

**ITEM 1**  
**COVER PAGE**

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

**CERBERUS CAPITAL MANAGEMENT, L.P.**

March 28, 2024

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Cerberus Capital Management, L.P.  
875 Third Avenue  
New York, New York 10022  
Tel: (212) 891-2100  
Fax: (646) 885-3451  
Website: [www.cerberus.com](http://www.cerberus.com)

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## **ITEM 2**

### **MATERIAL CHANGES**

Since Cerberus Capital Management, L.P. (the “Adviser”) filed its most recent annual update to Part 2A of Form ADV: Firm Brochure on March 31, 2023 (the “Brochure” or “Adviser’s Brochure”), there have been no material changes to the Adviser’s Brochure. The Adviser routinely makes changes throughout its Brochure to improve and clarify the descriptions of its and its affiliates’ business practices and compliance policies and procedures or in response to evolving industry and Firm practices.

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## **ITEM 4**

### **ADVISORY BUSINESS**

#### **A. General Description of Advisory Firm.**

The Adviser is a Delaware limited partnership founded in 1992. The Adviser is headquartered in New York City and has over thirty affiliate and advisory offices located in the United States, Europe, Asia, Africa, the Middle East, South America and Australia. The principal owner is Stephen A. Feinberg, who owns his interests in the Adviser indirectly through one or more intermediate entities.

The Adviser and its affiliates (the “Affiliates”) (the Adviser and the Affiliates are sometimes collectively referred to as the “Advisers”) provide investment management and administrative services to privately placed pooled investment vehicles (collectively, the “Private Funds”), single investment special purpose investment vehicles and managed accounts (collectively, with the Private Funds and “EU Clients” (as defined below), the “Clients”) based on their respective investment objectives.

The Advisers tailor their advisory services as described in the investment program of the relevant Client’s private placement memorandum or as set forth in such Client’s organizational documents, the subscription documents related to an investment in such Client and/or the investment management agreement with such Client (collectively, the “Governing Documents”). Please refer to Item 8 for a more detailed description of the Advisers’ investment strategies as well as the securities and other instruments purchased by Clients under the management of the Advisers.

Since the filing of the Adviser’s last Brochure through the date that this Brochure has been filed, several new Clients have been launched. For a complete list of all Clients that are provided administrative and/or investment management services by the Advisers, see Section 7.B. of Schedule D to the Advisers’ Form ADV Part 1.

The Advisers provide investment management services to the Clients on a discretionary basis; however, their advice is provided in accordance with and subject to the investment objectives and guidelines set forth in each Client’s applicable Governing Documents.

#### **B. Description of Advisory Services.**

##### *Advisory Services*

The Adviser is a global alternative investment firm founded in 1992. Headquartered in New York City with affiliate and advisory offices located in the U.S., Europe, Africa, the Middle East, South America, Asia and Australia, the Advisers generally focus on value creation globally in private equity and venture capital, real estate and global credit strategies as outlined below. The Advisers’ investment and operations professionals are integrated across all three of the Advisers’ primary investment strategies, bringing considerable expertise in assessing and managing all of the Advisers’ investments.

- Private Equity and Venture Capital, including operational private equity, supply chain investments that aim to advance supply chain security and integrity and strengthen critical infrastructure of the U.S. and its allies, venture investments in companies with a primary focus on the critical technology and infrastructure underpinning and enabling nation states, a frontier and emerging markets investment platform, acquisitions of companies with operational problems or significant cost reduction opportunities, subsidiaries divisions or business units of companies where the business is viewed as non-core and/or under-performing divisions, companies undergoing reorganization under U.S. bankruptcy law or similar laws, and early stage or later stage companies that require additional financing to scale and/or grow;
- Real Estate, including investments in distressed debt securities and assets, special situations, direct equity, mortgage loans and bridge financings, mezzanine debt and preferred equity and non-performing loans (“NPLs”) secured by real estate; and
- Global Credit, including corporate stressed credit and distressed debt, corporate middle-market direct lending and residential and commercial mortgage securities and assets.

*Please see Item 8 for additional information related to methods of analysis, investment strategies and risk of loss.*

#### **C. Availability of Customized Services for Individual Clients.**

The Advisers tailor their advisory services as described in the investment program of the relevant Client’s Governing Documents.

In addition, the Advisers have the right to enter and have entered into agreements, such as side letters, with certain investors in the Clients that may in each case provide for terms of investment that are more favorable for certain investors than the terms provided to other investors in the same Clients. Such terms typically include, among other things, the waiver or reduction of management and/or incentive fees/allocations, the provision of additional information or reports, rights related to specific regulatory requests or requirements of certain clients, more favorable transfer rights, and more favorable liquidity rights. Certain Clients (and/or underlying investors) also negotiate for investment exposure (or investment limitations) with respect to specific industries, sectors, geographic regions or investments, governance rights with respect to certain investments, the promotion of commercial relationships in an underlying investor’s country of origin, and/or rights to participate in co-investment opportunities or bid on portfolio companies at exit.

Persons reviewing this Form ADV Part 2A should not construe this as an offering of any of the Clients described herein, which will only be made pursuant to the delivery of a private placement memorandum, subscription agreement and/or similar documentation to prospective investors.

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

The Adviser does not participate in wrap fee programs.

**E. Assets Under Management.**

As of January 1, 2024, the Adviser had approximately \$88.2 billion of regulatory assets under management, all of which was managed on a discretionary basis.



## **ITEM 5**

### **FEES AND COMPENSATION**

#### **A. Advisory Fees.**

##### *Management Fees*

With respect to Clients that are structured as hedge or liquid funds, the Adviser or one of its Affiliates is generally paid a quarterly management fee of 1% to 2% per annum of the aggregate net asset value of each investor's capital account or series of shares, as applicable. With respect to Clients that are structured as private equity or commitment funds, the Adviser or one of its Affiliates is generally paid a quarterly management fee of 1% to 2% per annum of total committed capital, called capital invested (at cost), total assets under management or net asset value. Management fees are generally paid quarterly in advance but may be paid quarterly in arrears. Fees applicable to a specific Client are detailed in each Client's Governing Documents.

##### *Performance-Based Allocations or Fees*

With respect to Clients that are structured as hedge or liquid funds, an Affiliate of the Adviser is generally allocated or paid an annual performance-based allocation or fee of 15% to 20% of the net gain earned by each investor subject to a high-water mark and, in certain cases, a hurdle rate (as set forth in the Client's Governing Documents). Certain Clients structured as hedge or liquid funds subject this performance-based allocation or fee to a preferred return to investors and a catch-up allocation to the Affiliate. With respect to Clients that are structured as private equity or commitment funds, an Affiliate of the Adviser is generally allocated or paid a performance-based allocation or fee of 15% to 25% of the proceeds realized upon the disposition of the assets of such Client; subject to the return of capital contributions to investors and, often, subject to a preferred return to investors (as set forth in the Client's Governing Documents), catch-up distributions to the Affiliate and/or other performance hurdles; provided that certain Clients are not subject to a preferred return. In certain cases, a Client structured as a private equity or commitment fund pays an Affiliate a portion of its performance-based allocation or fee prior to the disposition of the assets of such Client. Fees applicable to a specific Client are detailed in each Client's Governing Documents.

##### *Collateralized Loan Obligations*

With respect to Clients structured as collateralized loan obligations ("CLOs"), an Affiliate of the Adviser is generally paid a quarterly management fee of 1% per annum. For any Clients investing directly or indirectly in one or more Clients structured as CLOs, each such Client's total management fees payable do not exceed the management fee set forth in such Client's Governing Documents.

##### *Compensation Waivers or Reductions*

Compensation to the Advisers is negotiable and is set forth and described in each Client's Governing Documents. Certain investors in the Clients have negotiated for and pay reduced

performance-based allocations or fees and/or reduced management fees. In addition, certain investors in certain co-investments, as described herein, pay no fees.

Certain Clients in liquidation may pay either (i) no fees or compensation or (ii) pay, in advance, a quarterly management fee at a reduced rate.

**B. Payment of Fees.**

Management fees, incentive allocations, incentive fees and carried interests are generally deducted directly from Client accounts. If an advisory contract is terminated before the end of a billing period, unearned, pre-paid fees (prorated for the remaining portion of the billing period) will be refunded directly to a Client or underlying investor in accordance with the terms of the Client's Governing Documents.

**C. Additional Expenses and Fees.**

As more particularly set forth or described in the Governing Documents of a particular Client and/or the Advisers' expense-related policies and procedures, a Client will bear some or all of the following fees, costs and expenses:

- (i) operating and administrative fees, costs, liabilities, obligations and expenses of the Clients;
- (ii) organizational and offering costs and expenses of the Clients (including, without limitation, all, or a portion, of the costs and expenses incurred in connection with a Client's formation and qualification and the offering and sale of interests in a Client, including, without limitation, legal, tax, regulatory and accounting fees and expenses, registration and qualification fees and expenses, fees and expenses of distribution, filing fees, printing costs and all costs and expenses incurred in connection with the preparation of offering documents, marketing materials, organizational documents, operating documents and similar materials and the costs of qualifying, preparing, negotiating, reproducing, amending, supplementing, mailing and distributing investor presentations, other offering materials, related documents and agreements (including, without limitation, investor-specific side letters or similar agreements), and agreements with placement agents and any similar agreements, telephone and other communications and transmittal costs, travel, accommodation and related expenses, and any fees and expenses related to regulatory compliance (including, without limitation, the initial registrations, filings and other compliance contemplated by Directive 2011/61/EU of the European Parliament and of the Council dated 8 June 2011 on Alternative Investment Fund Managers, as implemented in any relevant jurisdiction, together with Commission Delegated Regulation (EU) No 231/2013, as well as any similar or supplementary law, rule or regulation, in each case as amended from time to time, including as implemented in the United Kingdom pursuant to applicable legislation including the UK Alternative Investment Fund Managers Regulations 2013/1773, and retained and amended from time to time ("AIFM Directive"), the Swiss

Collective Investment Schemes Act dated June 23 2006, (as amended, “CISA”), the Swiss Financial Services Act dated June 15, 2018 (as amended, “FinSA”), the EU Sustainable Finance Disclosure Regulation, (EU) 2019/2088, the EU Taxonomy Regulation (EU) 2020/852 (as required) or any similar law, rule or regulation, if applicable), and any administrative or other filings, in each case, incurred in connection with the structuring, organization, negotiating, funding and start-up of the Clients) including any fees and expenses payable to any agent or service provider engaged to market in a non-U.S. jurisdiction where the use of such agent or service provider is required to comply with the laws of such jurisdiction, but excluding (subject to the foregoing) any fees and expenses payable to any placement agent engaged to facilitate placement of interests or shares in any Client, which shall be borne (directly or indirectly) by the Advisers;

- (iii) costs associated with all investments and transactions considered, pursued, evaluated, negotiated, originated, owned, acquired and/or consummated by the Clients, including, without limitation, costs associated with sourcing, negotiating, investigating, researching, financing, refinancing, structuring, originating, acquiring, performing due diligence with respect to, organizing, bidding-on, operating, holding, managing, oversight (including, but not limited to, outsourced activities), hedging, maintaining, margin maintenance and/or collateral posting obligations, restructuring, trading, selling, divesting, valuing, winding up, liquidating, dissolving or otherwise disposing of investments and potential investments (including follow-on investments and protective advances), whether or not consummated or seeking to do any of the foregoing (including third-party research, data, analytics, modeling, structuring, pricing, execution and other third-party information systems, software and service fees (including data feeds, subscriptions, periodicals, databases, reports and similar items));
- (iv) expenses associated with acquiring, holding, financing, constructing, leasing, monitoring, hedging, maintaining and disposing of all investments of the Clients (including, to the extent a Client owns any real estate, asset and property management expenses of third parties, local operators and certain Affiliates as described herein) and all transaction and other costs associated therewith;
- (v) costs (including any subscriptions, licenses and usage and other fees and charges incurred in connection therewith) of software and systems related to contact management, research, third party data sources, expert and professional networks, database management, accounting (including through a third-party data portal and otherwise), and current and prospective portfolio company or portfolio investment sourcing, research, valuation, data analytics, monitoring, tracking, storage and aggregation;
- (vi) travel and related expenses (including, without limitation, where appropriate as determined by the Advisers, the cost of travel agency fees, using private aircraft or other private air travel (at a cost not to exceed the cost of business-class commercial airfare for such route), other air travel, car or ride sharing services, other modes of transportation, the cost of fuel/tolls, meals, accommodations

(including hotel and extended stay lodging) and any cost related to cancellation/change fees associated with such transportation and lodging reservations, events and entertainment), irrespective of the time(s), location(s), or person(s) involved therein, including for employees of Cerberus working on investment-related matters outside of normal business hours (provided that the costs related to such travel and related expenses are reasonable as determined by the Advisers);

- (vii) professional fees associated with investments and potential investments, including, but not limited to, accounting, consulting (including, for the avoidance of doubt, retainer fees, salary and other compensation paid to, and benefits or personnel costs provided to or on behalf of, any third-party consultants engaged through Cerberus Global Investment Advisors, LLC, Cerberus Operations (as defined in Item 10), Cerberus Technology Solutions and any other Advisers or affiliates thereof, whether now existing or hereafter created, in respect of the Clients and/or their portfolio investments), investment banking, financing, accounting, audit, commitment, legal, tax, expert networks, software and service providers, and other advisory costs;
- (viii) transaction, broker, dealer, clearing and settlement, loan administration, private placement, sales, investment banker and finder costs and similar services and similar costs associated with the acquisition, disposition and settling of investments and potential investments (including both commissions and discounts) (as explained further in Item 12);
- (ix) administrative (including tracking or reporting software), custodial (including costs related to the holding, maintenance and administration of investment-related collateral assets in safekeeping), depositary (including any costs associated with complying with any related law, rule or regulation relating to the implementation thereof), local paying agent, trustee, recordkeeping, account, registered office, appraisal, valuation, legal, consulting, advisory and similar costs associated with the Clients' operations, investments, transactions and potential investments and making distributions to investors, including costs of any administrator;
- (x) costs, fees and expenses associated with Environmental, Social and Governance (ESG) data gathering, tracking, analyzing and reporting (including, but not limited to, the use of third-party software);
- (xi) management fees;
- (xii) costs of any Affiliates (whether now existing or hereafter created) engaged to provide services by or on behalf of the Clients as described in Item 10, "Material Relationships or Arrangements with Industry Participants and Affiliated Advisers – Affiliated Service Providers", including, without limitation, (A) the COAC Expenses (as defined in Item 10), (B) the CTS Expenses (as defined in Item 10), the Dutch and Other Expenses (as defined in Item 10), and (D) the costs, fees,

expenses and potential profit (including, without limitation, any associated overhead and administrative expenses) of other Cerberus affiliates (whether now existing or hereafter created), including, without limitation, (i) FirstKey Homes (as defined in Item 10), (ii) FirstKey Mortgage (as defined in Item 10), (iii) Spring EQ (as defined in Item 10), and (iv) Cerberus Servicing (as defined in Item 10).

- (xiii) broken-deal, failed transaction, termination or reverse termination, expense reimbursement, break-up and similar costs (including any portion thereof attributable to actual or potential Co-Investors (as defined below) and to the extent not paid by the sponsor of a potential borrower and/or from the borrower itself, whether through good faith deposits or otherwise);
- (xiv) costs of indebtedness, guarantees, leverage and/or any other borrowings, credit facilities, financing, other credit arrangements, financings or other indebtedness or guarantees utilized, or proposed to be utilized by or on behalf of the Clients (including, without limitation, any subscription facilities) including any credit facility, letter of credit, similar credit support, term debt securitization, sale and repurchase agreement and, in certain cases, the share of such costs attributable to one or more Co-Investors, including the repayment of principal as well as interest charges, fees and penalties thereon;
- (xv) auditing, accounting and tax reporting and compliance costs of the Clients, including, without limitation (A) costs associated with the preparation, distribution or filing of the Clients' financial statements or other reports (including, without limitation any additional audit material such as a negative assurance statement, if any), tax returns, tax estimates, and Schedules K-1 or similar forms, filings or reports, any other administrative, compliance or regulatory filings or reports and compliance under any Foreign Account Reporting Requirements (including Form PF, U.S. Bureau of Economic Analysis Reports and in order to comply with the Foreign Bank and Financial Accounts or similar reporting requirements) or other information, including any reporting on, or benchmarking of, costs of affiliated services providers, (B) costs of or related to any representative of the Clients, and (C) costs associated with compliance with any tax or financial account reporting regime, including, in each case, any costs of any third-party service providers and professionals related to the foregoing;
- (xvi) costs associated with investor communications (including any printing, mailing, courier, marketing and publicity communications) and reports and the delivery thereof to investors (including through a third-party data portal or otherwise), including, without limitation, any costs related to disclosure of any other agreements to investors or any election by investors of any relevant terms, and any reporting and compliance pursuant to any other agreements;
- (xvii) costs associated with (A) investor conferences and meetings (including reasonable set-up costs, speaker fees, honorarium, dining, entertainment, events related to or in connection with, and travel and travel-related and other costs) and

(B) activities, meetings or proceedings of the Clients' advisory boards or Boards of Directors (including reasonable set-up costs, speakers fees, honorarium, dining, entertainment, events related to or in connection with, and travel and travel-related and other costs and any reasonable out-of-pocket costs incurred by representatives of the general partner, the advisory board members and permitted observers and other persons attending or otherwise participating in meetings of the Clients' advisory boards) and the meetings of any other committees of the Clients, including any committees formed for the purpose of approving principal transactions as described in Item 11, "Securities That the Adviser or a Related Person Has a Material Financial Interest";

- (xviii) reasonable costs and expenses related to the Clients' boards of directors and their meetings and certain Clients' investment committee members and/or conflicts committee and/or their meetings, or other advisers retained to assist in addressing conflicts or potential conflicts related to fiduciary obligations;
- (xix) insurance expenses, including, but not limited to, those relating to property, title, directors' and officers' liability, fidelity bond, cybersecurity, errors and omissions liability, crime coverage and general partnership liability premiums and other insurance policies (including costs related to any retention or deductibles and broker costs and commissions) and any consultants or other advisors utilized in the procurement, review, maintenance and analysis of insurance;
- (xx) expenses incurred in the collection of monies owed to the Clients, including any cost to foreclose on any collateral;
- (xxi) costs associated with defaults by investors in the payment of any capital contributions;
- (xxii) costs (including taxes, fees or other governmental charges) associated with the formation, organization and operation of any Clients or any subsidiary, special purpose vehicle ("SPV"), alternative investment vehicle, holding company or similar entity formed with respect to investments and potential investments, credit or borrowing arrangements (including, without limitation, credit facilities or arrangements (including, without limitation, any subscription facilities or CLO issuances or term debt securitizations) or other transactions entered into for the benefit of the Clients or certain investors in the Clients;
- (xxiii) costs incurred in connection with the formation of any extended duration vehicle or any restructuring of the Clients, including any amendments to the Governing Documents of the Clients and related entities in connection therewith;
- (xxiv) wind-up, liquidation, termination and dissolution costs of the Clients and any entities owned directly or indirectly by the Clients (including portfolio investments) and related entities;

