This comprehensive reform of the United States' financial regulatory system, among other things,

requires registration with the SEC of advisers to private funds whose assets under management exceed \$150 million (with certain limited exceptions) and imposes reporting and record-keeping obligations with respect to the private funds they advise. The Dodd-Frank Act also imposes a number of restrictions on the relationship and activities of banking organizations with private equity and hedge funds and other provisions that affect the private funds industry, either directly or indirectly.

In addition, as alternative asset managers have become influential participants in the U.S. and global financial markets and economy generally, the private funds industry has been subject to criticism by some politicians, regulators and market commentators. In Germany, for example, U.S. and U.K. private equity firms are perceived by some as having been responsible for certain high-profile bankruptcies as well as high levels of domestic unemployment. There have been similar concerns expressed in other European countries. Various federal, state and local agencies have examined the role of placement agents, finders and other similar private funds service providers in the context of investments by public pension plans and other similar entities, including investigations and requests for information. Furthermore, elements of organized labor and other representatives of labor unions have targeted private equity firms on a variety of matters of interest to organized labor, including with respect to affording favorable treatment or significant deference to organized labor and labor unions in dealings with portfolio companies. There can be no assurance that the foregoing will not have an adverse impact on the Funds, the General Partners, the Adviser and/or the Funds' counterparties, or otherwise impede a Fund's activities.

This increased political and regulatory scrutiny of the private funds industry was particularly acute during the global financial crisis. For example, in addition to the U.S. legislation described above, other jurisdictions proposed modernizing financial regulations that called for, among other things, increased regulation of and disclosure with respect to, and possibly registration of, hedge funds and private equity funds. There is a risk that regulatory agencies in the United States, Europe or elsewhere could continue to adopt burdensome laws (including tax laws) or regulations, or could implement changes in law or regulation, or could pursue interpretation or the enforcement thereof, which are specifically targeted at the private funds industry.

With respect to interpretation and enforcement in the United States, the SEC stated publicly in recent years that its Division of Examinations (formerly known as the Office of Compliance Inspections and Examinations) intensified efforts to examine private fund advisers, with a focus on issues of concern identified in the course of presence exams of newly-registered advisers that occurred shortly after the enactment of the Dodd-Frank Act. Such issues included, among others, the disclosure and allocation of fees, costs and expenses; marketing practices; portfolio management; conflicts of interest; safety of client assets; and valuation. Consistent with such efforts, the SEC dramatically increased its pursuit of enforcement actions against private fund managers. Such actions alleged a variety of conduct, including undisclosed or unapproved related-party and affiliate transactions, as well as undisclosed fees, costs and expenses and other undisclosed conflicts of interests. Industry observers generally agree that the enforcement trend is likely to continue.

On August 23, 2023, the SEC adopted a number of new rules and amendments to existing rules under the Advisers Act (the "Private Funds Rules") including new requirements related to quarterly statements, financial statement audits, restricted activities and the preferential treatment of certain investors. Specifically, the Private Funds Rules include (i) a requirement for detailed

quarterly disclosure to investors of private fund performance, fees and expenses (including disclosure of the compensation paid to the investment adviser and its affiliates) and additional portfolio investment-level disclosure, (ii) limitations and conditions on the ability of advisers to charge certain types of fees and expenses to private funds (including reductions to carried interest clawbacks for taxes and fees and expenses related to investigations that result in sanctions under the Advisers Act), (iii) a prohibition on the allocation of fees or expenses related to a portfolio investment on a non-pro rata basis among multiple private funds invested in the same portfolio investment unless the allocation is fair and equitable and the adviser provides a prior written notice of the non-pro rata allocation and a description of how such allocation is fair and equitable, (iv) subject to certain limited exceptions, limitations on an adviser's ability to grant certain types of preferential terms regarding redemptions or information about portfolio holdings or exposures to only certain investors (e.g., through side letters), (v) a requirement to provide written notice to current and prospective investors of certain preferential terms granted to only certain investors in the same fund and (vi) a requirement for the adviser to document an annual compliance review.

Furthermore, on May 3, 2023, the SEC also approved amendments to Form PF (the "Form PF Amendments" and, together with the Private Funds Rules, the "Adopted Rules") which, among other things, require advisers to private equity funds to gather and report more information regarding fund strategies, use of leverage, fund investments in different levels of a single portfolio company's capital structure, and portfolio company restructurings or recapitalizations. The Form PF Amendments also require that advisers report certain events to the SEC within 72 hours of their occurrence. A separate cybersecurity rule proposal (the "Proposed Cybersecurity Rules") would require advisers and funds to adopt and implement formal cybersecurity policies, report significant cybersecurity incidents to the SEC, and provide enhanced disclosure of cybersecurity risks and incidents to investors.

The SEC has also proposed amendments to rules and disclosure forms (the "Proposed ESG Rules and Forms") to increase disclosure obligations regarding certain funds' and advisers' incorporation of environmental, social and governance factors in their investment process and a new oversight rule and rule amendments under the Advisers Act (the "Proposed Outsourcing Rules") that would prohibit registered investment advisers from outsourcing certain services and functions without conducting due diligence and monitoring of the service providers. Finally, the SEC has also proposed new rules and amendments to Rule 206(4)-2 under the Advisers Act (the "Proposed Custody Rule Changes" and, together with the Proposed Cybersecurity Rules, the Proposed ESG Rules and Forms and the Proposed Outsourcing Rules, the "Proposed Rules"), which would expand the current custody rule to cover a broader array of client assets and advisory activities and impose new custodial protections on client assets held under the Advisers Act. The final versions of the Proposed Rules could (but are not expected to) differ significantly from the Proposed Rules.