- (xxv) costs related to filing, title, transfer, survey, registration and other similar activities (including, but not limited to, qualification and/or exemption under any applicable U.S. federal, state, local or non-U.S. laws, rules or regulations, including blue sky fees, and other securities and/or investment-related filing expenses);
- (xxvi) costs related to any transfers of interests in the Clients, unless otherwise reimbursed by the applicable transferor and/or transferee or any investor's name change, internal restructuring or change in trust, registered agent or custodian;
- (xxvii) any extraordinary expenses (including all (A) actual, threatened or otherwise anticipated litigation, mediation, arbitration, governmental or tax inquiry, investigation or proceeding or other dispute resolution process, including the costs of discovery related thereto and (B) indemnification and contribution costs (including legal and any other costs incurred in connection with indemnification or otherwise and advancing costs incurred by any person in defense or settlement of any claim that may be subject to a right of indemnification), including the amount of any judgment, fines, remediation or other award or settlement paid in connection therewith);
- (xxviii) reporting, filings and other ongoing compliance requirements contemplated by the AIFM Directive, the CISA, the FinSA, the EU Sustainable Finance Disclosure Regulation (EU) 2019/2088 and/or the EU Taxonomy Regulation (EU) 2020/852 or any similar law, rule or regulation (as applicable) (excluding, for the avoidance of doubt, the initial and/or preliminary registrations, filings and compliance obligations related thereto), including secondary legislation, regulations, rules and/or associated guidance, and any related requirements;
- (xxix) costs of compliance with any law, rule, regulation, policy, order, directive or special measure (including in relation to privacy, data protection, know-your-customer, anti-money laundering, sanctions, anti-terrorism considerations, the AIFM Directive (as defined in Item 8) or any similar law, rule or regulation), including any legal, administrator, consulting or other third-party service provider costs related thereto, any Client or Affiliate, general partner and/or any of their respective affiliates (including specific costs incurred in obtaining systems, research and other information, including information service subscriptions, utilized for portfolio management, valuations, accounting or reporting purposes, including the costs of pricing services, service contracts for quotation equipment and related hardware and software, phone and internet charges and expenses related to the Clients' activities), any regulatory costs incurred in connection with the operation of the Clients and any costs incurred in connection with establishing, implementing, monitoring and/or measuring the impact of environmental, social and/or governance or other investment considerations and policies applicable to the Clients, the general partners and/or any of their respective affiliates, including secondary legislation, regulations, rules and/or associated guidance, and any related requirements;

- (xxx) costs of the validation or other confirmation of any payments made to the Clients or the Advisers (including as a result of any anti-money laundering laws, rules or regulations);
- (xxxi) amendments to, and waivers, consents or approvals pursuant to, the constituent documents of the Clients, the general partners, or any entities owned directly or indirectly by the Clients (including portfolio investments) and any alternative investment vehicle of the Clients, including the preparation, distribution and implementation thereof;
- (xxxii) costs of any activities with respect to protecting the confidential or non-public nature of any information or data, including confidential information (including any costs incurred in connection with the data protection laws and freedom of information act legislation);
- (xxxiii) any of the items listed herein relating to any investment, restructuring, taking public or private, disposition, transaction, project or other opportunity not consummated or otherwise not successful and/or that may have been offered to Co-Investors, including Co-Investors' proportionate share of any expenses related to an investor or other opportunity not consummated, including, without limitation, (A) all fees (including commitment fees), costs and expenses of lenders, investment banks and other financing sources in connection with arranging financing, (B) any amounts paid to an individual or group pursuing a business plan that is not successfully implemented, (C) any deposits or down payments of cash or other property which are forfeited in connection therewith, (D) any break-up, termination, topping, reverse termination fees and any liquidated damages, forfeited deposits or similar payments and (E) expenses incurred in connection with negotiating with prospective Co-Investors, to the extent not separately borne by such prospective Co-Investor;
- (xxxiv) any taxes, fees and other governmental charges levied against the Clients, or any subsidiary, special purposes vehicle, alternative investment vehicle, holding company or similar entity formed with respect to investments (except to the extent that the Client or such other entity is reimbursed therefor);
- (xxxv) to the extent not covered by the above, costs incurred in connection with the acquisition, holding or disposition of tokens, protocol tokens, app coins, blockchain-based assets and other digital assets (including costs relating to any digital or other currency exchange (e.g., blockchain-related transaction or related fees); transfers, voting, staking or other protocol operations or block chain-related information technology; hardware or physical vaults, "cold" storage, security or asset custody; or other systems or technology; or other similar or related costs);
- (xxxvi) any investment and transaction expenses of the Clients or any other affiliated investment originator attributable, as determined by the Adviser of such Clients, to securities or other assets considered for investment by such Clients, including, to the extent not paid by the sponsor of a potential borrower and/or from the



borrower itself (whether through good faith deposits or otherwise), the costs and expenses of any securities or other assets (or interests therein) purchased by or transferred to the Clients and any “broken-deal”, failed transaction, termination or reverse termination, expense reimbursement, break-up or similar costs (including any portion thereof attributable to actual or potential Co-Investors) incurred by the Clients or any other affiliated investment originator in respect of contemplated securities or other assets that would have been originated or invested in by such Clients, and these expenses generally will not be borne or shared by potential syndicate partners, transferees or offerees;

- (xxxvii) expenses incurred in connection with the performance of loan origination, loan and asset servicing and settlement activities, collateral management, due diligence and property management services for the Clients, including without limitation, any investment and transaction expenses of any affiliated loan originator or service provider attributable, as determined by the Advisers of such Clients, to loans or other assets considered for investment by the Clients, including, to the extent not paid by the sponsor of a potential borrower and/or from the borrower itself (whether through good faith deposits or otherwise), the costs and expenses of any loans or other assets (or interests therein) purchased by or transferred to the Clients and any broken-deal or failed transaction expenses incurred by any affiliated loan originator or service provider in respect of contemplated loan or other assets that would have been originated or invested in by the Clients, including any of the items listed above relating to any investment, restructuring, disposition, transaction, project or other opportunity not consummated or otherwise not successful and/or that may have been offered to syndicate parties, Co-Investors or others (including such persons’ proportionate share of any expenses related to an investment or other opportunity not consummated);
- (xxxviii) expenses incurred in connection with the performance of loan origination, loan and asset servicing and settlement activities, collateral management, due diligence and property management services for the Clients;
- (xxxix) all other fees, costs, charges and expenses associated with the business, affairs and/or operations of the Clients and the sourcing, acquisition, management and exit of properties owned by the Clients; and
- (xl) any other costs approved by a Client’s advisory board or Board of Directors.

The Advisers of certain Clients may, from time to time, also receive good faith deposits from the sponsors of potential borrowers and/or from borrowers themselves. The Advisers receive such deposits on behalf of participating Clients, and may use such deposits to offset due diligence costs incurred in connection with the loan transaction (including broken-deal or failed transaction expenses) which would otherwise be paid by such Clients in respect of such investment. Excess amounts may be kept by the Advisers or their affiliates.

Whenever the Advisers or their affiliates have incurred any costs, fees and/or expenses that upon the determination of the Advisers are costs, fees or expenses that should be allocated to or among one or more of the Clients, the Advisers shall be entitled to prompt reimbursement for such costs, fees and expenses from such Clients, and taking account of prior expense history and anticipated costs and debits the Clients in advance for such estimated costs. Whenever one or more of the Clients has incurred any costs, fees or expenses that upon the determination of the Advisers are costs, fees or expenses that should be allocated differently pursuant to the Expense Allocation Policy, as defined and discussed herein, such costs, fees and expenses shall be reallocated in accordance with the terms and provisions of the Expense Allocation Policy.

The Advisers will provide office space for themselves and on behalf of the Clients, and will pay for all rent, utilities, HVAC, water, cleaning, office furniture, fixtures and equipment, computer equipment (excluding any third-party data, analytics or other information systems as described above, which are expenses of the Clients), office supplies and all other reasonable and customary occupancy costs, as well as salaries, bonuses and benefits paid to reception, secretarial, clerical and other administrative personnel and investment professionals and support personnel of the Advisers (excluding the COAC Expenses, the CTS Expenses (as defined in Item 10), the Dutch and Other Expenses, and the costs, fees, compensation and expenses of affiliates (whether now existing or hereafter created), including, without limitation, affiliated service providers such as Cerberus Servicing), the Portfolio Company Servicers (as defined in Item 10), FirstKey Homes, FirstKey Mortgage, Spring EQ and other Affiliates or portfolio companies engaged to provide services by or on behalf of the Clients or their portfolio investments as described in any such Client's Governing Documents, in each case, which are expenses of the Clients).

#### *Allocation of Expenses*

Due to the fact that the Advisers manage investments on behalf of a number of Clients, certain expenses will be incurred jointly for the benefit of more than one Client. The Adviser has adopted policies and procedures for the fair and equitable allocation of such fees and expenses among the Clients (the "Expense Allocation Policy"), although such Expense Allocation Policy may change from time to time and may differ materially in content from what is described below. Subject to the policies and procedures described below with respect to co-investment opportunities, if any of the above expenses or other expenses are incurred jointly for the benefit of more than one Client, such expenses will generally be allocated among the Clients in proportion to the actual or anticipated size of the investment made by the Client in the asset, entity or strategy to which the expense relates, in proportion to the benefit derived from the expense by each Client, or in such other manner as the Adviser considers fair and equitable in its sole discretion, as guided by the Expense Allocation Policy. Although the Adviser aims to allocate all fees, costs and expenses in a manner that is fair and equitable over time, there can be no assurance that a Client will not be required to bear more than its *pro rata* portion of such fees and expenses and the Adviser reserves the right, in its sole discretion, to make corrective allocations of such fees and expenses if it determines it to be necessary or advisable. The Adviser may allocate expenses specifically attributable to an investment of an investor in a Client (e.g., investor-related taxes) to such investor.

With respect to unconsummated transactions, Clients will bear certain fees and expenses related to such transactions (whether due to the determination of the Adviser not to proceed or for any other reason) that would have been borne by more than one Client or potential co-investors had such transaction been consummated, as determined in the reasonable judgment of the Adviser. A conflict of interest could arise in the Adviser's determination whether certain costs or expenses that are incurred in connection with the operation of a Client meet the definition of an expense for which Client is responsible, or whether such expenses should be borne by the Advisers. Subject to applicable legal, contractual or similar restrictions, Clients will be reliant on the determinations of the Adviser in this regard, and also in regard to the allocation of investment expenses and any common operating expenses as among the Clients and the Adviser, including with respect to the determination of whether unconsummated transactions would have been allocated to the Client and therefore are properly allocable in whole or in part to the Client. Further, despite the Adviser's good faith judgment to arrive at a fair expense allocation methodology, the use of any particular methodology may lead a Client to bear relatively more expense in certain instances and relatively less in other instances compared to what the Client would have borne if a different methodology had been used.

New Clients may be required to bear broken deal expenses related to potential investments that are not consummated to the extent that (i) such potential investments become broken deals during the 45-day period prior to the initial closing of such Clients (or increase in capital commitments) and (ii) such Clients would have been allocated a portion of such investments (or an additional portion of such investments as a result of an increase in capital commitments), even if such expenses were borne by other Clients prior to the time such Clients, were formed and/or had their initial closing. Accordingly, certain Clients may bear such broken deal expenses.

In addition, with respect to certain Clients, operating expenses of such Clients will include any investment and transaction expenses of CBF (as defined in Item 10) attributable, as determined by the Advisers of such Clients, to loans or other assets considered for investment by such Client, including, to the extent not paid by the sponsor of a potential borrower and/or from the borrower itself (whether through good faith deposits or otherwise), the costs and expenses of any loans or other assets (or interests therein) purchased by or transferred to a Client and any broken-deal or failed transaction expenses incurred by CBF in respect of contemplated loans or other assets that would have been invested in by a Client, provided, however, that Clients not involved in the origination of loans will not incur any broken-deal expenses with respect to any targeted loan originations by such Clients that do not close. The possibility for a conflict of interest arises to the extent that CBF incurs operating expenses (or subjects itself to potential broken-deal expenses) that are higher than would ordinarily be expected in the loan origination industry.

#### *Allocation of Expenses to Co-Investors and Third Parties*

The Adviser seeks to fairly allocate expenses by and among the Clients, persons and/or entities that invest (or propose to invest) in the same investment (or proposed investment) as the Clients, whether directly or indirectly through one or more persons and/or entities (including, but not limited to, SPVs controlled by the Advisers or one or more other persons and/or entities) (collectively, "Co-Investors") and other syndicate members. With respect to closed

investments, the Adviser generally will seek to have Co-Investors and other syndicate members share in expenses related to the applicable investment that are borne by the Clients that own the same portfolio investment as the relevant Co-Investor or syndicate member. However, it is not always possible, reasonable or practicable to allocate expenses to a Co-Investor or syndicate member depending upon the circumstances surrounding the applicable co-investment and the financial and other terms (including the timing of the investment) governing the relationship of the Co-Investor or syndicate member to the Clients with respect to the portfolio investment, and, as a result, there may be occasions where Co-Investors or syndicate members do not bear a proportionate share of such expenses.

In certain circumstances, a Co-Investor or syndicate member may have limitations on the amount of expenses that may be borne by such Co-Investor or syndicate member in respect of an applicable co-investment or may be restricted from pursuing a syndication opportunity until after such investment has been made. In addition, a Co-Investor or syndicate member may reimburse its proportionate share of expenses at a substantially later date following the consummation of such co-investment and may not pay interest thereon. Further, where a co-investment was contemplated but ultimately not consummated, including with respect to proposed transactions that are not consummated by the Clients, the potential Co-Investor or syndicate member generally does not share in the expenses borne by the Clients with respect to such potential co-investment or proposed transaction opportunity (including, without limitation, broken-deal, failed transaction, break-up, termination, reverse termination and/or similar fees, costs and expenses of an unconsummated transaction, which expenses would instead be borne exclusively by the Clients) and such potential Co-Investor or syndicate member would not typically be entitled to receive any break-up fees or similar fees earned with respect to such transaction (and in such case, Clients will bear all such broken deal expenses and will be entitled to any such break-up fees or other similar fees). Expenses are not allocated to, charged to or paid by third-party investors (including, but not limited to, shareholders and other holders of equity interests) in portfolio companies and other corporations, companies, partnerships and/or other businesses that are (i) not controlled by the Advisers but in which the Clients have investments (including, but not limited to, public corporations and private companies in which the Clients have investments) or (ii) controlled by the Advisers but which have third-party investors other than the Clients. In these circumstances, the applicable expenses generally will be allocated to, charged to and paid by the respective Clients, and not the respective portfolio company or other entity, unless a separate agreement has been entered into between the Advisers and such portfolio company or other entity. As a result, the Client may bear a disproportionate share of such expenses.

**D. Prepayment of Fees.**

Please see Item 5A. and Item 5B.

**E. Additional Compensation and Conflicts of Interest.**

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

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

The Affiliates receive performance-based compensation in the form of an incentive allocation, an incentive fee and/or other performance-based distributions with respect to Clients. Certain Clients that are in liquidation and/or are not making new investments (other than follow-on investments) are either charged no compensation or only a management fee (as described in Item 5).

Many of the Clients have investment programs that are the same as, similar to or overlap with each other, and may, therefore, participate with each other in investments. In the allocation of investment opportunities, performance-based fee/allocation arrangements could create an incentive to favor Clients that have greater performance fee/allocation arrangements over other Clients that have lesser or no performance fee/allocation arrangements. Investment decisions and allocations are made in accordance with the Advisers' Investment Allocation Policy and Procedures ("Investment Allocation Policy"), as such Investment Allocation Policy is in effect at the time of such decision or allocation and as may be amended from time to time. The Investment Allocation Policy is designed to ensure that all Clients are treated fairly and equitably to prevent this form of potential conflict from influencing the allocation of investment opportunities among them.

**ITEM 7**  
**TYPES OF CLIENTS**

The Advisers provide investment management services and advice to the Clients (including CLOs), single investment SPVs and managed accounts and certain Co-Investors.

The offering documents of each Client may set minimum amounts for investment by prospective investors in such Clients. These minimum amounts may be waived by the Adviser or an Affiliate.

## ITEM 8

### METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS

#### Methods of Analysis and Investment Strategies.

Set forth below are summaries of the different asset categories and strategies primarily employed by the Advisers. Each Client's investment portfolio may participate in one or more of such asset categories and strategies as described in such Client's Governing Documents. Clients' investment portfolios may differ based on whether they concentrate their investments in a single one of the strategies, all of the strategies or less than all of the strategies. Clients' investment portfolios may also differ based on geographical focus, liquidity needs and other considerations. The Adviser generally pursues, or has pursued, on behalf of its Clients, investments in the following three categories: (i) Private Equity and Venture Capital, including operational private equity, supply chain investments that aim to advance supply chain security and integrity and strengthen critical infrastructure for the U.S. and its allies, venture investments in companies with a primary focus on the critical technology and infrastructure underpinning and enabling nation states, a frontier and emerging markets investment platform, acquisitions of companies with operational problems or significant cost reduction opportunities, subsidiaries of companies where the business is viewed as non-core and/or underperforming divisions and companies undergoing reorganization under U.S. bankruptcy law or similar laws and early or later stages companies that require capital to scale and/or grow; (ii) Real Estate, including investments in distressed debt securities and assets, special situations, direct equity, mortgage loans and bridge financings, mezzanine debt and preferred equity and NPLs secured by real estate; and (iii) Global Credit, including corporate stressed credit and distressed debt, corporate middle-market direct lending and residential and commercial mortgage securities and assets. Investments within these categories may involve any part of the capital structure of an issuer. Investments may be passive or active (including control) investments in a wide range of industries and countries.

At present, no new investments, other than follow-on investments, are being made by certain Clients as the Advisers liquidate the existing investment portfolio of each of these Clients.

**Private Equity.** The Advisers will generally target private equity investments where they can implement an operational approach to private equity by driving portfolio investment value through operational and strategic change. Pursuant to this strategy, the Advisers seek to make control equity investments, minority equity investments, structured equity and structured debt investments, asset purchases and platform investments across a broad array of industries where the Advisers believe there is an opportunity to create value through purchase price, organizational and infrastructure improvement, efficiency and productivity gains and platform creation or asset repositioning. The Advisers will make investments where they have identified opportunities or dynamics which enable them to drive near-term value or that they believe are not appreciated by the market, augmented by opportunities for longer-term strategic growth and value creation.