There can be no guarantee as to the enforcement in practice of the Adopted Rules or as to the content of the final versions of the Proposed Rules. In particular, certain trade associations have filed suit challenging the Private Funds Rules, and the outcome of that litigation and its effect on enforcement is uncertain. The Adopted Rules, and if adopted as proposed, the Proposed Rules, are expected to increase the cost of operating the Funds (including those costs ultimately allocated to the Funds) and the time and resources that the Funds, the General Partners, the Adviser and/or the Funds' counterparties will be required to devote to reporting and compliance

matters. The effect of the Adopted Rules and the Proposed Rules on the Funds, the General Partners, the Adviser and/or the Funds' counterparties could be substantial and adverse.

There can be no assurance that the Funds, the General Partners, the Adviser and/or the Funds' counterparties will avoid regulatory examination or enforcement actions. Recent SEC enforcement actions and settlements involving U.S.-based private fund advisers have involved a number of issues, including undisclosed fee sharing arrangements with co-investors; the undisclosed disproportionate allocations of fees, costs and expenses to managed funds for services that benefited the applicable adviser but without cost to the adviser; the undisclosed allocation of transaction fees to co-investors to reduce the magnitude of management fee offsets; engagement in unregistered broker-dealer activities; the undisclosed allocation of the fees, costs and expenses related to unconsummated co-investment transactions (i.e., the allocation of broken deal expenses); undisclosed legal fee arrangements affording the applicable adviser with greater discounts than those afforded to funds advised by such adviser and the undisclosed acceleration of monitoring fees. Although the Adviser believes the foregoing practices were common historically amongst private fund advisers within the U.S. private funds industry, if the SEC or any other governmental authority, regulatory agency or similar body takes issue with the practices of the Funds, the General Partners, the Adviser and/or the Funds' counterparties as they pertain to any of the foregoing or any other activities, the Funds, the General Partners, the Adviser and/or the Funds' counterparties will be at risk for regulatory sanction, which could have an adverse effect on the Fund's operations or performance. Even if an investigation or proceeding did not result in a sanction or the sanction imposed against the Adviser was small in monetary amount, the Funds, the General Partners, the Adviser and/or the Funds' counterparties could be subject to adverse publicity relating to the investigation, proceeding or imposition of any such sanction.

In summary, regulation generally as well as regulation more specifically addressed to the private funds industry, including tax laws and regulation, whether in the United States or abroad, could increase the cost of acquiring, holding or divesting the Funds' investments in the portfolio companies, the profitability of such enterprises and the cost of operating the Funds. Additional regulation could also increase the risk of third-party litigation. The transactional nature of the business of the Funds exposes the Funds, the General Partners, the Adviser and/or the Funds' counterparties generally to the risks of third-party litigation.

- *General Economic Conditions, Political Risks and Catastrophic Events.* General economic conditions may affect the Funds' 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 the Funds or considered for prospective investment. Depending on the country in which a portfolio company is located, there may exist the risk of adverse political developments, including nationalization, confiscation without fair compensation or war. Portfolio investments may also be subject to catastrophic events and other *force majeure* events, such as fires, earthquakes, adverse weather conditions, changes in law, eminent domain, riots, terrorist attacks and similar risks.

In particular, there is currently an ongoing military conflict between Russia and the Ukraine which, in a relatively short period of time, has caused disruption to global financial systems, trade and transport, among other things. In response, multiple other countries have put in place global sanctions and other severe restrictions or prohibitions on the activities of individuals and businesses connected to Russia. In addition, as of March 2024, there is currently an ongoing

military conflict between Israel and Hamas. However, the ultimate impact of these conflicts and the effect of each on global economic and commercial activity and conditions, and on the operations, financial condition and performance of the Funds or any particular industry, business or investee country, and the duration and severity of those effects, is impossible to predict.

Either or both of these military conflicts could have a significant adverse impact and result in significant losses to the Funds. This impact could include reductions in revenue and growth, unexpected operational losses and liabilities and reductions in the availability of capital. It could also limit the ability of the Funds to manage, finance and exit investments in the future. Developing and further governmental actions (military or otherwise) may cause additional disruption and constrain or alter existing financial, legal and regulatory frameworks and systems in ways that are adverse to the investment strategy the Funds intend to pursue, all of which could adversely affect the Funds' abilities to fulfill its investment objectives.

*Pandemics and Other Public Health Crises.* A pandemic caused market volatility and disruption, and future such pandemics or other widespread public health emergencies have the potential to materially and adversely impact economic production and activity in ways that are impossible to predict, all of which could cause a significant or total loss of the Funds' investments' value.

In particular, the outbreak of diseases or similar public health threats, or even the fear of such an event, affects travel demand, travel behavior, and gives rise to travel restrictions, each of which could have a material adverse impact on the Funds, the portfolio companies, and their businesses, financial conditions and operating results.

The 2019-2022 outbreak of a novel and highly contagious form of coronavirus ("COVID-19") caused a worldwide public health emergency, straining healthcare resources and resulting in extensive numbers of infections, hospitalizations and deaths. COVID-19 and the effects of the pandemic continue to constrain global economic production and activity of all kinds and have contributed to both volatility and, at times, the decline in financial markets. Among other things, these developments have, at various times, resulted in the reduction in demand across certain categories of consumers and businesses; dislocation (or in some cases a complete halt) in the credit and capital markets, labor force and operational disruptions, including office, business and school closures; slowing or complete idling of certain supply chains and manufacturing activity, steep increases in unemployment levels in the United States and several other countries; political protests, discourse and turmoil over mitigation efforts; and strain and uncertainty for businesses and households, with a particularly acute impact on industries dependent on travel and public accessibility, such as transportation, hospitality, tourism, retail, sports and entertainment. Certain of these issues are ongoing, and it is unknown whether those that appear to have been remediated will resurface. Moreover, while circumstances related to COVID-19 have improved in many parts of the world, there is no guarantee that such conditions will continue. New strains of the coronavirus, which could be more transmissible and/or more lethal, may give rise to future surges of COVID-19.

The COVID-19 crisis and any other public health emergency could have a significant adverse impact and cause a significant or total loss of the value of the Funds' investments. The extent of any loss will depend on many factors, all of which are highly uncertain and cannot be predicted, and this impact could include significant reductions in revenue and growth, unexpected operational losses and liabilities, impairments to credit quality and reductions in the availability of capital. These same factors could limit the ability of the Adviser to source, diligence and

execute new investments and to manage, finance and exit investments in the future, and governmental mitigation actions could constrain or alter existing financial, legal and regulatory frameworks in ways that are adverse to the investment strategy the Adviser intends to pursue on behalf of the Funds, all of which could adversely affect the Adviser's ability to fulfill the Funds' investment objectives. They could also impair the ability of the portfolio companies or its counterparties to perform their respective obligations under debt instruments and other commercial agreements (including their ability to pay obligations as they become due), potentially leading to defaults with uncertain consequences including partial or total loss of a Fund investment's value. With respect to any delayed draw or revolving loans made by the Funds to the portfolio companies, the portfolio companies could be incentivized for liquidity or other reasons to draw on most, if not, all, of the unfunded portion of such loan and the Funds may not have the ability under the applicable credit agreement to refuse to fund such draw without being in default and/or suffering financial penalties. In addition, the operations of the Adviser, its affiliates, and the parties to debt instruments and commercial agreements underlying the Funds' investments could be significantly impacted, or even temporarily or permanently halted, as a result of any public health emergencies or similar public health threats or any measures, restrictions on travel and movement, remote-working requirements and other factors related thereto, including its potential adverse impact on the health of any such entity's personnel. These measures could also hinder such entities' ability to conduct their affairs and activities as they normally would, including by impairing usual communication channels and methods, hampering the performance of administrative functions such as processing payments and invoices, and diminishing their ability to make accurate and timely projections of financial performance.

- *Cybersecurity Incidents, Cyber-attacks and Other Breaches.* Cybersecurity incidents, cyber-attacks and other breaches have been occurring globally at a more frequent and severe level and will likely continue to increase in frequency and severity in the future. Cybersecurity risks for investment funds have increased significantly in recent years because of, among other things: the proliferation of the internet and telecommunications technologies to conduct financial transactions; the increased dependence of the portfolio companies on internet-connected technologies that are susceptible to disruption from cybersecurity threats; the degree to which investment managers collect and maintain confidential, proprietary, sensitive, personal and other nonpublic data, as well as publicly available data that may be organized in a manner that is not publicly available; and the increased sophistication and activities of organized crime, hackers, terrorists, and other external parties, including foreign state actors. Accordingly, the Funds, the General Partners, the Adviser and the portfolio companies have faced and will face cybersecurity threats to gain unauthorized access to confidential, proprietary, sensitive, personal and other nonpublic information and systems, including, without limitation, information regarding the limited partners and the Funds' investment activities, or to render data or systems unusable, which could result in significant losses. If such events materialize, they could lead to losses of confidential, proprietary, sensitive, personal and other nonpublic information or capabilities essential to the Funds', the General Partners', the Adviser's, and the portfolio companies' operations and could have a material adverse effect on their reputations, financial positions, results of operations or cash flows, and could lead to financial losses from remedial actions, loss of business, potential liability, exposure to legal claims, regulatory intervention, reputational damage or the disclosure of the limited partners' personal information. The Funds, the General Partners, the Adviser or the portfolio companies may have to make a significant investment to fix or replace any inoperable or compromised systems or to modify or enhance their cybersecurity controls, procedures or measures. Similarly, the public perception that the Funds, the General



Partners, the Adviser or the portfolio companies have been the target of a cybersecurity threat, whether successful or not, could have a material adverse effect on their reputations and could lead to financial losses from loss of business, depending on the nature and severity of the threat.