This approach manifests itself in a variety of overlapping ways; however, investments typically derive value through four core value-creation areas: (i) value-oriented and complex acquisitions; (ii) organizational and infrastructure development; (iii) efficiency and productivity initiatives; and (iv) platform creation opportunities.

**Supply Chain.** The Advisers may also opportunistically target investments in companies and assets that the Advisers believe can advance supply chain security and integrity, generate growth and return, and strengthen critical infrastructure for the U.S. and its allies. Pursuant to this strategy, the Advisers make investments in assets and issuers of all lifecycle stages, including new and emerging early-stage or start-up investments and venture companies (including companies that are pre-revenue) that are developing to meet supply chain requirements, growth-stage companies and more mature, cash-flowing financeable companies, that are well positioned to serve national priorities.

**Venture Capital.** The Advisers will target investments primarily in Series Seed through Series B financing rounds of technology companies with a primary focus on the newly emerging critical infrastructure underpinning and enabling nation states. Such areas of focus may include, without limitation: energy assurance; food security, production and distribution; public health; labor productivity; transportation; automation; financial services; and/or any other underlying technology areas that represent a critical need in advancing and strengthening the infrastructure underpinning and enabling nation states, such as quantum, fusion, cyber security, and AI based technologies. The Advisers will seek to invest in companies that have, among other characteristics, (i) a credible, motivated management team in place, (ii) financial and valuation discipline, (iii) the necessary technical capabilities and (iv) a demonstrated market fit. While the Advisers may seek to influence a target company through board seats or other control mechanisms, it will also occasionally make passive and minority investments in Seed stage companies of interest.

**Real Estate.** The Advisers invest opportunistically in a wide range of investments, primarily falling into five main categories: (i) real estate debt, including debt instruments, NPLs, performing and re-performing loans (“RPL”) (as well as the underlying collateral for such loans) and mortgage backed-securities (“MBS”); (ii) direct equity, including strategic asset aggregation, controlling equity interests in direct property investments, joint ventures, corporate real estate holdings, private equity and select development opportunities; (iii) targeted opportunistic and special situations, including public or private real estate investment trusts (“REITs”), secondary limited partnership interests, real estate operating companies constrained by management inefficiencies or lack of liquidity, other operating companies with material real estate or real estate-related investments as well as various other customized structured transactions; (iv) mortgage loans and bridge financings; and (v) mezzanine debt and preferred equity. It is anticipated that a portion of the investments may be in the form of debt or preferred equity that will be relatively senior in the capital structure and often secured.

**Global Credit.** The Advisers focus on four principal complementary investment strategies: (i) corporate credit and distressed debt; (ii) corporate middle-market direct lending; (iii) residential and commercial mortgage securities and assets; and (iv) NPLs. The Advisers employ a flexible investment strategy for corporate credit that seeks to capitalize on prevailing market conditions and opportunities in a wide range of potential corporate credit investments. The strategy targets investment opportunities in stressed and distressed corporate credit during periods of increased volatility associated with general credit market dislocations or in companies experiencing operational, cyclical, secular, or regulatory challenges. Investment opportunities targeted by the Advisers focus primarily on senior and secured bonds and loans in the high-yield bond and



leveraged loan markets but may also include a variety of other debt instruments with varying terms with respect to collateral, relative seniority or subordination, purchase price, convertibility, interest rate, and maturity (*e.g.*, bonds, debentures and notes, trust certificates and commercial paper and trade claims). Debt investments may be coupled with equity investments or “kickers,” and the Advisers may also invest in public and/or privately traded stand-alone equity and equity-related securities of stressed or distressed companies, including preferred stock, convertible preferred stock, common stock, and warrants. The Advisers target primarily secondary market opportunities, which may include publicly traded bonds or other debt. In addition, the Advisers may also originate loans in stressed or distressed situations and may participate in new issues of high yield bonds or syndicated leveraged loans.

The Advisers, on behalf of certain Clients, invest in NPLs, pools of NPLs and the underlying collateral for such loans. In connection with the NPL investment strategy, the Advisers may also invest in other assets, including, without limitation, performing loans, structured products, real estate owned (“REO”) and other real estate-related assets, and other assets purchased from financial institutions and distressed sellers (including those looking to de-lever their balance sheets or divest of non-core assets). The NPL investment strategy may also involve investments in the public or private debt and equity of operating companies (*e.g.*, loan servicers that specialize in the management, collection and recovery of distressed assets, operating partners or banks, or asset management companies) that the Advisers believe would be beneficial and/or accretive to the NPL investment program, including without limitation, if such investments may produce additional deal flow, servicing alternatives and/or other market expertise in respect of investments that certain Clients may make (*e.g.*, data on borrowers and geographic trends). Advisers may also invest in banks and other financial institutions and operating companies that have loan books, including, without limitation, in an effort to acquire the underlying assets owned by such company or for other reasons related to the investment strategy. The loans targeted will have varying terms with respect to collateral, relative seniority or subordination, purchase price, convertibility, interest requirements and maturity. Such loans may consist of a large and diverse spectrum of loans, including small to-medium enterprise and other corporate loans, real estate secured loans (including residential, commercial and multi-family loans), loans secured by assets other than real estate (*e.g.*, ships), unsecured loans and consumer loans.

In addition, the Advisers make investments on behalf of Clients in debt of underlying issuers that are, or face the prospect of becoming, financially distressed, are or may become subject to a reorganization or insolvency proceeding, such as, but not limited to, a bankruptcy proceeding, or are or may become engaged in other extraordinary transactions, such as debt restructuring, reorganization and liquidation outside of bankruptcy. The Advisers may also invest in debt that they believe is undervalued because of operational inefficiencies or market dislocations, even when the market generally does not view such debt, or its issuer, as distressed.

Furthermore, the Advisers make investments on behalf of Clients in debt and equity securities of MBS (including, without limitation, MBS backed by prime, Alt-A, Alt-B, subprime mortgages and commercial mortgages), asset-backed securities (“ABSs”), collateralized debt obligations (“CDOs”), CLOs, synthetic indices, mortgage servicing rights (“MSRs”) and other forms of ABS and other pools of distressed assets.

In addition, in connection with the residential strategy, the Advisers may purchase U.S. and non-U.S. performing loans, RPLs and NPLs and pools of performing loans, RPLs and NPLs that are consistent with the Advisers' investment programs. Such loans may include, without limitation, loans secured by residential and commercial properties (which include, without limitation, multifamily properties, land, hotels, offices and condominiums), small-to-large-balance commercial loans and loans related to rental finance and similar businesses.

**Leverage and Hedging.** The Advisers may use leverage for liquidity, subscription financing, and investment purposes, subject to a Client's Governing Documents. Leverage may be achieved through, among other methods, direct borrowing, purchases of securities on margin and the use of options, futures, forward contracts, repurchase and reverse repurchase agreements and swaps. The Advisers may (but need not) employ various hedging techniques to reduce actual or potential risks to which a Client's portfolio may be exposed. The Advisers may invest in various securities, derivatives, indexes and cash equivalents and related instruments both to hedge the Clients' portfolio positions and currency risk and to opportunistically seek to meet the Clients' investment objectives, including: (i) futures and forward contracts; (ii) swaps, including, without limitation, credit default swaps, baskets of credit default swaps, total return swaps, index swaps and interest rate swaps; (iii) options, warrants, caps, collars, floors, swaptions and forward rate agreements; (iv) other synthetic opportunities (*e.g.*, ABX, CMBX, CDX, CDX.HY, IOS, PRIMEX, LCDX and iTraxx indices); (v) other securities (including equities), indexes, exchange traded funds and REITS; (vi) debt securitizations (which may include, among other things, CLOs); and (vii) cash (including U.S. treasuries and agency MBS).

The Advisers may, from time to time, adopt a temporary defensive investment strategy for the Clients by investing in investment grade and/or U.S. government or agency securities, money market funds, commercial paper, certificates of deposit and other money market instruments and interest-bearing accounts and other similar interim investments for cash management.

**General Investment Risks.** All investments, including a Client's investments, risk the loss of capital. The Advisers believe that the Clients' investment program and research techniques moderate this risk through a careful selection of investments and assets and through the use of certain hedging techniques. No guarantee or representation is made (and no such guarantee or representation could be made) that a Client's program will be successful. A Client's investment program may utilize various investment techniques including, without limitation, direct borrowing, margin transactions, short sales, swaps, futures, forward contracts, indices and options contracts, which practices can, in certain circumstances, increase the adverse impact of market moves to which a Client may be subject.

**General Economic and Market Conditions.** The success of a Client's activities will be affected by general economic and market conditions, including, among others, interest rates (including the recent pace of interest rate increases in the U.S.), availability of credit, credit defaults, inflation rates, economic uncertainty, currency exchange controls, natural disasters, disease outbreaks or pandemics, changes in laws (including laws relating to taxation of a Client's investments) and trade barriers, and national and international political, environmental and socio-economic circumstances (including wars, terrorist acts or security operations). In addition, the current U.S. political environment and the resulting uncertainties regarding actual and

potential shifts in U.S. foreign investment, trade, taxation, economic, environmental and other policies under the current administration, as well as the impact of geopolitical tension, such as a deterioration in the bilateral relationship between the U.S. and China or an escalation in conflict between Russia and Ukraine, could lead to disruption, instability and volatility in the global markets. Unfavorable economic conditions also would be expected to increase funding costs, limit access to the capital markets or result in a decision by lenders not to extend credit.

These factors, in addition to the regional banking crisis and impact of a potential recession, may affect the level and volatility of the prices and liquidity of a Client's investments and could impair such Client's profitability or result in losses. A Client could incur material losses even if the Advisers react quickly to difficult market conditions, and there can be no assurance that a Client will not suffer material losses and other adverse effects from broad and rapid changes in market conditions in the future. Investors should realize that markets for the financial instruments in which a Client will seek to invest can correlate strongly with each other at times or in ways that are difficult for the Advisers to predict. Even a well-analyzed approach may not protect a Client from significant losses under certain market conditions.

**Risks Relating to Use of SOFR and other Benchmark Rates.** To the extent that the Client's investments, borrowing facilities, hedging activities or other assets or structures are tied to interest rates based on the Secured Overnight Financing Rate ("SOFR") or the London Interbank Offered Rate ("LIBOR"), the Euro Interbank Offered Rate, the Canadian Dollar Offered Rate, the Sterling Overnight Index Average, or any other reference rate, benchmark or index, including in each case, any permutations thereof and any credit spread adjustments thereto (collectively, the "Benchmark Rates"), the Client may be subject to certain material risks, including the risk that a Benchmark Rate is terminated, ceases to be published or otherwise ceases to be broadly used by the market. Regulators, central banks, governments and other market participants may work to transition existing instruments and contracts to new Benchmark Rates, and any such transition includes the potential to: increase volatility or illiquidity in markets; cause delays in or reductions to financing options for the Client and its portfolio companies; increase the cost of borrowing; reduce the value of certain instruments or the effectiveness of certain hedges; cause uncertainty under applicable legal documentation; or otherwise impose costs and administrative burdens relating to factors that include document amendments and changes in systems.

In most cases, floating rates based on SOFR have replaced U.S. Dollar LIBOR. SOFR is intended to be a broad measure of the cost of borrowing funds overnight in transactions that are collateralized by U.S. Treasury securities. SOFR is calculated and published by the Federal Reserve Bank of New York based on transaction-level repo data collected from various sources. If data used to calculate SOFR is unavailable for any day, then the most recently available data for that segment will be used, with certain adjustments. If errors are discovered in the transaction data or the calculations underlying SOFR after its initial publication on a given day, SOFR may be republished at a later time that day. Rate revisions will be effected only on the day of initial publication and will be republished only under very limited circumstances.

SOFR has a limited history. The future performance of SOFR, and SOFR-based reference rates, cannot be predicted based on SOFR's history or otherwise. Levels of SOFR in the future may

bear little or no relation to historical levels of SOFR, LIBOR or other rates. There is uncertainty as to such development and the effects thereof.

Because SOFR is a financing rate based on overnight secured funding transactions, it differs fundamentally from U.S. Dollar LIBOR. U.S. Dollar LIBOR was intended to be an unsecured rate that represents interbank funding costs for different short-term maturities or “tenors.” It is a forward-looking rate reflecting expectations regarding interest rates for those tenors. Thus, U.S. Dollar LIBOR was intended to be sensitive, in certain respects, to bank credit risk and to term interest rate risk. In contrast, SOFR is a secured overnight rate reflecting the credit of U.S. Treasury securities as collateral. Thus, it is largely insensitive to credit-risk considerations and to short-term interest rate risks. SOFR is a transaction-based rate, and it has been more volatile than other benchmark or market rates during certain periods. Accordingly, use of SOFR may result in market inefficiencies.

For these reasons, among others, there is no assurance that SOFR, or rates derived from SOFR, will perform in the same or similar way as U.S. Dollar LIBOR would have performed at any time, and there is no assurance that SOFR-based rates will be a suitable substitute for U.S. Dollar LIBOR.

#### Risks Relating to Investment Strategies.

The investment programs for each of the Clients involve a substantial degree of risk. The Adviser has listed certain risks below; however, the list of risks is not comprehensive or complete. Clients and investors are strongly encouraged to review the risks of their investment program, as contained in a Client’s Governing Documents. In addition, while certain risks may be more important for certain investment strategies, certain risks may overlap and apply to multiple investment strategies.

#### *Risks Associated with Private Equity & Venture Capital*

**Control Issues.** A Client may have control positions in addition to advisory roles in portfolio companies, along with certain contractual rights to protect its investments (including, for example shareholder consent rights, preemptive rights, redemption rights, put rights, tag and drag rights, and/or the right to place a designee of the Adviser or an Affiliate on the boards of directors or as board observers of portfolio companies, sometimes with special consent rights at the board level); however, such Clients may not always have control over its portfolio companies. A Client runs the risk of refusal of management or shareholders of portfolio companies to adopt the recommendations of such Client, disagreement with existing management and any investment losses resulting from such refusal or disagreement. Although the Adviser or an Affiliate may seek protective positions, including possible board representation, in connection with its private equity investments, to the extent that a Client takes minority positions in companies in which it invests, the Advisers may not be in a position to exercise control over the management of such companies, and, accordingly, may have a limited ability to protect such Client’s position in such companies. Furthermore, in certain circumstances in which such Clients do not own 100% of the equity of a portfolio company, but have a

controlling interest, the Adviser's or its Affiliate's actions may be limited by its fiduciary obligations to minority equity holders.

**Early-Stage and Growth-Stage Companies.** Clients may invest in early-stage and growth-stage companies (including companies that are in a pre-revenue stage). In general, these companies will be in early stages of development and may not have a proven operating history or proven management, may be operating at a loss, and may require additional capital to support their operations. Further, such companies often involve a high degree of business and financial risk. Such companies may face intense competition. They may require additional capital to develop technologies and markets, acquire customers and achieve or maintain a competitive position. This capital may not be available at all, or on acceptable terms. Such companies may face intense competition, including competition from more established companies with much greater financial and technical resources, more extensive development, manufacturing, marketing and service capabilities, and a greater number of qualified managerial and technical personnel. The percentage of such portfolio companies acquired at an early-stage of development that survive and prosper can be small. The specific risks faced by such companies include: rapidly changing science, technologies and consumer preferences; new competing products and improvements in existing products which may quickly render existing products or technologies obsolete; exposure, in certain circumstances, to a high degree of government regulation, making these companies susceptible to changes in government policy and failures to secure, or unanticipated delays in securing, regulatory approvals; scarcity of management, technical, scientific, research and marketing personnel with appropriate training; the possibility of lawsuits related to patents and intellectual property; and rapidly changing investor sentiments and preferences with regard to technology-related investments (which are generally perceived as risky).

Certain Clients are also expected to make late-stage or cross-over investments. Investments in more mature companies also involve substantial risks. In addition to the risks concerning investments in early- and growth-stage companies, investing in later-stage companies includes the risk that there will be substantial variations in operating results from period to period, and that such companies will need substantial additional capital to support expansion or to achieve or maintain a competitive position and such companies are often dependent on new or developing technology that presents various risks, including with respect reliability, customer demand and/or time to maturity. As noted herein, certain Clients will make investments in portfolio companies which may rely upon rapidly changing technologies. Therefore, technological obsolescence and other technology risks may adversely impact the performance of these portfolio companies.

**Control Investments.** It is expected that certain Clients, either alone or together with other Clients, may obtain controlling interests in certain of the portfolio companies in which they invest. The exercise of such control may result in 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 protection generally applicable to business ownership may be ignored. If any of these liabilities were to arise, Clients could suffer significant losses.

**Non-Control Investments.** Certain Clients expect to hold non-controlling interests in certain portfolio companies and, therefore, may have a limited ability to protect their positions in such portfolio companies. As a condition of making non-controlling investments in portfolio companies, Clients may seek to obtain appropriate shareholder rights to protect Clients' investments, but it may not be possible to obtain such rights in all cases. If Clients do not have a controlling position or other shareholder rights to protect their interests, it is possible that a portfolio company could take actions that negatively impact the value of Clients' investments or that prevent Clients from disposing of their investments in portfolio companies.

**Third-Party Involvement.** Clients may acquire interests in certain portfolio companies in cooperation with others through co-investment arrangements. Clients' ability to exercise significant influence over management in these cooperative efforts will depend upon the nature of the co-investment arrangement. Such investments may, under certain circumstances, involve risks not otherwise present, including the possibility that Clients' co-investors may not be able to satisfy their financial obligations, that such co-investors might at any time have economic or business interests or goals that are different from those of Clients, and that such co-investors may be in a position to take action contrary to the instructions or requests of Clients or contrary to Clients' policies or objectives. In addition, such arrangements are likely to involve additional restrictions on the sale and/or transfer of Clients' interests in portfolio companies.

**Reliance on Management of Portfolio Companies.** Although the Advisers generally intend to invest in portfolio companies that have strong management teams and/or to assist in enhancing management teams, there can be no assurance that any portfolio company's management team will be able to operate successfully. In addition, instances of fraud and other deceptive practices committed by the management teams of portfolio companies in which Clients have investments may undermine the Advisers' due diligence efforts with respect to such ability to effectively supervise the financial and operational performance of such companies and their compliance with applicable laws. The success or failure of a portfolio company, including its compliance with applicable law, will depend to a significant extent on the portfolio company's management team.

**Operating and Financial Risks of Portfolio Companies.** Portfolio companies in which certain Clients invest could deteriorate as a result of, among other factors, an adverse development in their business, a change in their competitive environment, or an economic downturn. As a result, portfolio companies that Clients may have expected to be stable may operate at a loss or have significant variations in operating results, may require substantial additional capital to support their operations or to maintain their competitive positions, or may otherwise be in a weak financial condition or be experiencing financial distress. There can be no assurance that Clients will be able to successfully identify and implement such operating improvements and/or recapitalization programs to adequately address these challenges. In addition, Clients may cause their portfolio companies to bear certain fees, costs and expenses that Clients would otherwise bear, including the fees, costs and expenses incurred in developing, investigating, negotiating, structuring or consummating any investment in such portfolio companies. For example, the Adviser may cause such portfolio companies to bear the fees, costs and expenses that are incurred in connection and concurrently with the acquisition of such portfolio companies. The payment

of such fees, costs and expenses by such portfolio companies may reduce the amount of cash that the portfolio companies have on hand and/or otherwise affect their liquidity.

**Uncertainty of Financial Projections.** The Advisers likely will determine the suitability of investments, in part, on the basis of financial projections for portfolio companies. Projected operating results will generally be based primarily on management judgments and those of the Advisers. In all cases, projections are only estimates of future results made at the time that the projections are developed. Projections are subject to a wide range of risks and uncertainties, however, and there can be no assurance that the projected results will be obtained, and actual results may vary significantly from those projections. Moreover, the inaccuracy of certain assumptions, the failure to satisfy certain financial requirements and the occurrence of other unforeseen events could impair the ability of a portfolio company to achieve projected results. In addition, events or conditions, including changes in general market conditions, which may not have been anticipated or which are otherwise not foreseeable, could occur and have a significant impact on the actual rate of return received with respect to the Client's investments.

**PIPE Transactions.** Private investments in public companies whose stocks are quoted on stock exchanges or which trade in the over-the-counter securities market, a type of investment commonly referred to as a "PIPE" transaction, may be entered into with smaller capitalization public companies, which will entail business and financial risks comparable to those of investments in the publicly-issued securities of smaller capitalization companies. In addition, PIPE transactions will generally result in Clients acquiring either restricted stock or an instrument convertible into restricted stock, which investment may be illiquid. A Client's ability to dispose of securities acquired in PIPE transactions may depend on the registration of such securities for resale. There can be no guarantee that there will be an active or liquid market for the stock of any small capitalization company due to the possible small number of stockholders. As a result, even if Clients are able to have securities acquired in a PIPE transaction registered or sell such securities through an exempt transaction, Clients may not be able to sell all the securities on short notice, and the sale of the securities could lower the market price of the securities. There is no guarantee that an active trading market for the securities will exist at the time of disposition of the securities, and the lack of such a market could hurt the market value of Clients' investments. Additionally, Clients may be restricted from selling securities while in possession of material non-public information, which could have an adverse effect on the value of their holdings if the pricing of the securities should decline during the restricted period.

**Minority Positions and Toehold Investments.** Clients could make minority equity or debt investments in companies where such Clients may have limited influence and accumulate minority positions in the outstanding voting stock, or securities convertible into the voting stock or other securities (including debt securities), of such companies. While the Advisers could seek to accumulate larger positions on behalf of Clients through open market purchases, registered tender offers, negotiated transactions or private placements, such Clients may be unable to accumulate a sufficiently large position in a company to execute its strategy. In such circumstances, Clients may dispose of their position in the company within a short time of acquiring it and there can be no assurance that the price at which Clients can sell such stock will not have declined since the time of acquisition. This may be exacerbated by the fact that stock

of the companies that a Client may target may be thinly traded and that a Client's position may nevertheless have been substantial and its disposal may depress the market price for such stock.

**Effecting Operating Improvements.** The success of certain Clients may depend, in part, on the ability of the Advisers or the management of a portfolio company to implement improvements in the operations of a portfolio company. The activity of identifying and implementing operating improvements at portfolio companies entails a high degree of uncertainty. There can be no assurance that Advisers will be able to successfully identify and implement such improvements.

**Need for Significant Capital.** The portfolio companies in which certain Clients will invest may require significant amounts of capital. There can be no assurance that such capital will be available from public capital markets or private sources. In particular, the cyclicity of public markets or the availability of private financing may prevent portfolio companies from raising money in their particular industry sectors, either entirely or on acceptable terms, despite attractive products or services. Furthermore, the highly leveraged nature of some portfolio companies may impair their ability to raise additional capital in the future. The failure of a portfolio company to raise or otherwise secure the necessary capital to fund its operations, research and development, capital expenditures or other activities may require, among other things, the sale or liquidation of some or all of the assets of such portfolio company at a loss or reduced valuation from the price paid by Clients.

**CFIUS and National Security/Investment Clearance Considerations.** Certain investments by Clients that involve the acquisition of an investment in a business connected with or related to national security, "critical technologies," and/or critical infrastructure may be subject to review and approval by the U.S. Committee on Foreign Investment in the United States ("CFIUS") and/or non-U.S. national security/investment clearance regulators depending on the beneficial ownership and control of interests in Clients as well as the nature of the target business. Significant CFIUS reform legislation and regulations empowers CFIUS to scrutinize more closely investments in U.S. "critical technology" and "critical infrastructure" companies, as well as companies that collect "sensitive personal data" of U.S. citizens, including investments involving foreign investors that may be deemed to be "controlling" or "non-passive."

Outside of the U.S., other countries are increasingly taking action to strengthen their foreign investment clearance ("FIC") regimes. As a result, any acquisition of a portfolio investment in certain countries outside the U.S. may likewise be subject to review by FIC regimes if such acquisition is perceived to implicate national security policy priorities of those jurisdictions. There can be no assurances that Clients will be able to maintain, or proceed with, such investments on terms acceptable to Clients. CFIUS or other FIC regulators may seek to impose limitations on or prohibit one or more of a Client's investments, which may prevent Clients from maintaining or pursuing investments, which could adversely affect a Client's performance.

Failure to submit required filings may result in significant financial penalties for each transaction party, as well as reputational damage and potential legal and/or regulatory restrictions on future investments. In addition, CFIUS is increasingly actively pursuing transactions that were not notified to it and may ask questions regarding, or impose restrictions or mitigation on, transactions post-closing. Moreover, CFIUS or other FIC regulatory considerations may limit or



restrict the universe of suitable buyers for an investment, thereby constraining a Client's ability to recognize value from exits and/or causing Clients to favor buyers that it believes are less likely to require CFIUS or FIC review, even in circumstances where other buyers may offer better terms or more consideration. In addition, certain of the investors may be non-U.S. investors, and in the aggregate, may comprise a substantial portion of a Client's aggregate capital, which increases both the risk that investments may be subject to review by CFIUS or other FIC regulators, and the risk that limitations or restrictions will be imposed by CFIUS or other non-U.S. regulators on a Client's investments. There can be no assurance that all portfolio investments will be exempt from CFIUS and/or other FIC requirements or that CFIUS and/or other FIC regulators will not seek to ask questions about, or review, a transaction or impose restrictions or mitigation measures on an investment post-closing.

In the event that restrictions are imposed on any of a Client's investments due to the non-U.S. status of an investor or group of investors or other related CFIUS or national security considerations, the Adviser may choose to restrict such investor's or such group of investors' ability to invest or participate in any such investments or receive information that otherwise may be provided with respect to any such portfolio investment or cause the investor or group of investors to withdraw from Clients or be removed from the advisory board. However, there can be no assurance that any restrictions implemented on any such investor or any such group of investors will allow Clients to make or maintain an investment, with or without restrictions or mitigation measures.

Increased oversight may also impose additional administrative burdens on the Advisers, including, without limitation, responding to inquiries, investigations and implementing new policies and procedures.

**Reliance on Government Contracts.** Clients may invest in portfolio companies that are heavily dependent on U.S. government contracts. There is no guarantee that any portfolio company will be successful in securing a governmental contract and/or related governmental investment pursuant thereto, and failure to do so may have a material adverse effect on such portfolio company. Certain government appropriations may be only partially funded, which enhances the foregoing risks. These contracts are subject to the government's political and budgetary constraints, changes in short-range and long-range plans, the timing of contract awards, the congressional budget authorization and appropriation processes, the government's ability to terminate or reduce the scope of contracts for convenience or for default, as well as other risks such as contractor suspension, debarment, contract withholdings or recoupment in the event of certain violations of legal and regulatory requirements. Early-stage and start-up companies of the type in which certain Clients intend to invest may be particularly vulnerable to such risks. Portfolio companies providing services under U.S. government contracts may be subject to extensive regulation and audit by agencies of the U.S. government.

**Portfolio Company Cybersecurity Risk; Intellectual Property Risks; Third-Party Claims.** It is expected that certain Clients' portfolio companies will provide products and services that are dependent on the internet. Disruptions to the internet could have an adverse effect on the business of a portfolio company if customers are unable to access the company's website or services. In addition to disruptions to the internet, the information and technology systems that

portfolio companies and the Advisers use or rely on may be 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. If these systems are compromised, become inoperable for extended periods of time or cease to function properly, portfolio companies may incur significant time or expense to fix or replace them and to seek to remedy the effects of such issues. The failure of these systems and/or of disaster recovery plans for any reason could cause significant interruptions in a portfolio company's operations and result in a failure to maintain the security, confidentiality or privacy of sensitive data of the portfolio companies or the Advisers, including personal or proprietary or other regulated information, and, with respect to the Advisers, information regarding investors. Such a failure could harm such entity's reputation, subject any such entity and its respective affiliates to legal claims, cause a monetary payment to be made (e.g., ransomware) or otherwise adversely affect their business, operations and financial performance.

Changes in laws and regulations, including recent developments in case law (including for example, the Supreme Court of the U.S. decision in *South Dakota v. Wayfair, Inc.*, 138 S.Ct. 2080 (2018)) related to the internet or changes in the infrastructure of the internet itself may diminish the demand for portfolio companies' products, including software solutions. U.S. federal, U.S. state or foreign government bodies or agencies have in the past adopted, and may in the future adopt, laws and regulations affecting the use of the internet as a commercial medium. Portfolio companies may be required to modify their products in compliance with or in response to such changes in laws and regulations. Also, domestic and foreign government bodies and agencies and private organizations may begin to impose taxes, fees or other charges for accessing the internet or for the commerce conducted via the internet. Such charges and regimes could limit the growth of internet-related commerce or communications generally, reduce demand for internet-based products and business services.

Portfolio companies are expected to rely on a combination of patent, copyright, trademark and trade secret protection and non-disclosure agreements to establish and protect proprietary rights. There can be no assurance that these rights will be sufficiently protected or that a portfolio company will have the financial resources to continue to ensure such protection, or that competitors will not develop technologies substantially equivalent or superior to a portfolio company's technologies. While piracy adversely affects portfolio company revenue, the impact on revenue from outside the U.S. is significant, particularly in countries where laws are less protective of intellectual property rights. The absence of harmonized patent laws makes it more difficult to ensure consistent respect for patent rights. Reductions in the legal protection for software intellectual property rights could adversely affect portfolio companies.

A portfolio company may, from time to time, receive notices from others claiming such portfolio company has infringed on their intellectual property rights. The resolution of such claims may adversely impact the operational or financial success of a portfolio company and, in turn, negatively impact a Client's investment therein.

**Impact of Government Regulation, Reimbursement and Reform.** Certain industry segments in which some Clients intend to invest are (or may become): (i) highly regulated at the federal,

state and local levels in the U.S. and internationally; and (ii) subject to frequent regulatory change. Certain segments may be highly dependent upon various government (or private) reimbursement or other funding programs. While Clients intends to invest in companies that seek to comply with applicable laws and regulations, the laws and regulations relating to certain industries, including in particular the healthcare, energy, telecommunications and government services industries, are complex, may be ambiguous or may lack clear judicial, legal or regulatory interpretive guidance. An adverse review or determination by any applicable judicial or regulatory authority of any such law or regulation, or an adverse change in applicable regulatory requirements or funding programs, could have a material adverse effect on the operations and/or financial performance of the companies in which Clients invests. By way of example, the healthcare industry has been, and will likely continue to be, significantly impacted by legislative changes, and various U.S. federal, state or local or non-U.S. legislative or regulatory proposals related to such industry are introduced from time to time, which, if adopted could have a significant adverse impact on the industry in general and/or on companies within such industry in which Clients may invest.

**Bridge Financings.** From time to time, certain Clients may lend to portfolio companies on a short-term, unsecured or subordinated basis in anticipation of a future issuance of equity or long-term securities. Such bridge loans will typically be convertible into a more permanent, long-term security. It is possible, however, for reasons not always in a Client's control, that such equity or long-term securities may not be issued and such bridge loans may remain outstanding. In such event, the interest rate on such loans may not adequately reflect the risk associated with the unsecured or subordinated position taken by Clients.

**Venture Capital Equity Transactions.** Certain Clients' strategies include targeting venture style equity investments in companies, which have inherently greater risk than more established businesses. Accordingly, the growth of these companies may require significant time and effort resulting in a longer investment horizon than can be expected with lower risk investment alternatives. Such investments can experience failure or substantial declines in value at any stage. While venture-style investments offer the opportunity for significant capital gains, such investments involve a higher degree of business and financial risk that can result in substantial or total loss. These companies often operate at a loss or with substantial variations in operating results from period to period, and many require substantial additional capital to support additional research and development activities or expansion, to achieve or maintain a competitive position, and/or to expand or develop management resources. Venture equity portfolio companies may face intense competition, including from companies with greater financial resources, better brand recognition, more extensive development, marketing and service capabilities, and a larger number of qualified managerial and technical personnel. Although many early-stage companies, and the venture capital industry in general, have experienced growth over several years, there is no guarantee that such growth will continue, and investments in such companies may be more volatile and there may be a relatively limited number of investments available to a Client. Some early-stage and venture capital funded companies have been impacted by lower valuations, and investments in such companies may become more difficult to exit. In particular, the lack of an active initial public offering market can hurt valuations of venture capital investments and discourage new investment in the venture capital sector and limit portfolio company exit opportunities for a Client.

**Industry Specific Terminology.** Prospective investors are cautioned that certain terms and phrases of common usage within the venture capital industry may be misleading to those unfamiliar with such usage. In particular, individuals who participate in the management of a fund often are referred to, in a colloquial sense, as “general partners” or “partners” even though they are not actually general partners or partners of any partnership. With respect to all matters involving industry specific terminology, prospective investors are urged to consult with their own legal and other advisors.

**Investment in Junior Securities.** The securities in which a Client will invest may be among the most junior in a portfolio company’s capital structure and, thus, subject to the greatest risk of loss. Generally, there will be no collateral to protect a Client’s investment once made.

**Investments in Technology and Defense; Reliance on Government Investment.** Certain of a Client’s portfolio investments are likely to be dependent primarily on U.S. government spending, and to a lesser extent, foreign government spending, on the specific governmental platforms and programs where a Client’s portfolio companies participate. Governments typically have considerable discretion in determining the amount of investment, funding and/or subsidies due to allocate to such platforms and programs. Any reduction in, or lack of future expansion to, appropriations for these platforms or programs and/or related investment by governments in connection therewith could impact the performance of a portfolio company. This is amplified for the type of start-up and early-stage businesses that are the focus of a Client’s investment activities, given the limited operating history such businesses have. Historically, more established companies have been more likely to be awarded government contracts than early-stage companies competing for the same contracts. If such trends continue, competition for government spending may have a material adverse effect on one or more portfolio companies of a Client and a Client in aggregate. Companies affected by these unfavorable trends may incur additional costs, including lobbying expenses, in connection with seeking to obtain government investment. Moreover, such companies may ultimately fail in their efforts to obtain governing investments and as a result the capital necessary for their continued operation and/or incur additional costs and expenses in seeking alternative sources of investment capital, including non-government sources. In addition, the global defense industry in particular is highly regulated. The changing regulatory landscape may adversely affect a Client and its portfolio investments. Portfolio investments may be subject to investigation and audit for compliance with the requirements governing government contracts, including requirements related to procurement integrity, manufacturing practices and quality procedures, export control, employment practices, the accuracy of records and the recording of costs and information security requirements. A failure to comply with these requirements could result in suspension of these contracts, and suspension or debarment from government contracting or subcontracting. Failure to comply with any of these regulations could result in civil and criminal liability, monetary and non-monetary penalties, fines, disruptions to business, limitations on the ability to export products and services, and damage to a portfolio company’s reputation that, in each case, would negatively impact a Client.

**Competition in the Technology Sector; New Technologies.** Many of the areas in which a Client and its portfolio companies are expected to participate may evolve rapidly with changing

and disruptive technologies, shifting user needs, and frequent introductions of new products and services. Competitors of a Client and its portfolio companies will range in size from diversified global companies with significant research and development resources to small, specialized firms whose narrower product lines may enable them to be more effective in deploying technical, marketing and/or financial resources. Barriers to entry in the technology industry are low, and technology products can be distributed broadly and quickly at relatively low cost. In addition, the emerging nature and rapid evolution of technology products and services generally require portfolio companies in the technology industry to continually improve the performance, features and reliability of their products and/or services, particularly in response to competitive offerings. There can be no assurance that a Client's portfolio companies will be successful in building or acquiring new equipment and other assets, upgrading existing equipment or achieving widespread acceptance of their products and/or services before competitors offer products and services with similar or improved performance, features and reliability. The widespread introduction and/or adoption of new technologies or standards could require substantial expenditures by such portfolio companies to modify or adapt their products or services. To the extent that a Client's target sectors experience rapid and significant technological advancements and introductions of new products and services using new technologies, as a result of technological advancements or new products or services from competitors, portfolio companies may be placed at a competitive disadvantage, and competitive pressure may result in significant downward pressure on pricing and force portfolio companies to implement new technologies at a substantial cost. Such expenditures may negatively affect the profitability of such portfolio companies and, in turn, a Client's operating results and performance.

**Investments in Companies Dependent Upon Scientific Developments and Technologies.** A Client expects to invest in early-stage healthcare, life science, medical device and biotechnology companies. The value of a Client's interests may be susceptible to factors affecting such companies and to a greater risk than an investment in an investment fund that invests in a broader range of securities. The specific risks faced by such companies include: (i) rapidly changing science and technologies; (ii) new competing products and improvements in existing products that may quickly render existing products or technologies obsolete; (iii) exposure, in certain circumstances, to a high degree of government regulation, making these companies susceptible to changes in government policy and failures to secure, or unanticipated delays in securing, regulatory approvals; (iv) scarcity of management, technical, scientific, research and marketing personnel with appropriate training; (v) the possibility of lawsuits related to intellectual property rights; and (vi) rapidly changing investor sentiments and preferences with regard to healthcare, life science, medical device and biotechnology sector investments (which are generally perceived as risky).