Cybersecurity attacks are evolving and may be difficult to detect for long periods of time, and include, but are not limited to, computer viruses, malicious or destructive code, phishing attacks, ransomware, social engineering, denial of service or information, attempts to gain unauthorized access to data, improper access by employees or service providers or other electronic security breaches or similar events, including those perpetrated by criminals or nation state actors, that could, among other things, lead to: disruptions in critical systems, network access or business operations; unauthorized collection, monitoring, use or release of confidential, proprietary, sensitive, personal or other nonpublic or otherwise protected information, including personal information relating to the limited partners of the Funds (and the beneficial owners of such limited partners); or obstruction, deletion, loss, destruction or corruption of information or data. These problems could arise in both the Adviser's or the portfolio companies' internally developed systems and the systems of third-party service providers, upon which the Adviser or the portfolio companies rely, which systems may be inadequate to prevent, detect or recover from a cybersecurity attack. Although the Adviser and the portfolio companies have implemented, and their third-party service providers may implement, various controls, procedures and measures designed to manage risks relating to these types of events, including business continuity systems and data security systems, such measures could prove to be inadequate and, if their systems are compromised, they could become inoperable for extended periods of time, cease to function properly or fail to adequately secure confidential, proprietary, sensitive, personal and other nonpublic information, including personal information relating to the limited partners of the Funds (and the beneficial owners of such limited partners). While the Adviser and the portfolio companies perform cybersecurity diligence on their key service providers, it is important to note that if a service provider fails to adopt or adhere to adequate cybersecurity procedures, or if despite such procedures its networks or systems are breached, information relating to client transactions and/or personal information of the limited partners of the Funds (and the beneficial owners of such limited partners) could be lost or improperly accessed, used or disclosed. Given the variety and potential severity of cybersecurity threats, the Funds, the General Partners, the Adviser, the portfolio companies and the third-party service providers upon which they rely may not have adequate insurance coverage to compensate against all losses.

- *Data Privacy and Cybersecurity Laws.* The General Partners' and the portfolio companies' collection, use, storage, maintenance and other processing of personal information imposes legal and regulatory risks. Laws and regulations related to privacy, data protection and cybersecurity continue to evolve and could increase compliance burdens and costs, and a failure to comply could result in fines, sanctions or other penalties, which could materially and adversely affect the results of operations of the General Partners or the portfolio companies.

The Funds, the General Partners, the Adviser and the portfolio companies are subject to regulations related to privacy, data protection and cybersecurity in the jurisdictions in which they do business. Compliance with current and future privacy, data protection and cybersecurity laws and regulations could significantly impact current and planned privacy, data protection and cybersecurity related practices of the Funds, the General Partners, the Adviser and the portfolio companies and any of their respective affiliates, their respective collection, use, sharing, retention, safeguarding and other processing of personal information and some of their respective

current and planned business activities. Any failure or perceived failure to comply with privacy, data protection and cybersecurity laws and regulations could result in fines, sanctions or other penalties, which could materially and adversely affect their results of operations and overall business, as well as have an impact on their reputation. As privacy, data protection and cybersecurity laws are implemented, interpreted and applied, compliance burdens could increase, particularly in the context of ensuring that adequate data protection and data transfer mechanisms are in place.

For example, the European Union General Data Protection Regulation (EU 2016/679) (the “GDPR”) seeks to harmonize national data protection laws across the European Union (the “EU”) and modernize the law to address new technological developments. The GDPR notably has extra-territorial reach, such that it applies to data controllers and data processors either with an establishment in the EU, or which offer goods or services to EU data subjects or monitor EU data subjects’ behavior within the EU. The regime imposes stringent operational requirements on both data controllers and data processors and introduces significant penalties for non-compliance with fines of up to 4% of total annual worldwide turnover or €20 million (whichever is higher), depending on the type and severity of the violation. The GDPR has been incorporated into the domestic laws of the United Kingdom following the United Kingdom’s withdrawal from the EU (the “UK GDPR”). Although the substantive requirements of the UK GDPR are largely aligned with those of the GDPR exposing the Funds, the General Partners, the Adviser and the portfolio companies to burdens and risks comparable to the GDPR, that may change over time.

In the United States, at the federal level, the Funds, the General Partners, the Adviser and the portfolio companies are subject to various laws and regulations, including those promulgated under the authority of the Federal Trade Commission, which regulates unfair or deceptive acts or practices (including with respect to privacy, data protection and cybersecurity). Additionally, the Gramm-Leach-Bliley Act of 1999 (along with its implementing regulations) restricts certain collection, storage, use, disclosure and other processing of personal information, requires notice to individuals of privacy practices and provides individuals with certain rights to prevent the use and disclosure of certain nonpublic or otherwise legally protected information. These rules also impose requirements for the safeguarding and proper destruction of personal information through the issuance of data security standards or guidelines. The United States Congress also is considering, and may in the future consider, various proposals for privacy, data protection and cybersecurity legislation.

At the state level, the California Consumer Privacy Act of 2018, as amended by the California Privacy Rights Act of 2020 (collectively, the “CCPA”) provides California residents with certain individual privacy rights and imposes privacy, data protection and cybersecurity obligations on covered companies. The CCPA requires covered companies to provide certain disclosures to California residents about such companies’ data collection, use, sharing and other processing practices and to provide California residents with ways to opt-out of certain sales or transfers of their personal information, and provides California residents with certain additional causes of action. A number of other states also have enacted, or are considering enacting, comprehensive data privacy laws. In addition, laws in all 50 U.S. states require businesses to provide notice under certain circumstances to consumers whose personal information has been disclosed as a result of a data breach, including the New York SHIELD Act.