#### *Risks Associated with Investments in Real Estate*

**Real Estate Generally.** Certain Client investment strategies involve direct investments in real property as well as investments in financial instruments and assets secured by real estate and other real estate-related investments. Real estate and real estate-related investments generally will be subject to the risks incident to the ownership and operation of real estate and/or risks incident to the making of non-recourse mortgage loans secured (directly or indirectly) by real estate, including risks associated with: (i) the domestic and international general economic

climate (for example, market fluctuations that cause plant closings, military base closings, industry slowdowns and unemployment rates to rise); (ii) demographic factors; (iii) changes in interest rates and foreign exchange rates; (iv) changes in the availability of debt financing and/or mortgage funds which may render the sale or refinancing of properties difficult or impracticable; (v) increased mortgage defaults; (vi) increases in borrowing rates; (vii) dependence on cash flow; (viii) the financial resources of issuers and borrowers; (ix) local real estate conditions (such as decreases in property values, changes in supply and demand for competing properties in an area (as a result, for instance, of overbuilding), changes in “in office” and remote work policies impacting demand for office properties and rents that can be charged) and fluctuations in real estate fundamentals (such as average occupancy and room rates for hotel properties); (x) real estate development and construction risks, including operating costs and time projection; (xi) the ability of the Client or third-party borrowers to manage, maintain and operate the real properties (for example, problems arising out of energy and supply shortages); (xii) the financial condition of tenants, buyers and sellers of properties; (xiii) regulatory limitations on rents; (xiv) changes in certain regulations and laws (such as zoning, environmental and building laws); (xv) changes in real property tax rates and/or tax credits; (xvi) various uninsured or uninsurable risks; and (xvii) natural disasters.

With respect to investments in the form of real property owned by a Client, such Client will incur the burdens of ownership of real property, which include the paying of expenses and taxes, maintaining such property and any improvements thereon and ultimately disposing of such property. There is no assurance that there will be a ready market for resale of investments because investments in real estate and real estate-related assets generally are not liquid. Illiquidity may result from the absence of an established market for the investments, as well as from legal or contractual restrictions on their resale by the Client. The possibility of partial or total loss of capital exists and investors should not subscribe unless they can readily bear the consequences of such loss.

**Real Estate Development and Construction.** Certain Clients may invest a portion of their assets in real estate-related investments involving the selective development and construction of various kinds of income-producing properties. An investment in a project during its development and construction phases generally involves significant risks in addition to those involved in an investment in an established property, including that the developer may have economic or business interests or goals which are inconsistent with those of such Client and that the developer may act in a manner which is contrary to the instructions or requests of such Client or contrary to the Client’s policies or objectives with respect to its investments.

Costs and the time needed to complete construction may also exceed projections as a result of a variety of factors. During all stages of development and construction, a project owner is subject to extensive environmental, building, zoning and other regulations administered by various U.S. federal, state, county and local authorities. Factors contributing to these cost and time projections include, without limitation, shortages in or the unavailability, when needed, of materials, labor and/or services, increases in the costs of materials, labor and/or services, construction or labor disputes, delays in construction caused by adverse weather, casualty and other factors, poor management, delays and unanticipated costs and difficulties in obtaining lease-up of a project and other unforeseen occurrences. It is also sometimes difficult to accurately estimate prior to

the commencement of construction the total costs of construction and related carrying costs which will be required in order to complete a project and to pay operating expenses, leasing costs and debt service until the project reaches sustaining occupancy. Such cost overruns and delays may adversely affect the project owner's ability to complete the construction of a project, as well as the economic viability of a project and its ability to generate sufficient revenue to repay any construction or mortgage loan. There is no assurance that a project owner will have the resources available to fund the total construction and marketing costs of a project or be able to secure equity or secondary or alternative financing to fund cost overruns or unanticipated costs. In the event that construction loan proceeds, if applicable, or other funds available to a project owner are insufficient to pay all such costs, the project may not reach completion, satisfy any requirements for permanent financing and/or reach sustaining occupancy. Any failure to complete the construction or lease-up of a project on schedule and in accordance with development plans may result in loss of rental income, loss of construction financing, foreclosure of a construction loan and/or the loss of permanent financing for the project, as applicable. Market conditions also may change between the time at which construction commences and the completion of a project, rendering the project economically unfeasible or anticipated rents unattainable. In the event that any of the foregoing or other difficulties occur during the construction period of a project as to which a Client holds an investment, the Client may bear any resulting losses in whole or in part.

#### *Risks Associated with Investments in Global Credit Opportunities*

**Bank Loans, Participations and Other Indirect Economic Interests.** Certain Clients' investment programs include investments in bank loans, participation interests, or other indirect economic interests in loans or other debt obligations. In such circumstances, the Clients will not directly own the debt obligations underlying such participation or other economic interests and/or have custody thereof. These obligations are subject to unique risks, including: (i) the possible invalidation of an investment transaction as a fraudulent conveyance under relevant creditors' rights laws; (ii) so-called lender-liability claims by the issuer of the obligations; (iii) environmental liabilities that may arise with respect to collateral securing the obligations; (iv) limitations on the ability of the Clients to directly enforce their rights with respect to participations; and (v) possible claims for the return of some or all payments made within a certain time frame under the bankruptcy and creditor rights laws of the U.S., its states, and other jurisdictions. In analyzing each bank loan or participation, the Advisers compare the relative significance of the risks against the expected benefits of the investment. The costs of claims by third parties arising from these and other risks will be borne by the Clients.

As an owner of participation interests or other indirect economic interests (including as a member of a loan syndicate), a Client may not be able to assert any rights against borrowers of the underlying indebtedness, and may need to rely on the holder/custodian (or other financial institution) issuing the participation interests or such other entity charged with the responsibility for asserting such rights, if any. Such holders/custodians and financial institutions or other entities may have reasons not to assert their rights, whether due to a limited financial interest in the outcome, other relationships with the underlying defaulting borrowers, the threat of potential counterclaims or other reasons, that may diverge from the interests of a Client. The failure of such holders/custodians and financial institutions or other entities to assert their rights (on behalf

of a Client) or the insolvency of such entities could materially adversely affect the value of the assets of a Client.

As secondary market trading volume increases, new loans are frequently adopting standardized documentation to facilitate loan trading, which may improve market liquidity. There can be no assurance, however, that future levels of supply and demand in loan trading will provide an adequate degree of liquidity or that the current level of liquidity will continue. Because of the provision to holders of such loans of confidential information relating to the borrower, the unique and customized nature of the loan agreement, and private syndication of the loan, such loans are not as easily purchased or sold as publicly traded securities, and historically the trading volume in the loan market has been small relative to other markets.

**Risks Associated with NPLs.** Certain loans purchased by the Advisers for certain Clients will be non-performing and possibly in default. Furthermore, the obligor and/or relevant guarantor may also be in bankruptcy or liquidation. There can be no assurance as to the amount and timing of payments with respect to the loans. By their nature, these investments will involve a high degree of risk. Such NPLs may require substantial workout negotiations or restructuring that may entail, among other things, a substantial reduction in the interest rate, a substantial write-down of the principal of the loan and/or the deferral of payments. Commercial and industrial loans in workout and/or restructuring modes and the bankruptcy or insolvency laws of non-U.S. jurisdictions are subject to additional potential liabilities, which may exceed the value of a Client's original investment. Even assuming that the collateral securing each loan provides adequate security for the loans, substantial delays could be encountered in connection with the restructuring, foreclosure or liquidation of NPLs. In the event of a default by a borrower, these restrictions, as well as the ability of the borrower to file for bankruptcy protection, among other things, may impede the ability to foreclose on or sell the collateral or to obtain net liquidation proceeds sufficient to repay all amounts due on the related loan. In addition, under certain circumstances, lenders who have inappropriately exercised control of the management and policies of a debtor may have their claims subordinated or disallowed or may be found liable for damages suffered by parties as a result of such actions. Under certain circumstances, payments to a Client and distributions by a Client to its investors may be reclaimed if any such payment or distribution is later determined to have been a fraudulent conveyance or a preferential payment. Bankruptcy laws may delay the ability of a Client to monetize collateral for loan positions held by it or may adversely affect the priority of such loans through doctrines such as equitable subordination or may result in a restructure of the debt through principles such as the "cramdown" provisions of the bankruptcy laws.

**Underlying Default Risks.** To the extent that underlying default rates with respect to the debt instruments in which certain Clients invest occur or otherwise increase, the performance of the Clients' investments may be adversely affected. The rate of defaults and losses on real estate-related debt instruments will be affected by a number of factors, including global, regional and local economic conditions in the area where the underlying properties are located, the commercial real estate market in general, the borrower's equity and the financial circumstances of the borrower, among others. A decline in the global, U.S., European or Asian real estate markets (or any particular sub-market thereof) may result in higher delinquencies and/or defaults



as borrowers may not be able to repay or refinance their outstanding debt obligations when due for a variety of reasons, which may adversely affect the performance of the Clients' investments.

Commercial mortgage and mezzanine loans are usually non-recourse in nature. In the event of any default under a mortgage or mezzanine loan held directly by a Client, it will bear a risk of loss of principal to the extent of any deficiency between the value of the collateral and the principal and accrued interest of the mortgage or mezzanine loan, which could have a material adverse effect on the Client. In the event of the bankruptcy of a mortgage or mezzanine loan borrower, the mortgage or mezzanine loan to such borrower will be deemed to be secured only to the extent of the value of the underlying collateral at the time of bankruptcy (as determined by the bankruptcy court), and the lien securing the mortgage or mezzanine loan will be subject to the avoidance powers of the bankruptcy trustee or debtor-in-possession ("DIP") to the extent the lien is unenforceable under state law. Additionally, in the event of a default under any senior debt, the junior or subordinate lender generally will have to foreclose on the equity, purchase the senior debt or negotiate a forbearance or restructuring arrangement with the senior lender in order to preserve its collateral.

**Priority of Debt Instruments and Loans.** Certain Clients may invest in debt issued by companies that have or may incur additional debt that is senior to the debt owned by the Client. In the event of insolvency, liquidation, dissolution, reorganization or bankruptcy of any such company, the owners of senior secured debt (*i.e.*, the owners of first priority liens) generally will be entitled to receive proceeds from any realization of the secured collateral until they have been reimbursed. At such time, the owners of junior secured debt will then be entitled to receive proceeds from the realization of the collateral securing such debt and only thereafter would the owners of unsecured debt be entitled to any recovery. There can be no assurances that the proceeds, if any, from the sale of such collateral would be sufficient to satisfy the loan obligations secured by subordinate debt instruments. To the extent that the Client owns debt that is unsecured or is junior to other secured debt, the Client may lose the value of its entire investment in such debt.

**Failure of Servicers to Effectively Service Loans.** The failure of servicers to effectively service the loans and/or pools thereof (including affiliated servicers) in which a Client has an investment would materially and adversely affect the Client. Most loans and securitizations thereof require a servicer to manage collections on each of the underlying loans. Both default frequency and default severity of loans may depend upon the quality of the servicer. The servicer quality is of significant importance in the management of mortgage loans (or pools thereof) and default issues related thereto. In the case of pools of securitized loans, servicers may be required to advance interest on delinquent loans to the extent the servicer deems those advances recoverable. In the event the servicer does not advance, interest payments may be interrupted even on more senior securities. Servicers may also advance more than is in fact recoverable once a defaulted loan is disposed, and the loss to the trust may be greater than the outstanding principal balance of that loan. The servicers are also subject to regulation and enforcement by the Consumer Financial Protection Bureau, an agency of the U.S. government responsible for consumer protection in the financial sector.

**Investments in Mortgage and Financial-Related Companies.** Certain Clients may invest in public or private debt and equity of operating companies (*e.g.*, loan servicers that specialize in the management, collection and recovery of distressed assets, operating partners or banks) that the Advisers believe would be beneficial and/or accretive to the Client, including, without limitation, if such investments may produce additional deal flow, servicing alternatives and/or other market expertise in respect of investments that Clients may make (*e.g.*, data on borrowers and geographic trends). Equity securities of mortgage- and financial-related companies are generally positively correlated with the market for residential and commercial loans. Unfavorable economic trends could result in a higher rate of delinquencies, defaults and foreclosures and negatively impact the financial condition of such companies and the value of their securities. For example, during and after the financial crisis, certain mortgage industry participants have had financial difficulties that arose in part from declining markets for mortgage loans as well as from claims for repurchases of mortgage loans previously sold under provisions that require repurchase in the event of early payment defaults, or for material breaches of representations and warranties made on the mortgage loans, such as fraud claims. A recurrence of such conditions could negatively impact the value of a Client's investment in the equity of a loan servicer.

Banks, asset management companies and other financial-related companies are also exposed to a variety of other risks inherent to the financial services industry, including, but not limited to: (i) fluctuations in interest rates, exchange rates, equity and commodity prices and credit spreads caused by global and local market and economic conditions; (ii) credit-related losses that can occur as a result of an individual, counterparty or issuer being unable or unwilling to honor its contractual obligations; (iii) the potential inability to repay short-term borrowings with new borrowings or assets that can be quickly converted into cash while meeting other obligations; (iv) operational failures or unfavorable external events; and (v) risks associated with litigation, investigations or proceedings by private claimants and governmental and self-regulatory agencies arising in connection with their activities. During and after the financial crisis, many banks and other financial-related companies announced material write-downs and losses. While such businesses seek to manage these and other risks through risk management policies and procedures, many such policies and procedures have in the past proven to be inadequate and there can be no assurance that any such risk management practices will be effective.

**General Credit Risks.** Although the Advisers generally intend to primarily invest on behalf of Clients in loans and other debt instruments or obligations that are secured by collateral, Clients may be exposed to losses resulting from default and foreclosure of any such loans or interests in loans or other debt instruments in which it has invested. Therefore, the value of underlying collateral, the creditworthiness of borrowers and the priority of liens are each of great importance in determining the value of a Client's investments. No guarantee can be made regarding the adequacy of the protection of a Client's security in the loans or other debt instruments in which it invests. Moreover, in the event of foreclosure, a Client or an affiliate thereof may assume direct ownership of any assets collateralizing such foreclosed loans. The liquidation proceeds upon the sale of such assets may not satisfy the entire outstanding balance of principal and interest on such foreclosed loans or other debt, resulting in a loss to such Client. Any costs or delays involved in the effectuation of loan foreclosures or liquidation of the assets collateralizing such foreclosed loans will further reduce proceeds associated therewith and, consequently, increase

possible losses to such Client. In addition, no assurances can be made that borrowers or third parties (which may include other creditors) will not assert claims in connection with foreclosure proceedings or otherwise, or that such claims will not interfere with the enforcement of a Client's rights with respect to its investments.

**Ability to Lend on Advantageous Terms; Competition and Supply.** A Client may originate loans and may also invest in loans originated by other parties (including, without limitation, debt that trades on the secondary market). Success in this area will depend in part on the ability of a Client to originate and obtain loans, and the Advisers' or such other parties' ability to originate or source loans, on advantageous terms. In making loans, the Clients will compete with a broad spectrum of lenders, some of which may be willing to lend money on terms more favorable to borrowers. Such competing lenders may include private investment funds, public funds, commercial and investment banks, commercial financing companies and other entities. Some competitors may have a lower cost of funds and/or access to funding sources that are not available to the Clients or the Advisers. In addition, some competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of investments and establish more relationships than the Clients and the Advisers. The Clients and the Advisers may also choose not to compete for investment opportunities based on interest rates. Ultimately, increased competition for, or a diminution in the available supply of, qualifying borrowers may result in lower yields on loans to such borrowers, which could reduce returns to the Clients and their investors.

**Equitable Subordination.** Under the laws of certain jurisdictions, a court may use its equitable powers to subordinate the claim of a lender to some or all of the other claims against a borrower under certain circumstances. The concept of equitable subordination is that a claim may normally be subordinated only if its holder is guilty of some misconduct. The remedy is intended to be remedial, and not penal. In determining whether equitable subordination of a claim is appropriate in any given circumstance, courts may look to whether the following conditions have been satisfied: (i) whether the claimant has engaged in some type of inequitable conduct; (ii) the misconduct must have resulted in injury to the creditors of the bankrupt company or conferred an unfair advantage on the claimant; and (iii) equitable subordination would be inconsistent with other applicable provisions of the bankruptcy code. While the stated test could be interpreted broadly, equitable subordination is usually confined to three general paradigms: (i) when a fiduciary of the debtor (who is also a creditor) misuses its position to the detriment of other creditors; (ii) when a third party (which can include a lender) controls the debtor to the disadvantage of other creditors; and (iii) when a third party actually defrauds other creditors. A Client may be subject to claims from creditors of an obligor that debt obligations of such obligor which are held by such Client should be equitably subordinated. The concept of equitable subordination (or the equivalent thereof) may vary from jurisdiction to jurisdiction.

**Recharacterization.** Under the laws of certain jurisdictions, a court may use its equitable powers to "recharacterize" the claim of a lender, *i.e.*, notwithstanding the characterization by the lender and borrower of a loan advance as a "debt," to find that the advance was in fact a contribution in exchange for equity. Typically, recharacterization occurs when an equity holder asserts a claim based on a loan made by the equity holder to the borrower at a time when the borrower was in such poor financial condition that other lenders would not make such a loan. In effect, a

court that recharacterizes a claim makes a determination that the original circumstance of the contribution warrants treating the holder's advance not as debt but rather as equity. In determining whether recharacterization is warranted in any given circumstance, courts may look at the following factors: (i) the names given to the instruments (if any) evidencing the indebtedness; (ii) the presence or absence of a fixed maturity or scheduled payment; (iii) the presence or absence of a fixed rate of interest and interest payments; (iv) the source of repayments; (v) the adequacy or inadequacy of capital; (vi) the identity of interest between the creditor and the equity holders; (vii) the security (if any) for the advances; (viii) the borrower's ability to obtain financing from outside lending institutions; (ix) the extent to which the advances were subordinated to the claims of outside creditors; (x) the extent to which the assets were used to acquire capital assets; and (xi) the presence or absence of a sinking fund to provide for repayment. These factors are reviewed under the circumstances of each case, and no one factor is controlling. A Client may be subject to claims from creditors of an obligor that debt obligations of such obligor held by a Client should be recharacterized.

**Fraud.** Clients could be adversely affected by material misrepresentations or omissions on the part of a borrower or counterparty or by fraudulent behavior by a joint venture partner, manager or other service provider. Omissions, inaccuracies or incompleteness of representations may undermine the Advisers' due diligence efforts with respect to companies in which it invests and, if discovered, negatively impact a Client's investments generally and, with respect to loans adversely affect the valuation of collateral underlying loans and may adversely affect the ability of a Client to perfect or effectuate a lien on the collateral securing a loan. Fraudulent behavior by a counterparty could result in the misappropriation of a Client's funds or otherwise reduce the value of one or more of a Client's investments. Clients will rely upon due diligence by the Advisers and the accuracy and completeness of representations made by borrowers, other counterparties, joint venture partners, managers and other service providers and cannot guarantee that it will detect occurrences of fraud. In addition, under certain circumstances, payments to a Client may be reclaimed if any such payment or distribution is later determined to have been a fraudulent conveyance or a preferential payment. It is unclear whether loans and other forms of direct indebtedness offer securities laws protections against fraud and misrepresentation. Accordingly, a Client is subject to the risk that the systems used by the originators of mortgage loans to minimize borrower misrepresentations or omissions are defective.

**Risks Associated with Foreclosure on Real Estate and Physical Assets.** Certain loans made by Clients are secured by real estate or other physical assets. To the extent that a Client needs to foreclose on such loans such Client may, directly or indirectly, own such real estate or other physical assets and may be subject to the risks incident to the ownership and operation of real estate or other physical assets, including the risks identified in "General Real Estate Risks". In addition, a Client may, directly or indirectly, incur the burdens of ownership of real property, which include the paying of expenses and taxes, maintaining such property and any improvements thereon and ultimately disposing of such property. There is no assurance that there will be a ready market for resale of real estate or such other assets or that such real estate collateral will be sufficient to satisfy such defaulted loan obligation.

**Risks Associated with Below Investment-Grade Instruments.** Certain Clients are expected to invest in debt securities and instruments, which may be unrated or below-investment-grade,

including high-yield investments. Certain of these investments may be unrated, and whether or not rated, the debt instrument may have speculative characteristics. Securities in the lower-rated categories are subject to greater risk of loss of principal and interest than higher-rated securities and are generally considered to be predominately speculative with respect to the issuer's capacity to pay interest and repay principal. Moreover, the market for lower-rated securities is thinner and less active than that for higher-rated securities, which can adversely affect the prices at which these securities can be sold. Adverse publicity and investor perceptions about lower-rated securities, whether or not based on fundamental analysis, may be a contributing factor in a decrease in the value and liquidity of such lower-rated securities. The issuers of such instruments may face significant ongoing uncertainties and exposure to adverse conditions that may undermine the issuer's ability to make timely payment of interest and principal. The market values of certain of these lower-rated and unrated debt securities tend to reflect individual corporate developments to a greater extent than do higher-rated securities, which react primarily to fluctuations in the general level of interest rates, and tend to be more sensitive to economic conditions than are higher-rated securities. As a result, the prices of such investments can be subject to abrupt and erratic movements in price and liquidity and the spread between the bid and ask prices of such investments may be greater than those prevailing in other investments markets. Companies that issue such investments are often highly leveraged and may not have available to them more traditional methods of financing. It is possible that a major economic recession could severely disrupt the market for such securities and may have an adverse impact on the value of such investments. In addition, it is possible that any such economic downturn could adversely affect the ability of the issuers of such investments to repay principal and pay interest thereon and increase the incidence of default of such investments. Finally, if a Client invests in bonds of issuers that do not have publicly traded equity securities, it will be more difficult to hedge the risks associated with such investments.

**Illiquid Nature of Investments and Loans.** A Client may hold a significant portion of its loans and other debt investments until redeemed or maturity and that many of its investments may be illiquid. Additionally, investments (including investments in Risk Retention Entities) may not be readily disposable and, in some cases, may be subject to contractual, statutory or regulatory prohibitions on disposition for a specified period of time. Should the Advisers determine it to be advisable to earlier dispose of any illiquid investments, a Client may have difficulty doing so. Alternatively, a Client may only be able to sell such investments or loans at substantial discounts to face value. In certain circumstances, a Client may be prohibited by contract from selling investments for defined periods of time. Depending on the type of investments or loans held by a Client, such investments and loans may require a substantial period of time to liquidate. There can be no assurances that there will be a liquid market for resale of such investments or loans, and illiquidity may result from the absence of an established market for certain investments and loans as well as from legal or contractual restrictions.

**Investments in Private Middle-Market Companies.** In addition to limited liquidity, investments in loans issued to, and debt instruments of, private middle-market companies may involve a number of additional risks. Generally, little public information exists about such companies, and a Client will rely on the ability of the Advisers to obtain adequate information to evaluate the potential returns from investing in such loans or debt instruments. If a Client is unable to uncover all material information about such companies, it may not make a fully-

informed investment decision, and may lose money. Private middle-market companies typically have shorter operating histories, less predictable operating results, narrower product lines, and smaller market shares than larger businesses, which characteristics tend to render them more vulnerable to competitors' actions and market conditions, as well as general economic downturns. Private middle-market companies are also more likely to depend on the management talents and efforts of a small group of persons, the loss of which could have a material adverse impact. In addition, private middle-market companies may be engaged in rapidly changing businesses with products subject to a substantial risk of obsolescence, and may require substantial additional capital to support their operations, finance expansion or maintain their competitive position. As a consequence, certain loans invested in by a Client could be or become NPLs and borrowers could default with respect to such loans.

**Syndication and/or Transfer of Debt Instruments.** Certain Clients, directly or through the use of one or more SPVs, intend to originate and/or purchase senior secured loans and other assets. Certain Clients also intend to purchase loans or other assets (including, participation interests or other indirect economic interests) that have been originated by one or more of the Clients or from other parties and/or trading on the secondary market. Certain Clients expect, in certain circumstances, to originate or purchase such secured debt assets with the intent of syndicating and/or otherwise transferring or offering for transfer a significant portion thereof (including, without limitation, corresponding portions of outstanding principal and future interest, and a corresponding amount of unamortized fees, but excluding any service fees), including to one or more other Clients. In such instances, such Client will bear the risk of any decline in value prior to any syndication and/or other transfer to other Clients or third parties, as well as the risk of any inability to syndicate or otherwise transfer such loans or other assets or such amount thereof as originally intended (and including as a result of any such loans not being approved by such established independent committee of certain Clients to which they are offered), which could result in such Client owning a greater interest therein than originally anticipated.

**Investments in Loans Originated by Affiliates.** Non-Originating Funds (as defined in Item 11) expect to purchase secured loans originated by the Originating Funds (as defined in Item 11) and offered to Non-Originating Funds for purchase in accordance with the Investment Allocation Policy. All investment decisions made by such Originating Funds are made by the Adviser. Any such purchases of loans by a Non-Originating Fund from such originating Lending Fund (excluding any 45 day "look back" allocation adjustments of secondary loan purchases made in accordance with the Investment Allocation Policy) will be subject to the approval of such Non-Originating Fund's independent investment committee, which may accept or reject the offer of such loans in its discretion, and such purchases will be effected at the fair market value thereof at such time. Any such purchase of loans by the Non-Originating Funds from one or more Originating Funds will include the corresponding portions of outstanding principal and future interest, as well as certain unamortized loan fees as described below, but the Non-Originating Funds will not be entitled to any fees paid by a borrower for services rendered or to be rendered, including, but not limited to, agency fees, assignment fees, management fees, servicing fees, sub-advisory fees or other fees for services earned by the loan seller or loan originator or by an underwriter, placement agent, lender, arranger, agent or similar person in connection with the issuance or funding of a loan (such fees paid by a borrower, collectively, "Service Fees"). Any such Service Fees received by an affiliate of the Adviser from a portfolio borrower will be

applied for the benefit of the Originating Funds invested in such borrower and will not be shared by any Non-Originating Funds, nor will any such Service Fees offset any management fees of any Non-Originating Funds. Commitment fees, upfront fees, anniversary fees, facility maintenance fees, discounts or any other similar “fees” that provide the borrower the “option” to borrow under a loan where such fees operate for tax purposes like option premium, original issue discount or an interest-like return are not treated as Service Fees and may be received by both Originating Funds and Non-Originating Funds.

**Performance Variation Across Clients in the CBF Platform.** Performance results among the Lending Funds are expected to vary as a result of numerous factors, including differences with respect to, among other things, fund investment limitations, the use of fund leverage (if any), fund vintage and investment period, fund expenses and other capital activity, as well as differing tax, regulatory, legal and other considerations.

Additionally, since Non-Originating Funds do not participate in the origination of loans, their performance is expected to differ from Originating Funds for several additional reasons, including the following: (i) the Non-Originating Funds will not share in the interest income accrued from the date of origination in which the Originating Funds hold originated loan investments until the date of any such transfer to such Non-Originating Funds; (ii) the Non-Originating Funds will share in the unamortized component of closing fees with respect to loans originated by the Originating Funds and will not share in any Service Fees in respect of such loans; (iii) if a targeted loan origination by the Originating Funds does not ultimately close, the Non-Originating Funds will not share in any broken-deal or failed transaction expenses (for the avoidance of any doubt, unless stated otherwise in the governing documents of a Client, Non-Originating Funds do not share in broken-deal and failed transaction expenses for non-Adviser originated loans); (iv) the Non-Originating Funds are expected to hold the underlying originated loan investments for a shorter duration (or ultimately may not acquire such loan), which may result in a different internal rate of return relative to the Originating Funds; (v) during the period prior to any transfer of an originated loan to the Non-Originating Funds, the valuation of such loan may change; (vi) due to certain legal, tax or regulatory considerations, certain loans originated by Originating Funds may not be transferred to certain Non-Originating Funds (or may be transferred in smaller amounts than otherwise would be the case) and the portfolios of the Non-Originating Funds are expected to consist of a greater amount of loans originated by third parties relative to the Originating Funds, some of which secondary loans may be allocated only to such Non-Originating Funds due to the applicable tax structure or other requirements; and (vii) the portfolios of the Originating Funds and the Non-Originating Funds may also differ as a result of approval determinations made by the established independent committees of such Non-Originating Funds with respect to proposed transfers of loans originated by the Originating Funds.

**Participations and other Indirect Economic Interests.** A portion of the assets of a Client may consist of participation interests or other indirect economic interests in loans or other assets. In such circumstances, such Client will not directly own the loans or other assets underlying such participation or other economic interests and/or have custody thereof. As a result, such Client will be exposed to the risk that the assets of the holder/custodian of any such underlying loans or other assets may be subject to the claims of third-party creditors or other parties. In addition,

as an owner of participation interests or other indirect economic interests (including as a member of a loan syndicate), such Client may not be able to assert any rights against borrowers of the underlying indebtedness, and may need to rely on the holder/custodian (or other financial institution) issuing the participation interests or such other entity charged with the responsibility for asserting such rights, if any. Such holders/custodians and financial institutions or other entities may have reasons not to assert their rights, whether due to a limited financial interest in the outcome, other relationships with the underlying defaulting borrowers, the threat of potential counterclaims or other reasons, that may diverge from the interests of such Client. The failure of such holders/custodians and financial institutions or other entities to assert their rights (on behalf of such Client) or the insolvency of such entities could materially adversely affect the value of the assets of such Client.

**Distressed Borrowers; Bankruptcy Risks.** A Client may invest in loans and debt instruments of companies that are experiencing significant financial or business difficulties, including companies involved in bankruptcy or other reorganization and liquidation proceedings. Although such investments may result in significant returns to a Client, they involve a substantial degree of risk. Distressed borrowers may be less likely to meet their obligations in connection with such loans or debt instruments, and the inability to meet such obligations may result in certain loans of a Client becoming nonperforming. The level of legal and financial sophistication necessary for successful investment in the loans issued to, or the debt instruments of, companies experiencing significant business and financial difficulties is unusually high. There is no assurance that the Advisers will correctly evaluate the value of the assets collateralizing the loans invested in by a Client or the prospects for a successful reorganization or similar action, if any, or the general performance of such loans. In addition, to the extent that a Client invests in loans or debt instruments with respect to companies that subsequently undergo bankruptcy or similar liquidation proceedings, such investments may be subject to additional risks. Many of the events within a bankruptcy case are adversarial and often beyond the control of creditors. Although creditors generally are afforded an opportunity to object to significant actions, there is the possibility that a bankruptcy court could approve actions that may be contrary to the interests of a Client. The duration of bankruptcy proceedings is often difficult to accurately predict, and such proceedings may be lengthy. The administrative costs in connection with bankruptcy proceedings are frequently high and will be paid out of the debtor's estate (other than out of assets or proceeds thereof that are subject to valid and enforceable liens and other security interests) prior to any return to unsecured creditors and equity holders. In connection with a bankruptcy proceeding, the Advisers, on behalf of a Client, may seek representation on creditors' committees or other groups to ensure preservation or enhancement of a Client's position as a creditor. If a Client is represented on a committee or group, it may be restricted or prohibited under applicable law from disposing of its investments in such company while it continues to be represented on such committee or group. In addition, a Client's return on investment can be adversely affected by the passage of time during which the plan of reorganization of a bankrupt debtor is being negotiated, approved by the creditors and confirmed by the bankruptcy court. Reorganizations outside of bankruptcy are also subject to unpredictable and potentially lengthy delays.

**Priority of Debt Instruments and Loans.** A Client may originate or invest in secured debt issued by companies that have or may incur additional debt that is senior to the secured debt



owned by such Client. In many instances, loans made by a Client may be part of a unitranche structure in which a single lien on behalf of all the lenders in the structure will be filed against the assets of the company if the lenders holding the different tranches of debt (including such Client) will contractually agree to their respective priorities in those assets. In the event of insolvency, liquidation, dissolution, reorganization or bankruptcy of any such company, the owners of senior secured debt (*i.e.*, the owners of first priority liens), including in a unitranche structure through the contractual agreements between the lenders, generally will be entitled to receive proceeds from any realization of the secured collateral until they have been reimbursed. At such time, the owners of junior secured debt (including, in certain circumstances, a Client) will be entitled to receive proceeds from the realization of the collateral securing such debt and only thereafter would the owners of unsecured debt be entitled to any recovery. There can be no assurances that the proceeds, if any, from the sale of such collateral would be sufficient to satisfy the loan obligations secured by subordinate debt instruments. To the extent that a Client owns secured debt that is junior to other secured debt, such Client may lose the value of its entire investment in such secured debt.

**Interest Rate Risk; Prepayment.** A Client may invest in fixed interest rate debt instruments. The value of fixed interest rate debt instruments generally has an inverse relationship with future interest rates. Accordingly, if interest rates rise, the value of such instruments may decline. In addition, to the extent that the receivables or loans underlying specific financial instruments may be prepaid without penalty or premium, the value of such financial instruments may be negatively affected by increasing prepayments. Such prepayments tend to occur more frequently as interest rates decline.

**Limitations on Remedies with Respect to Debt Investments.** Although Clients will have certain contractual remedies upon the default by any borrowers under the investments, such as enforcing upon the underlying collateral, certain legal requirements may limit the ability of the Clients to effectively exercise such remedies. The laws with respect to the rights of creditors and other investors in certain jurisdictions in which the Clients may invest may not be comprehensive or well-developed, and the procedures for the judicial or other enforcement of such rights may be of limited effectiveness.

**Market Risks upon Enforcement.** Although not expected to occur, in the event of an enforcement action in respect of any of the Clients' investments, it may be necessary to sell the underlying asset. Sale proceeds could be insufficient to pay accrued interest, principal repayments, exit fees, profit shares and other amounts due on the relevant investments in full, in which case the Clients may ultimately suffer a loss.

**Inability to Control Certain Decisions; Use of Conflicts Committee for Other Strategy Funds.** To the extent that certain Clients are invested in a tranche of a financing of a borrower with one or more other investors, the Advisers may not be able to control decision-making on behalf of the entire tranche. In addition, there may be an occasion when Clients are invested in the same borrower as other Clients pursuing a differing strategy and different target yields than that of the Clients ("Other Strategy Funds"). In the event of conflicts between Clients and Other Strategy Funds, it is possible that Advisers may refer certain investment decisions otherwise to be made by them to a conflicts committee. In such an event, the Advisers will be acting in

accordance with the determinations made by such conflicts committee with respect to the investments held by such Other Strategy Funds, while the Advisers may itself continue to act, in its discretion, with respect to the investments of the Clients. Such limitations on Advisers' ability to control votes or decision-making with respect to a borrower or tranche of financing may limit the ability to amend, restructure or otherwise modify the terms of such investments.

**Fluctuations in Receipt of Proceeds.** The Adviser expects to experience fluctuations in the timing and amount of proceeds that a Client may receive in the form of interest and fee income and in connection with the realization of investments in loans and other debt instruments in which such Client has invested. Such fluctuations are due to, among other things, changes in the interest rates payable on the debt instruments acquired by a Client, the default rate on such debt instruments, the level of a Client's expenses (including the interest rates payable on a Client's borrowings), variations in and the timing of the realization of investments, the degree to which a Client encounters competition in the markets and general economic conditions. As a result of these factors, the amounts of distributions to a Client's investors may fluctuate substantially.

### *General Risks*

**Risks Associated with Investments in Distressed Securities and Assets.** Certain Clients may invest in loans, distressed securities, structured products, REOs and other real estate assets purchased from financial institutions and distressed sellers. Clients may also invest opportunistically in the securities and assets of an issuer with the goal of gaining an ownership position in the underlying assets of a company as part of a restructuring. Although such investments may result in significant returns to such Clients, they involve a substantial degree of risk. Any one or all of the issuers of the securities in which such Clients may invest may be unsuccessful or not show any return for a considerable period of time. The level of analytical sophistication, both financial and legal, necessary for successful investment in distressed investments is unusually high. These risks may adversely affect the performance of such investments and result in substantial losses to a Client.

Investments in assets operating in workout mode or bankruptcy, or equivalent laws in foreign jurisdictions, are, in certain circumstances, subject to certain additional potential liabilities which may reduce the value of a Client's investment.

Furthermore, with respect to a Client's investments in secured loans and ABS, there is no assurance that the Advisers will correctly evaluate the value of the assets collateralizing such Client's loans or securities or the prospects for a successful reorganization or similar action. In any reorganization or liquidation proceeding relating to a company in which a Client invests, a Client may lose its entire investment, may be required to accept cash or securities with a value less than the Client's original investment and/or may be required to accept payment over an extended period of time. Under such circumstances, the returns generated from the Client's investments may not compensate a Client adequately for the risks assumed.

Investments in troubled companies, their sub-performing or NPLs and other investments require active monitoring and may, at times, require participation in business strategy or reorganization proceedings by the Advisers. To the extent that the Advisers become involved in such

proceedings, Clients may have a more active participation in the affairs of the issuer than that assumed generally by an investor. In addition, involvement by the Advisers in an issuer's reorganization proceedings could result in the imposition of restrictions limiting a Client's ability to liquidate its position in the issuer.

A Client may purchase loans that may be in default or are from issuers in financial distress or bankruptcy proceedings. As with other types of debt instruments, loans involve the risk of loss in case of default or insolvency of the borrower. Such loans are also less liquid than are the debt instruments of publicly traded companies.