The cumulative effects of the GDPR, the UK GDPR, the CCPA and other recently adopted privacy, data protection and cybersecurity laws and regulations include an increased ability of

individuals, relative to companies, to control the use of their personal information; increased obligations of companies to maintain the privacy and security of personal information; and increased exposure to regulatory action, litigation, fines, damages or reputational harm for companies that do not afford individuals their specified privacy rights, that experience data breaches or that do not maintain cybersecurity practices at certain required levels. The global data protection landscape continues to be in flux, resulting in possible significant operational costs for internal compliance and business risks. The Funds, the General Partners, the Adviser and the portfolio companies will endeavor to implement and maintain systems designed to promote compliance with the GDPR, the UK GDPR, the CCPA and these other laws and regulations, both those adopted to date and those that may be adopted in the future, but there can be no assurance that these systems will be effective in mitigating the business impact of individuals' increased privacy rights or in ensuring compliance with the GDPR, the UK GDPR, the CCPA and such other laws. In the event of regulatory action, litigation, fines, damages or reputational harm due to noncompliance with such privacy, data protection and cybersecurity laws and regulations or a data breach, there could be a business impact on the Funds, the General Partners, the Adviser and the portfolio companies or their affiliates.

- *Financial Institution Risk; Distress Events.* An investment in the Funds is subject to the risk that one of the Funds' banks, brokers, hedging counterparties, lenders or other custodians of some or all of the Funds' assets (each, a "Financial Institution") fails to perform its obligations or experiences insolvency, closure, receivership or other financial distress or difficulty, similar to that experienced by Silicon Valley Bank and Signature Bank in March 2023 (each, a "Distress Event"). Distress Events can be caused by factors including eroding market sentiment, significant withdrawals, fraud, malfeasance, poor performance or accounting irregularities. In the event a Financial Institution experiences a Distress Event, the Funds and/or the portfolio companies may not be able to access deposits, borrowing facilities or other services for an extended period of time or ever. Although assets held by regulated Financial Institutions in the United States frequently are insured up to stated balance amounts by organizations such as the Federal Deposit Insurance Corporation ("FDIC"), in the case of banks, or the Securities Investor Protection Corporation ("SIPC"), in the case of certain broker-dealers, amounts in excess of the relevant insurance are subject to risk of loss, and any non-U.S. Financial Institutions that are not subject to similar regimes pose increased risk of loss. Although in recent years governmental intervention has resulted in additional protections for depositors, there can be no assurance that the government will intervene in a Distress Event or, that if there is governmental intervention, it will be successful or avoid the risk of loss, substantial delays or negative impact on banking or brokerage conditions or markets.

Any Distress Event has a potentially adverse effect on the ability of Adviser to manage the Funds and its investments, and on the ability of the Adviser, the Funds and/or the portfolio companies to maintain operations, which in each case could result in significant losses and unconsummated investment acquisitions and dispositions. Such losses have the potential to include fees and expenses in the event the Funds are not able to close a transaction (whether due to the inability to draw capital on a credit line provided by a Financial Institution experiencing a Distress Event, the inability of investors to make capital contributions or otherwise), as well the inability of the Fund to acquire or dispose of at prices that the relevant general partner believes reflect the fair value of such investments and/or the inability of portfolio companies to make payroll, fulfill obligations and maintain operations. Although the Adviser expects to exercise contractual remedies under the agreements with Financial Institutions in the event of a Distress Event, there can be no assurance that such remedies will be successful or avoid losses or delays.

Many Financial Institutions require, as a condition to using their services or otherwise, that Adviser and/or the Funds maintain all or a set amount or percentage of their respective accounts or assets with the custodian, which heightens the risks associated with a Distress Event with respect to such custodian. Although the Adviser seeks to do business with custodians that it believes are creditworthy and capable of fulfilling their respective obligations to the Adviser and the Funds, the Adviser is under no obligation to use a minimum number of custodians with respect to the Funds, or to maintain account balances at or below the relevant insured amounts.

- *Inflation.* Inflation risk is the risk that the value of certain investments or income thereon will be worth less in the future, as inflation decreases the value of money. As inflation increases, the real value of the Funds' investments can decline. Deflation risk is the risk that prices decline over time – the opposite of inflation. Deflation could have an adverse effect on the creditworthiness of the portfolio companies and could make defaults more likely, which would result in a decline in the value of the Funds' investments.

The portfolio companies could be sensitive to general downward swings in the global economy, including periods of sustained elevated inflation. Inflation in the United States, Europe and other geographies has risen to levels not experienced in recent decades. We are unable to determine whether these inflationary factors are transitory or should be expected to continue over the medium or long term. Inflation and rapid fluctuations in inflation rates have had and could continue to have very negative effects on the economies and securities markets (both public and private) of certain countries in which the investment opportunities could exist. There can be no assurance that high rates of inflation would not have a material adverse effect on such investments of the Funds.