**Investments May Be Volatile.** A principal risk in investing in distressed investments is the traditional volatility in the market prices of such investments. Price movements of the instruments in which Clients' assets may be invested may be influenced by, among other things, interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, a national or international health crisis and national and international political and economic events and policies. Fluctuations or prolonged changes in the volatility of such instruments, therefore, can adversely affect the value of investments held by such Client. Many non-U.S. financial markets are not as developed or as efficient as those in the U.S., and, as a result, price volatility may be higher for such Client's non-U.S. investments. In addition, governments from time to time intervene in certain markets. Such intervention often is intended directly to influence prices and may cause or contribute to rapid fluctuations in asset prices, which may adversely affect a Client's returns.

**Illiquid Nature of Stressed and Distressed Investments.** The market for stressed and distressed investments will most likely be less liquid than the market for investments that are not stressed or distressed.

At times, a major portion of a stressed or distressed security or asset may be held by relatively few investors. Furthermore, at times, a large portion of a Client's portfolio will be invested in unregistered financial instruments, for which there is no current liquidity. Under adverse market or economic conditions or in the event of adverse changes in the financial condition of an issuer or borrower, a Client may find it more difficult to sell an investment when the Advisers believe it advisable to do so or may be able to sell such investment only at a price lower than if the investment were more widely held. In some cases, a Client may be prohibited by contract from selling investments for a period of time. In the event that another Client participates with a Client in an investment in which there is no current liquidity, if such Client needs to satisfy redemption requests, it may result in the Advisers determining to sell such investment on behalf of all Clients at a lower price, or only selling such investment on a non-pro rata basis in order to meet the liquidity needs of one Client, with no assurance that there will be similar or improved liquidity for such investment in future.

There is no assurance that there will be a ready market for resale of such investments. Illiquidity may result from the absence of an established market for certain investments as well as legal or contractual restrictions on their resale by Clients. Investments in illiquid investments generally are made at a higher cost than other investments.

With respect to loans, because of the unique and customized nature of a loan agreement, loans generally may not be purchased or sold as easily as publicly traded securities. Loans may encounter trading delays due to their unique and customized nature, and transfers may require the consent of an agent bank or borrower. In addition, the types of investments held by a Client may be such that they require a substantial length of time to liquidate.

**Highly Leveraged Companies.** Private investments in highly leveraged companies involve a high degree of risk. Some of a Client's investments in companies will likely involve leverage, which in turn will increase the exposure of such companies to adverse economic factors such as downturns in the economy or deterioration in the conditions of such companies or their respective industries. In the event that any such company cannot generate adequate cash flow to meet debt service, a Client may suffer a partial or total loss of capital invested in the company, which, depending on the size of such Client's investments, could adversely affect the return on the capital of such Client.

**Follow-On Investments.** Subject to the restrictions set forth in each Client's Governing Documents, a Client may have the opportunity or be called upon to provide follow-on funding for a portfolio company or may have the opportunity to increase its investment in a portfolio company. For a variety of reasons, the Adviser may decide not to make additional investments in companies in which a Client already has an investment. The Adviser may elect not to make such additional investments because, among other reasons, a Client lacks available capital to do so or the Adviser does not want to increase the concentration of a Client's investments. Declining to invest in such additional investments could have a substantial negative impact on a portfolio company in need of capital, may diminish a Client's ability to influence the portfolio company's future development, may result in dilution of a Client's investment in the portfolio company and could impair the value of such underlying company and, in turn, the value of the instruments pertaining to such company that are owned by a Client. In the event that a Client elects to participate in follow-on funding for a portfolio company, there is a risk that the follow-on funding will not preserve, protect or enhance the existing investment, and a Client may lose both its initial investment and the follow-on investment.

Further, certain portfolio companies will often need equity financing or debt from other parties to satisfy their continuing working capital and other cash requirements. Each round of venture financing is typically intended to provide a company with only enough capital to reach the next stage of development. A Client cannot predict the circumstances or market conditions under which its portfolio companies will seek additional capital. Some of these companies may be unable to obtain sufficient financing from private investors, public capital markets or traditional lenders. This may have a significant negative impact if the companies are unable to obtain certain federal, state or foreign agency approval for their products or the marketing thereof, if regulatory review processes extend longer than anticipated, and the companies need continued funding for their operations during these times. Accordingly, investments in these companies may entail a higher risk of loss than would financing companies that are able to utilize traditional credit sources more easily.

**Competition; Availability of Investments.** The market for attractive investment opportunities in certain Clients' target sectors is highly competitive. There can be no assurance that the

Advisers will be able to identify or to pursue attractive investment opportunities successfully in such environments. The number of investors seeking to make such investments may reduce the number of suitable investment opportunities available to Clients and adversely affect the terms upon which investments can be made. In that regard, Clients will be competing for investments with other investors, including other investment funds, individuals, companies and financial institutions. If a supply increase in a Clients' target investments do not materialize or fall short of expectations, Clients can expect to face increased competition in obtaining suitable investments. Competition for suitable investments from other alternative investment managers, the public equity markets and other investors may reduce the availability of investment opportunities or alter the terms on which Clients are able to invest. It may be difficult for Clients to capitalize on investment opportunities or to purchase investments at their initial desired price. There can be no assurance that the Advisers will be able to identify or to pursue attractive investment opportunities for Clients successfully.

**Expedited Transactions.** Investment analyses and decisions by the Advisers 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 Advisers at the time of an investment decision may be limited, and the Advisers may not have access to detailed information regarding the investment opportunity, such as physical characteristics, structural or environmental matters, zoning regulations or other conditions affecting an investment. Therefore, no assurance can be given that the Advisers will have knowledge of all circumstances that may adversely affect an investment. In addition, the Advisers may rely upon independent consultants in connection with their evaluation of proposed investments; however, no assurance can be given that these consultants will accurately evaluate such investments and Clients may incur liability as a result of such consultants' actions or omissions.

**Joint Ventures and Pooled Investment Vehicles, Including Investments in Secondary Partnership Interests.** Certain Clients may invest a portion of their portfolio in pooled investment vehicles (subject to the limitations on a Client's investments in blind pools) or enter into joint ventures or other agreements with third parties holding (or agreeing to purchase) the same investments as such Client for purposes of making investments or collectively pursuing a particular strategy or investment (each such partner, a "Joint Venture Partner"). Under such agreements, the Joint Venture Partner may take a lead role in managing the investments or implementing such joint strategies or investments and control certain decisions (including major decisions) with respect to such investment, and, as a result, be compensated through fees, a profit participation or some other form of compensation. In other circumstances, a Client may initially control an investment, but may enter into arrangements pursuant to which the Advisers can be terminated or may otherwise be removed from a control position upon the occurrence of certain events, even if the Advisers have control at the inception of the investment. Certain joint ventures in which a Client participates may not be exclusive. For example, a Joint Venture Partner may enter into similar arrangements with one or more other third parties in which a Client will not participate and, in turn, the lack of exclusivity may adversely impact the success of any joint ventures in which a Client does participate. The Advisers may enter into such arrangements with Co-Investors in circumstances where the Advisers are being paid additional compensation from the Co-Investors. The Advisers may be subject to a conflict in negotiating such arrangements since the Advisers may be more likely to agree to a removal provision in transactions where

additional compensation is being paid to the Advisers. The Advisers will act in a manner that is consistent with its fiduciary duties to the Clients when considering such arrangements.

To the extent such investments or agreements are made, such Client will bear its *pro rata* share of the investment management fees, profit participations (or promotes), other fees and/or expenses charged by the manager of each such investment vehicle or Joint Venture Partner, in addition to other fees to the Advisers. A Client may bear multiple layers of fees and allocations that generally would not be incurred if the investments were made solely by a Client or directly (as opposed to through the pooled vehicle, joint venture or other agreement). These types of investments may involve a Client relying on the performance of third parties, thereby increasing the risk of manager misconduct or bad judgment, as well as limiting the Advisers' control over, and knowledge of, such Client's overall portfolio. A Client may not be able to withdraw capital from any such investment vehicle, even in situations where such investment vehicle or Joint Venture Partner is deviating from announced strategies or risk control policies and such Client may not have knowledge of such deviations. Further, a Joint Venture Partner may have the contractual right to withdraw from such arrangement for any or no reason, to the economic detriment of a Client. In selecting Joint Venture Partners, the Advisers will rely on a variety of both quantitative as well as qualitative factors, as well as the subjective judgment of its personnel.

**Lack of Control.** Certain Clients may invest in debt instruments and equity securities of companies that such Clients and the Advisers do not control, which such Clients may acquire through investments in blind pools, joint ventures, market transactions or through purchases of securities directly from the issuer or other shareholders. Such securities will be subject to the risk that the majority stakeholder or issuer may make business, financial or management decisions with which such Clients do not agree or that such stakeholders or the management of the issuer may take risks or otherwise act in a manner that does not serve the Client's interests. In addition, certain Clients may share control over certain investments with Co-Investors, which may make it more difficult for such Clients to implement their investment approach or exit the investment when they otherwise would. The occurrence of any of the foregoing could have a material adverse effect on such Clients.

**Risks Associated with Bankruptcy Cases.** The owners of the assets underlying certain Clients' investments and the obligors on loans or other financial instruments constituting such Client's assets may seek the protection afforded by bankruptcy, insolvency and other debtor relief laws. One of the protections offered in such proceedings is a stay in required payments on such financial instruments or loans. A stay on payments to be made on the assets of such Client could adversely affect the value of those assets and the value of the interests of the Client. Other protections in such proceedings include forgiveness of debt, the ability to create superpriority liens in favor of certain creditors of the debtor and certain well-defined claims procedures.

Many of the events within a bankruptcy case are adversarial and often beyond the control of the creditors. While creditors generally are afforded an opportunity to object to significant actions, there can be no assurance that a bankruptcy court would not approve actions that may be contrary to the interests of a Client. Furthermore, there are instances where creditors and equity holders lose their ranking and priority as such when they take over management and functional operating

control of a debtor. In those cases where a Client, by virtue of such action, is found to exercise “domination and control” of a debtor, such Client may lose its priority if the debtor or other creditors can demonstrate that the debtor’s business was adversely impacted or other creditors and equity holders were harmed by such Client.

Generally, the duration of a bankruptcy case can only be roughly estimated. Unless a Client’s claim in such case is secured by assets having a value in excess of such claim, no interest will be permitted to accrue and, therefore, such Client’s return on investment can be adversely affected by the passage of time during which the plan of reorganization of the debtor is being negotiated, approved by the creditors and confirmed by the bankruptcy court. The risk of delay is particularly acute when a creditor holds unsecured debt or when the collateral value underlying secured debt does not equal the amount of the secured claim. Under most circumstances, unless the debtor is proved to be solvent, no interest or fees are permitted to accrue after the commencement of the debtor’s case, as a matter of U.S. bankruptcy law. Reorganizations outside of bankruptcy are also subject to unpredictable and potentially lengthy delays.

U.S. bankruptcy law permits the classification of “substantially similar” claims in determining the classification of claims in a reorganization for purpose of voting on a plan of reorganization. Because the standard for classification is vague, there exists a significant risk that the Advisers’ influence (acting on behalf of Clients) with respect to a class of securities can be lost by the inflation of the number and the amount of claims in, or other alteration of, the class. Moreover, a chapter 11 debtor has the ability under the U.S. Bankruptcy Code to propose and confirm a reorganization plan that is not supported by all classes of creditors. Using this so-called “cram-down” power, a chapter 11 debtor could confirm a reorganization plan that, among other things, provides the Partnership with a new financial instrument on terms that are materially different from the original investment, including a lower interest rate, a longer maturity date and less protective covenants.

The administrative costs in connection with a bankruptcy proceeding are frequently high and will be paid out of the debtor’s estate prior to any return to creditors (other than out of assets or proceeds thereof, which are subject to valid and enforceable liens and other security interests) and equity holders. In addition, certain claims that have priority by law (for example, claims for taxes) may be quite high.

The Advisers, on behalf of a Client, may seek representation on equity holders’ committees or, in limited circumstances, on creditors’ committees or other groups to ensure preservation or enhancement of such Client’s position as an equity holder or creditor. A member of any such committee or group may owe certain obligations generally to all parties similarly situated that the committee represents. If the Advisers conclude that its obligations owed to the other parties as a committee or group member conflict with its duties owed to such Client, it may resign from that committee or group, and such Client may not realize the benefits, if any, of participation on the committee or group. In addition, and also as discussed above, if such Client is represented on a committee or group, it may be restricted or prohibited under applicable law from disposing of its investments in such company while it continues to be represented on such committee or group.

The Advisers, on behalf of a Client, may purchase creditor claims subsequent to the commencement of a bankruptcy case. Under judicial decisions, it is possible that such purchase may be disallowed by the bankruptcy court if the court determines that the purchaser has taken unfair advantage of an unsophisticated seller, which may result in the rescission of the transaction (presumably at the original purchase price) or forfeiture by the purchaser. The concept of unfair advantage (or the equivalent thereof) may vary from jurisdiction to jurisdiction.

A stay on payments to be made on the assets of a Client could adversely affect the value of those assets and the value of the interests of a Client.

In addition to the U.S. bankruptcy laws, certain Client investments may be subject to similar laws in jurisdictions outside of the U.S., which could lead to similar to adverse outcomes as those described above in this risk factor.

**Investments in Undervalued Assets.** Certain Clients may invest in undervalued assets, including operationally challenged companies, non-core/non-performing divisions or subsidiaries and businesses in liquidation. The identification of investment opportunities in undervalued assets is a difficult task, and there is no assurance that such opportunities will be successfully recognized or acquired. While investments in undervalued assets offer the opportunity for above-average capital appreciation, these investments involve a high degree of financial risk and can result in substantial losses. Returns generated from a Client's investments may not adequately compensate such Client for the business and financial risks assumed. Investors should be aware that they may lose all or part of their investment in such Clients.

A Client may be forced to sell, at a substantial loss, assets which it believes are undervalued, even if they are not in fact undervalued. In addition, such Client may be required to hold such assets for a substantial period of time before realizing their anticipated value. During this period, a portion of such Client's funds would be committed to the assets purchased, thus possibly preventing such Client from investing in other opportunities. In addition, such Client may finance such purchases with borrowed funds and thus will have to pay interest on such funds during such waiting period.

For reasons not necessarily attributable to any of the risks enumerated (for example, supply/demand imbalances or other market forces), the prices of the financial securities in which a Client will invest may decline substantially. In particular, purchasing assets at what may appear to be "undervalued" levels is no guarantee that these assets will not be trading at even more "undervalued" levels at a time of valuation or at the time of sale. It may not be possible to predict, or to hedge against, such "spread widening" risk.

**Non-U.S. Investments Generally.** Certain Clients invest a portion of their assets outside of the U.S. In making such investments, appropriate consideration will be given to the factors described below, among others.

Many financial markets are not as developed or efficient as others. The volume and liquidity in financial markets vary and, at times, the volatility of prices in some countries may be greater than others. For example, financial instruments related to some issuers are less liquid and more



volatile than financial instruments of comparable issuers in other countries. The issuers of some of the financial instruments, such as non-U.S. bank obligations, may be subject to different regulations than other issuers. In addition, there may be less publicly available information about issuers in some markets as opposed to issuers in other markets, and some issuers generally are not subject to uniform accounting and financial reporting standards, practices and requirements comparable to those applicable to other issuers.

Governments of many countries have exercised and continue to exercise substantial influence over many aspects of their economies and investments. Accordingly, government actions in the future could have a significant effect on economic actions in such countries, which could affect the value of private sector investment and assets.

The Clients may be subject to additional risks, which include possible adverse political and economic developments outside the U.S., possible seizure or nationalization of non-U.S. deposits and possible adoption of governmental restrictions that might adversely affect the payment of principal and interest to investors located outside the country of the issuer, whether from currency blockage or otherwise. Furthermore, some of the financial instruments may be subject to brokerage taxes levied by non-U.S. governments, which could have the effect of increasing the cost of such investment and reducing the realized gain or increasing the realized loss on such securities at the time of sale. Income, gain and gross proceeds received by a Client from sources within some countries may be reduced by withholding and other taxes imposed by such countries. Any such taxes paid by (or withheld from) a Client will reduce its net income or return from such investments. Further, any change in taxation legislation by non-U.S. governments could affect the value of the portfolio investment made by a Client and the Client's ability to achieve its investment objective, or alter the post-tax returns to investors. Any such changes which could be retroactive, could have an effect on the validity of the information stated herein. There can be no assurances that the expected tax efficiency of a Client will be achieved or will continue in the future.

Many of the laws that govern private and non-U.S. investment, securities transactions, creditors' rights and other contractual relationships in developing countries are new and largely untested. As a result, the Clients may be subject to a number of unusual risks, including inadequate investor protection; contradictory legislation; incomplete, unclear and changing laws; ignorance or breaches of regulations on the part of other market participants; lack of established or effective avenues for legal redress; lack of standard practices and confidentiality customs characteristic of developed markets; and lack of enforcement of existing regulations. There can be no assurance that this difficulty in protecting and enforcing rights will not have a material adverse effect on a Client and its operations. Furthermore, it may be difficult to obtain and enforce a judgment in a court outside of the U.S. regulatory controls and corporate governance of companies in developing countries may confer little protection on investors. Anti-fraud and anti-insider trading legislation is often rudimentary. The concept of fiduciary duty is also limited when compared to such concepts in Western markets. In certain instances, management of portfolio companies may take significant actions without the consent of investors.

While the Advisers will take these factors into consideration in making investment decisions for a Client, no assurance can be given that the Client will be able to fully avoid these risks.

**Non-U.S. Taxation.** With respect to certain countries, there is a possibility of expropriation, confiscatory taxation, imposition of withholding or other taxes on dividends, interest, capital gains, gross sale or disposition proceeds, or other income, limitations on the removal of funds or other assets of a Client, political or social instability or diplomatic developments that could affect investments in those countries. While Clients intend to structure their operations to minimize such taxation to the extent possible, there can be no assurance that such taxation will not occur. To the extent that a Client purchases investments in Europe, such investments are expected to be made through companies resident in the Netherlands, Ireland, Luxembourg, and other non-U.S. jurisdictions.

Clients and/or any vehicle in which Clients have a direct or indirect interest may be subject to tax, including transfer taxes, in jurisdictions in which any such vehicles are incorporated, organized, controlled, managed, have a permanent establishment or are otherwise located and/or in which investments are made and/or with which investments have a connection. Moreover, taxes such as withholding tax, branch tax or similar taxes may be imposed on, and thereby reduce, profits of, or proceeds arising to, Clients from investments in such jurisdictions. Withholding tax may also be imposed on payments (for example interest payments) from such jurisdictions to ‘non-cooperative’, ‘tax haven’ or ‘blacklist’ jurisdictions. In addition, local tax incurred in such jurisdictions may not be creditable to, or deductible by, the investors in their respective jurisdictions. Clients or their investors could also be subject to tax, and have filing obligations, in jurisdictions in which the Clients invests or operates.