In addition, many world governments, as well as inter-governmental institutions, have undertaken and in some cases are still undertaking various policies to combat inflation, including raising interest rate benchmarks that had been (in some cases, for extended periods) at historic lows. On the other hand, in recent months, the U.S. Federal Reserve has declined to raise certain benchmark interest rates and has indicated it may begin cutting rates in 2024. It cannot be predicted with certainty when, or how, these policies will change, but actions by the U.S. Federal Reserve and other central bankers should be expected to have a significant effect on interest rates and on the U.S. and world economies generally, which in turn could affect the performance of the Funds' investments. In addition, there is significant concern in macroeconomic terms about the general levels of indebtedness carried by certain governments. While bringing with it a range of issues, one of the consequences of an extended period of a higher-than-desired level of inflation is often to erode in real terms the value of government debt in a manner that reduces the economic cost in real terms of their payment obligations on such debt. This element of debt erosion will create an incentive for governments to be less robust in seeking to deal with inflation than might otherwise have been the case had the government concerned not suffered from a high level of indebtedness. If such inflation occurs, it could have the negative consequences for the Funds' investments set out above.

Further financial crises could result in additional governmental intervention in the markets the nature and substance of which are difficult to predict. In addition, the consequences of the extensive changes to the regulation of various markets and market participants contemplated by the legislation and increased regulation arising out of the financial crisis are difficult to predict or measure with certainty.

- *Climate Change-Related Risks.* The Funds could be exposed to potential physical risks from possible future changes in climate. The Funds' portfolio companies could be exposed to rare catastrophic weather events, such as severe storms or floods. If the frequency of extreme weather events increases due to climate change, the Funds' exposure to these events could increase. In addition, the Funds could be adversely impacted by regulatory changes related to climate change as a result of potential impacts of such changes on the supply chain or stricter energy efficiency standards for buildings. The Funds cannot provide any assurance that any existing or future regulatory changes will not materially and adversely impact the Funds' operations and business in the future.

## **ITEM 9. DISCIPLINARY INFORMATION**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of Adviser's advisory business or the integrity of Adviser's management. The Adviser currently has no information applicable to this Item.

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

The General Partners have formed limited partnerships and serve as the general partners of those partnerships. The General Partners are special purpose vehicles. Principals, officers, authorized persons and employees of the General Partners are considered by the Adviser as "persons associated with" it (as that term is defined in section 202(a)(17) of the Advisers Act). Personnel of the General Partners will be subject to the Adviser's overall supervision and policies and procedures (including those relating to personal trading). The relevant books and records of the General Partners are the books and records of the Adviser for purposes of Section 204 of the Advisers Act.

In addition, the General Partners may also, from time to time, form a limited partnership or other entity for the purpose of making a particular investment. The opportunity to invest in such partnership or entity is generally offered to certain strategic investors identified by the General Partners, which may include persons associated with the Adviser and existing limited partners in the Funds as well as third parties.

Certain affiliates of the Adviser may manage or may act as a partner or advisor to a number of pooled investment vehicles that focus on private equity or equity-related investments. From time to time, conflicts of interest may arise for the Adviser and the investment team in connection with their management of the Funds and such other vehicles, including with respect to certain transactions involving investments by one Fund in the same portfolio company (including in respect of the timing, structuring and terms of such investments and disposition thereof) held or being considered by another Fund or another pooled investment vehicle managed by the same investment team. Where the Funds or other pooled investment vehicles managed by an affiliate of the Adviser hold investments in the same issuer, conflicts of interest could arise concerning timing, structuring and terms of such investments and disposition of such investments. In addition, circumstances could exist where the Funds and other vehicles hold different classes of securities or obligations of a portfolio company, and the portfolio company encounters financial problems. Under these circumstances, conflicts of interest may arise in connection with decisions regarding the terms of any workout.

The individual members of the investment team serve as investment professionals with respect to multiple pooled investment vehicles (currently and in the future) and are required to devote time and attention to

managing such vehicles. Conflicts of interest may arise in allocating management time, services or functions among the Funds, on the one hand, and such pooled investment vehicles, on the other. Also, as a result of existing investments and activities, the Adviser and the investment team may from time to time acquire confidential information that they may not be able to use for the benefit of the Funds and which, in some cases, may restrict them from taking actions for the Funds.

Conflict of interest situations that arise in connection with the management of the Funds will be handled on a case by case basis. Separate advisory committees comprised of limited partners (the “Advisory Committees”) have been established for each of Fund II, Fund III and the Fido CV. Each Advisory Committee advises on certain matters relating to the relevant Fund. The approval of the Advisory Committees will be sought in connection with approvals required under the Advisers Act, including Section 206(3) thereunder, or otherwise and, if granted, such approval will be binding upon the relevant Funds, and each limited partner thereof. In addition, transactions between the Funds or any portfolio company, on the one hand, and affiliate, on the other hand, will require the consent of the relevant Advisory Committee unless the relevant General Partner determines in good faith that such transaction is on terms and conditions no less favorable to the Funds or such portfolio company than could be obtained in arm’s-length negotiations with third parties (in which case the transaction will be required to be disclosed to the relevant Advisory Committee at its next regularly-scheduled meeting).

With respect to personal conflicts of interest, the Adviser has adopted a code of ethics described below in Item 11.

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

### **Description of the Adviser's Code of Ethics**

The Adviser has adopted a Code of Ethics (the "Code"), pursuant to SEC rule 204A-1, for the purposes of establishing the standards of business conduct and fostering a culture of honesty and accountability and assisting those covered by the Code to comply with the Advisers Act. The Code is applicable to all supervised persons of the firm and is available to any client or prospective client by contacting the Adviser in writing and requesting such information. Please send written requests to: Metalmark Management LLC, 1177 Avenue of the Americas, 40th Floor, New York, NY 10036 Attention: Vanessa Adler.

The Code of Ethics contains policies which address the following topics:

#### Compliance with Federal Securities Laws

Supervised persons are required to comply with all applicable laws in the jurisdictions in which the Adviser does business, including the U.S. federal securities laws.

#### Standards of Business Conduct

Consistent with the fiduciary obligations owed to clients, supervised persons are required to act fairly and in the best interest of clients.

#### Conflicts of Interest

The Code addresses conflicts of interest that may arise in the course of conducting the Adviser's business and requires that all supervised persons endeavor to avoid situations that present potential or actual conflicts. Among other things, the Code prohibits certain personal business activities by supervised persons without prior approval, and provides that supervised persons should not engage in activities that might influence or appear to influence decisions made by a supervised person in business transactions involving the Adviser. In addition to various trading restrictions, personal securities transactions are reviewed and in some cases pre-cleared by the Adviser's compliance personnel. Further, the Code prohibits the Adviser and its employees from making political contributions without prior approval.

#### Treatment of Inside Information

The Code forbids supervised persons from trading, encouraging others to trade or recommending securities or other financial instruments based on material, non-public information. A supervised person in possession of material, non-public information is not permitted to: (i) buy or sell the securities of companies with respect to which such supervised person has non-public information or (ii) communicate the information outside the Adviser except, if necessary, to any client (or any authorized agent of the client) or the general partner of any client.

#### Restrictions on Personal Investing and Related Activities

The Adviser imposes certain restrictions on personal investing and related activities designed to prevent conflicts of interest and to guard against the misuse of proprietary or confidential information. The Adviser maintains and updates a restricted list of securities. In addition, supervised persons are discouraged from engaging in personal trading on a scale that would distract such person from his or her daily responsibilities. Supervised persons are prohibited from investing in an issuer whose securities are

under consideration for investment, or have been acquired by, any client of the Adviser, except, directly or indirectly, through the Funds.

Supervised persons are required to receive pre-approval from the Chief Compliance Officer for acquiring direct or indirect beneficial ownership of any security sold in private offerings.

The Code requires supervised persons to submit quarterly securities transactions and initial and annual holdings reports. In addition, supervised persons must direct their brokers to supply duplicate copies of all confirmations and monthly brokerage statements for all accounts maintained by the supervised person in which reportable securities are held. If duplicate copies of all confirmations and brokerage statements and/or all data for all accounts maintained by a supervised person in which reportable securities are held may be automatically delivered by a broker-dealer or other institution, supervised persons must provide personal trading data in the same format.

#### Reporting of Violations and Sanctions

All supervised persons are required to promptly report all violations and apparent violations of the Code to the Chief Compliance Officer.

#### **Interest in Client Transactions**

As in the Adviser's business generally, the Adviser will consider the implications of identified actual or potential conflicts of interest and will act in accordance with the Adviser's internal guidelines and procedures.

Certain related persons of the Adviser (including individual members of the investment team) may serve on the board of directors or serve in a position of management of a company in which a Fund invests and, in such capacity, will have duties to both the shareholders of such company and to the relevant Fund. In addition, they may receive securities or other compensation from such company, and therefore, may have a financial interest in such company alongside the relevant Fund, although such securities and compensation are transferred to the Adviser (or an affiliate of the Adviser). Furthermore, the Adviser may have an incentive to recommend to clients the purchase or sale of securities in which it or its employees have a financial interest due to the prospect of receiving Carried Interest as described in Item 6 above.

It is the Adviser's policy that it will not affect any principal or agency cross transactions. Principal transactions are generally defined as transactions where an adviser, acting as principal for its own account or the account of a related person, buys from or sells any security to any advisory client. An agency cross transaction is generally defined as a transaction where a person acts as investment adviser in relation to a transaction in which the investment adviser, or any person controlled or under common control with the investment adviser, acts as broker for both the advisory client and for another person on the other side of the transaction. If a principal transaction or agency cross transaction arises, the Adviser will execute such transaction with the consent of the relevant Advisory Committee, or as otherwise permitted by the Advisers Act, including Section 206(3) thereof.

Conflict of interest situations that arise in connection with the management of the Funds will be handled on a case by case basis, as described above.

With respect to personal conflicts of interests the Adviser has adopted the Code as described in this Item.



## **ITEM 12. BROKERAGE PRACTICES**

### **Brokerage Selection**

The Adviser has discretion to determine, without consent of its clients (i.e., the Funds) or the limited partners of the Funds, the broker or dealer to be used (if any) and the commission rates to be paid in cases where a broker or dealer is used. The Adviser is bound under the terms of its partnership agreements to cause certain Funds that are part of the same complex to invest in or dispose of the same portfolio companies on a *pro rata* basis in proportion to remaining committed capital (subject to certain limited exceptions).

The Adviser considers, among other things, the following factors when selecting brokers-dealers to execute transactions for a Fund : (i) a broker's execution capabilities with respect to the relevant type of order; (ii) the commissions charged by a broker, which may be a function of the size of the order, the price of the security, and whether the receipt of products or services is involved; and (iii) other factors suggested by the SEC for determining best execution, such as, the amount of business with each broker-dealer and the justification for directing trades to those brokers-dealers, such as the quality of research provided by the broker-dealer, the gross compensation paid to each broker-dealer and the competitiveness of commission rates and spreads, including the documentation to support such competitiveness, *i.e.*, comparison of "standard" commission rates or "minimum" transaction costs between broker-dealers offering comparable products and services.

### **Research and Other Soft Dollar Benefits**

The Adviser does not receive research or other products or services other than execution from a broker-dealer or a third party in connection with client securities transactions.

### **Brokerage for Client Referrals**

The Adviser does not consider, in selecting broker-dealers, whether it or a related person receives client referrals from a broker-dealer or third party.

### **Directed Brokerage**

The Adviser does not recommend, request, require or permit a client to direct it to execute transactions through a specified broker-dealer.

### **Trade Aggregation Practices**

Pursuant to each Fund's partnership agreement, the Adviser will aggregate transactions in the same security for the Funds. The Adviser typically allocates transactions on a "pro-rata" basis across all applicable Funds at the average price per unit of the total transaction.

## **ITEM 13. REVIEW OF ACCOUNTS**

### **Review of Client Accounts**

The Adviser closely monitors companies in which the Funds invest and generally maintains an ongoing oversight position in such companies (including, in many cases, representation on the board of directors

of such companies). Because the investments made by the Funds are generally private, illiquid and long-term in nature, the review process is not directed toward a short term decision to dispose of securities, but rather is focused on the long-term prospects of the investments. The review process involves consideration of performance, material developments and other significant matters that would reasonably have a material effect on the portfolio companies. Reviews occur periodically, and in some cases, on a weekly or monthly basis. The Adviser's partners lead all reviews of the Funds' investments.

## **Reports**

The Adviser provides quarterly unaudited financial statements and annual audited financial statements of the Funds to the limited partners of the Funds. Investors also receive quarterly written reports which provide a summary of the portfolio and periodic reports regarding their capital account in the relevant Fund.

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

The Adviser may engage one or more third-party placement agents for referring potential investors in certain prospective clients. To the extent the Adviser engages one or more placement agents, potential investors should be aware that each placement agent will be paid a pre-negotiated fee which is expected to be based on a combination of (i) a fixed retainer fee, subject to certain offsets, (ii) a percentage of the commitments by an investor referred by placement agent and (iii) under certain circumstances, a share of the management fee paid by such investor.

## **ITEM 15. CUSTODY**

The Adviser satisfies the requirements of Rule 206(4)-2 with respect to the Funds by engaging an independent public accountant registered with, and regularly examined by, the Public Company Accounting Oversight Board to conduct annual financial audits of such Funds prepared in accordance with U.S. Generally Accepted Accounting Principles and delivering the audited financial statements directly to investors in such Funds within 120 days of the end of the Funds' fiscal year or sooner, if so provided in the applicable Fund's partnership agreement.

## **ITEM 16. INVESTMENT DISCRETION**

As of December 31, 2023, the Adviser manages assets on a discretionary basis in the amount of approximately \$2,337.1 million. The Adviser has discretionary authority with respect to all Funds. The Adviser received discretionary authority from the Funds to select the identity and amount of securities to be bought or sold. Such delegation of authority was provided under the terms of a management agreement between the Adviser and the Funds. In all cases, however, such discretion is to be exercised in a manner consistent with the stated investment objectives for the Funds and the terms of the management agreement.

## **ITEM 17. VOTING CLIENT SECURITIES**

### **Description of Proxy Voting Policies and Procedures**

The Adviser acknowledges its fiduciary obligation to vote proxies on behalf of those Funds that have delegated to it, or for which it is deemed to have, proxy voting authority. The Adviser will vote proxies on behalf of a Fund solely in the best interest of the relevant Fund, consistent with the objective of maximizing long-term investment returns for such Fund. The Adviser has established general guidelines for voting proxies. The Adviser may also abstain from voting if, based on factors such as expense or difficulty of exercise, it determines that a Fund's interests are better served by abstaining. Further, because proxy proposals and individual company facts and circumstances may vary, the Adviser may vote in a manner that is contrary to the general guidelines if it believes that it would be in a Fund's best interest to do so. If a proxy proposal presents a material conflict of interest between the Adviser and a Fund, the partners of the Adviser will determine how to vote that proxy and whether the conflict of interest will be disclosed to the limited partners of such Fund. The Adviser will retain all books and records relating to its proxy voting activities on behalf of client accounts in accordance with the requirements of Rule 204-2(c)(2) under the Advisers Act.

Clients may obtain a complete copy of the proxy voting policies and procedures by contacting the Adviser in writing and requesting such information. Each client may also request, by contacting the Adviser in writing, information concerning the manner in which proxy votes have been cast with respect to portfolio securities held by the relevant Fund during the prior annual period. Clients can send written requests to Metalmark Management LLC, 1177 Avenue of the Americas, 40th Floor, New York, NY 10036, Attention: Vanessa Adler. Information requested will be provided in writing as soon as is practicable.

## **ITEM 18. FINANCIAL INFORMATION**

The Adviser is not aware of having any financial condition that is reasonably likely to impair its ability to meet contractual commitments to the Funds. The Adviser has not been subject to a bankruptcy petition within the last ten years.