Certain Clients’ non-U.S. investments are expected to be made through investment vehicles established in the Netherlands and in certain other foreign jurisdictions (the “Dutch Companies”). The Organisation for Economic Co-operation and Development (the “OECD”) has endorsed a broad set of proposals under the Base Erosion and Profit Sharing Project (“BEPS”) which, among other things, aims to limit certain perceived harmful tax practices, limit treaty shopping and require substance in international economic transactions. BEPS aimed to restructure the taxation schemes applicable to international transactions in order to subject such transactions to income taxation in the jurisdictions where the OECD considers the economic activities generating the profit to have been performed. When certain of the proposals recommended under BEPS are implemented, the tax rules applicable to a Client may change which could result in significant increases in the taxes owed by the Client in Europe and other areas in which the Client operates. Individual countries are now deciding the manner in which the BEPS proposals and other related tax reform measures will be adopted in those countries. The EU has already taken certain measures to implement the BEPS recommendations, including the introduction of both general Anti-Avoidance rules and rules restricting the deductibility of interest. EU Member States are under certain obligations to implement these changes. It is impossible to predict exactly which proposals will be adopted in which countries, how these proposals will be implemented and the effective date of any changes, but it is very likely that the tax rules under which a Client operates, particularly in Europe, will continue to change in future years, which may result in changes in the manner in which the Client structures its investments. The BEPS proposals have also been a catalyst for many countries to review their internal tax laws with an aim to foreclose certain perceived abuses in their tax systems. There have been changes to the tax laws and changes to the interpretations of existing tax laws in many countries

in which Clients are expected to invest, including the Netherlands, and these changes can be expected to continue. It is possible that additional tax costs could be imposed on a Client's investments and the structure of the Client's investments would have to change. Finally, whether due to the increased scrutiny of tax practices resulting from BEPS or otherwise, there has been an increase in tax audit activity in certain countries in which such Clients invests. Aspects of the Advisers' investment activity in Europe have and continue to be subject to income tax audits in European jurisdictions and there have been other tax-related inquiries in Europe relating to the manner in which certain prior Adviser investments were operated. There is no way to predict the extent to which this audit activity will continue or accelerate, and it is possible that tax authorities may take aggressive positions concerning past tax structures based on the BEPS recommendations even though the BEPS proposals are intended to have prospective effect only. Clients will aggressively monitor these possible changes in the international tax rules and interpretations thereof and intends to structure investments in a tax-efficient manner, consistent with local tax laws, to the extent possible.

Certain Clients may (directly or indirectly through its investment in SPVs) bear the cost of a non-recoverable value-added tax ("VAT") and related costs or expenses in certain jurisdictions based on the fees paid to servicers, asset managers and other vendors in respect of the ongoing management of asset portfolios. Such Clients intend to structure their operations to avoid or minimize such taxation to the extent practicable, but the VAT treatment of services depends on a variety of factors, including the VAT status and physical locations of the services provider and services recipient, the nature of the services provided and the specific terms of service provider agreements. As a result, there can be no assurance that the amount of non-recoverable VAT will not be material.

**Investments in Emerging Markets.** Emerging or frontier (including pre-emerging) markets in which certain Clients may invest may be subject to more substantial risks in political and macro-economic conditions that are not usually associated with similar investments in the U.S. and other industrialized democracies. Such risks may include: (i) increased risk of nationalization or expropriation of assets or confiscatory taxation; (ii) greater social, economic and political uncertainty, including war; (iii) higher dependence on exports and the corresponding importance of international trade; (iv) greater volatility, less liquidity and smaller capitalization of markets; (v) greater volatility in currency exchange rates; (vi) greater risk of inflation; (vii) greater controls on foreign investment and limitations on realization of investments, repatriation of invested capital and on the ability to exchange local currencies for U.S. dollars; (viii) increased likelihood of governmental involvement in and control over the economy; (ix) governmental decisions to cease support of economic reform programs or to impose centrally planned economies; (x) differences in auditing and financial reporting standards which may result in the unavailability of material information about issuers; (xi) less extensive regulation of the markets; (xii) longer settlement periods for transactions and less reliable clearance and custody arrangements; (xiii) less developed corporate laws regarding fiduciary duties of officers and directors and the protection of investors; (xiv) certain considerations regarding the maintenance of a Client's financial instruments with non-U.S. brokers and securities depositories; and (xv) additional administrative burdens as a result of local legal requirements. Any of these factors as well as other social and economic problems in any given emerging market may have an adverse

effect on investments in that market and may also adversely affect other markets and economies and, therefore, could adversely affect a Client.

In particular, the economies of emerging and frontier markets may perform favorably or unfavorably compared with more developed economies in such respects as growth of gross domestic product, rate of inflation, currency appreciation or depreciation, capital reinvestment, resource self-sufficiency and balance of payments. The economies of emerging and frontier markets generally are heavily dependent upon international trade and, accordingly, may be affected adversely by protective trade barriers and economic conditions in the countries with which they trade. In addition, the economies of certain emerging and frontier markets are vulnerable to weaknesses in world prices for their commodity exports. Some emerging and frontier markets have from time-to-time experienced high rates of inflation and have extensive external debt.

Emerging and frontier markets have in the past experienced, and may in the future experience, interest rate volatility, extensive external debt, lack of financial liquidity and stock market volatility, which have contributed to a decline in business and consumer spending in addition to other adverse market conditions. Although such events may at times create significant investment opportunities leading to attractive returns, there can be no assurance that economic and financial difficulties will not adversely affect the value of a Client's investments or make it more difficult for a Client to locate appropriate investment opportunities.

Differences may remain between the degree of sophistication of the legal systems of many developing countries and the degree of sophistication of the body of commercial law and practice typically found in more developed countries. The lack of comprehensive and enforceable legal systems in some developing countries may adversely affect a Client's investments and prevent a Client from effectively enforcing its rights. The validity and enforceability of contracts in such countries, particularly with governmental entities, is relatively uncertain. In addition, bankruptcy regulations in some emerging and frontier markets are still developing. There is no assurance that a Client could accurately anticipate the outcome of any bankruptcy proceedings in emerging markets.

**Political and Social Risks.** Some of the markets in which Clients may invest have in the past and may in the future experience political and social instability that could adversely affect the Clients' investments. Such instability could result from, among other things, popular unrest associated with demands for improved political, economic and social conditions. The political systems of the countries in which Clients invest could be vulnerable to popular dissatisfaction, as well as to demands for autonomy from particular regional and ethnic groups. Clients may, where appropriate and affordable, seek to obtain political risk insurance, but there can be no assurance that such insurance will be available on commercially reasonable terms or that the Adviser will decide to obtain such insurance.

**Sovereign Debt.** Certain Clients invest in debt issued by a national government in a foreign currency. Several factors may affect (i) the ability of a government, its agencies, instrumentalities or its central bank to make payments on the debt it has issued ("Sovereign Debt"); (ii) the market value of such debt and (iii) the inclusion of Sovereign Debt in future

restructurings, including such issuer's (a) balance of trade and access to international financing, (b) cost of servicing such obligations, which may be affected by changes in international interest rates, and (c) level of international currency reserves, which may affect the amount of non-U.S. currency available for external debt payments. Significant ongoing uncertainties and exposure to adverse conditions may undermine the issuer's ability to make timely payment of interest and principal, and issuers may default on their Sovereign Debt.

**Currency Exchange Rate Exposure.** A portion of certain Clients' assets may be in assets denominated in various currencies other than the U.S. dollar and in other financial instruments, the price of which is determined with reference to such currencies. Clients, however, will generally value their investments and other assets in U.S. dollars. To the extent unhedged, the value of a Client's assets denominated in currencies other than U.S. dollars will fluctuate with U.S. dollar exchange rates as well as with price changes of investments in the various local markets and currencies. Future and forward currency contracts and options may be utilized by a Client to hedge against currency fluctuations, but such Client is not required to hedge and there can be no assurance that such hedging transactions, even if undertaken, will be effective.

It is possible that some European sovereign debt issuers may seek to exit the European Union (the "EU") and the Euro, and reintroduce a national currency. It is possible, therefore, that a dispute may arise regarding the currency in which an underlying obligation, sovereign or private, must be repaid. There is a possibility that an issuer/obligor might ultimately be permitted to repay its debt in a different, less valuable, security depending upon the governing law of the contract and the provisions, if any, therein regarding the risk of redenomination. The legal analysis of this issue is not straightforward. There are multiple variables and any legal outcome will be fact and contract specific. It is difficult to predict the value of the currency that might be received by the holder of a debt instrument in such a circumstance, and any such exchange could have an adverse effect on a Client's investments.

**Equity Securities Generally.** Certain Clients may acquire equity in connection with a debt investment, and may also invest, on an opportunistic basis, in standalone equity and equity-related securities, or acquire equity as a result of a reorganization or as a consequence of default or foreclosure on the collateral securing such Client's loans. Equity securities in general fluctuate in value in response to many factors, including the activities, results of operations and financial condition of the issuer, the business market in which the issuer competes, industry market conditions, interest rates and general economic environments and movements in the equity markets in general. As a result, a Client may suffer losses if it invests in equity instruments of issuers whose performance diverges from the Advisers' expectations or if equity markets generally move in a single direction and a Client has not hedged against such a general move.

**Derivative Transactions and Hedging.** Certain Clients utilize a variety of financial instruments, such as derivatives, options, swaps, caps, floors, futures, forward contracts and indices, both for investment and risk management purposes. A Client may utilize such instruments to: (i) protect against possible changes in the market value of such Client's investments resulting from fluctuations in the markets and changes in interest rates; (ii) protect such Client's unrealized gains in the value of its investments; (iii) facilitate the sale of any portfolio investments; (iv) enhance or preserve returns, spreads or gains on any investment in

such Client's portfolios; (v) hedge against a directional trade; (vi) hedge the interest rate, credit or currency exchange rate on any of such Client's investments; (vii) protect against any increase in the price of any investment such Client anticipates purchasing at a later date; or (viii) act for any other reason that the Advisers deems appropriate. While a Client may enter into hedging transactions to seek to reduce risk, such transactions may not be fully effective in mitigating the risks in all market environments or against all types of risk (including unidentified or unanticipated risks), thereby incurring losses to such Client. In addition, such hedging transactions may result in a poorer overall performance for such Client than if it had not engaged in any such hedging transactions. Moreover, the Advisers may determine not to hedge against, or may not anticipate, certain risks and the portfolio may be exposed to certain risks that cannot be hedged, such as credit risk (relating both to particular investments and counterparties).

Certain swaps, options and other derivative instruments may be subject to various types of risks, including market risk, liquidity risk, credit risk, legal risk and operations risk. The regulatory and tax environment for derivative instruments in which a Client may participate is evolving, and changes in the regulation or taxation of such instruments may have a material adverse effect on a Client.

**Call and Put Options.** A Client may incur risks associated with the sale and purchase of call options and put options. Under a conventional cash-settled option, the purchaser of the option pays a premium in exchange for the right to receive upon exercise of the option (i) in the case of a call option, the excess, if any, of the reference price or value of the underlier (as determined pursuant to the terms of the option) above the option's strike price or (ii) in the case of a put option, the excess, if any, of the option's strike price above the reference price or value of the underlier (as so determined). Under a conventional physically-settled option structure, the purchaser of a call option has the right to purchase a specified quantity of the underlier at the strike price, and the purchaser of a put option has the right to sell a specified quantity of the underlier at the strike price.

A purchaser of an option may suffer a total loss of premium (plus transaction costs) if that option expires without being exercised. An option's time value (i.e., the component of the option's value that exceeds the in-the-money amount) tends to diminish over time. Even though an option may be in-the-money to the purchaser at various times prior to its expiration date, the purchaser's ability to realize the value of an option depends on when and how the option may be exercised. For example, the terms of the transaction may provide for the option to be exercised automatically if it is in-the-money on the expiration date. Conversely, the terms may require timely delivery of a notice of exercise, and exercise may be subject to other conditions (such as the occurrence or non-occurrence of certain events, such as knock-in, knock-out or other barrier events) and timing requirements, including the "style" of the option.

Uncovered option writing (i.e., selling an option when the seller does not own a like quantity of an offsetting position in the underlier) exposes the seller to potentially significant loss. The potential loss of uncovered call writing is unlimited. The seller of an uncovered call may incur large losses if the reference price or value of the underlier increases above the exercise price by more than the amount of any premiums earned. As with writing uncovered calls, the risk of writing uncovered put options is substantial. The seller of an uncovered put option bears a risk

of loss if the reference price or value of the underlier declines below the exercise price by more than the amount of any premiums earned. Such loss could be substantial if there is a significant decline in the value of the underlier.

**Short-Selling.** A Client's investment program may include short-selling. Such practice can, in certain circumstances, substantially increase the impact of adverse price movements on such Client's portfolio. A short sale of equity securities involves the theoretical risk of an unlimited increase in the market price of securities sold short. A short sale of a debt instrument such as a bond involves the theoretical risk of an increase in the market price plus accrued interest. Moreover, short-selling is limited to securities that can be borrowed, and it may be necessary to cover short positions at an undesirable time and at undesirable prices because securities that were shorted can no longer be borrowed. In such cases, a Client can be "bought in" (*i.e.*, forced to repurchase securities in the open market to return to the lender). There also can be no assurance that the securities necessary to cover a short position will be available for purchase at or near prices quoted in the market. Purchasing securities to close out a short position can itself cause the price of the securities to rise further, thereby exacerbating the loss. A number of jurisdictions, in response to COVID-19, have imposed bans on short selling certain equity securities (and in some cases derivatives linked to such securities). It is impossible to predict what, if any, changes in regulations may occur in the future, but any regulations which restrict the ability of a Client to trade in securities or the ability of a Client to employ, or brokers and other counterparties to extend, credit in its trading (as well as other regulatory changes that result) could have a material adverse impact on a Client's investments.

**Futures Contracts.** Certain Clients invest in futures contracts. The value of futures depends upon the price of the instruments, such as commodities, underlying them. Futures contracts are expected to be used primarily for hedging purposes, which may include managing currency and general market risk. The prices of futures contracts 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, as well as national and international political and economic events and policies. In addition, investments in futures contracts are also subject to the risk of the failure of any of the exchanges on which such Client's positions trade or of its clearinghouses or counterparties.

Futures positions may be illiquid because certain exchanges limit fluctuations in certain futures contract prices during a single day by regulations referred to as "daily price fluctuation limits" or "daily limits." Under such daily limits, during a single trading day, no trades may be executed at prices beyond the daily limits. Once the price of a particular futures contract has increased or decreased by an amount equal to the daily limit, positions in that contract can neither be taken nor liquidated unless traders are willing to effect trades at or within the limit. This could prevent a Client from promptly liquidating unfavorable positions and subject such Client to substantial losses or prevent it 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.

**Forward Trading.** Certain Clients invest in forward transactions. 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. For example, there are no requirements with respect to recordkeeping, financial responsibility or segregation of customer funds or positions. In contrast to exchange-traded futures contracts, interbank-traded instruments rely on the dealer or counterparty being contracted with to fulfill its contract. As a result, trading in interbank foreign exchange contracts may be subject to more risks than futures or options trading on regulated exchanges, including, but not limited to, the risk of default due to the failure of a counterparty with which a Client has a forward contract. Although the Advisers will seek to trade with reliable counterparties, failure by a counterparty to fulfill its contractual obligation could expose such Client to unanticipated losses. 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 widespread between the price at which they were prepared to buy and that at which they were prepared to sell. Disruptions can occur in any currency market traded by the Advisers due to unusually high trading volume, political intervention or other factors. The imposition of controls by governmental authorities might also limit such forward trading to less than that which the Advisers would otherwise recommend, to the possible detriment of the Clients. Market illiquidity or disruption could result in major losses to the Clients.

**Investment Through a REIT.** Certain Clients make certain investments through one or more investment vehicles that would elect to be treated as a REIT for federal income tax purposes. Without limiting the foregoing, the Advisers expect that, in order to realize certain tax, administrative and financial benefits, a Client must form and contribute capital and/or assets to the REIT, as discussed below. Complying with such requirements may be costly and may hinder the REIT and/or a Client’s ability to operate solely on the basis of maximizing profits. For example, requirements concerning distributions may cause the REIT and/or Client to have to make distributions at inopportune times, such as when there are insufficient funds, causing the REIT and/or Client to have to (i) sell assets in adverse market conditions, (ii) borrow on unfavorable terms, and/or (iii) distribute amounts that would otherwise be used to make future acquisitions or capital expenditures. Relatedly, requirements concerning assets and income may require the liquidation and/or restructuring of assets and may result in the REIT and/or Client being unable to effectively hedge against risks and/or to forgo otherwise attractive investment opportunities.

**Special Situations.** Certain Clients may invest in companies involved in (or the target of) acquisition attempts or tender offers or in companies involved in or undergoing workouts, liquidations, spin-offs, reorganizations, bankruptcies or other catalytic changes or similar transactions. In any investment opportunity involving any such type of special situation, there exists the risk that the contemplated transaction either will be unsuccessful, will take considerable time or will result in a distribution of cash or a new security, the value of which will be less than the purchase price to the Client of the security or other financial instrument in respect of which such distribution is received. Similarly, if an anticipated transaction does not in fact occur, a Client may be required to sell its investment at a loss. Because there is substantial



uncertainty concerning the outcome of transactions involving financially troubled companies in which a Client may invest, there is a potential risk of loss by a Client of its entire investment in such companies.

**Swap Agreements and Synthetic Assets.** A Client may acquire exposure to the risk of structured finance securities, debt securities and loans synthetically through products such as credit default swaps (including CDS and ABX and CDX contracts), total return swaps, credit-linked notes, structured notes, trust certificates and other derivative instruments (each, a “Synthetic Asset”).

A Synthetic Asset could take many forms, including a credit derivative transaction that references a structured finance security, debt security and loan or a credit derivative transaction that references a portfolio or index of corporate reference entities or a portfolio or index of reference obligations consisting of structured finance securities, debt securities, bonds or other financial instruments (each, a “Reference Obligation”). Exposure to such Reference Obligations through Synthetic Assets presents risks in addition to those resulting from direct purchases of the assets referenced. Such Client will have a contractual relationship only with the Synthetic Asset counterparty, and not with the issuer(s) (the “Reference Entity”) of the Reference Obligations unless a credit event occurs with respect to any such Reference Obligation, physical settlement applies and the synthetic asset counterparty delivers the Reference Obligation to such Client. Other than in the event of such delivery, a Client generally will have no right directly to enforce compliance by the Reference Entity with the terms of any such Reference Obligation and such Client will not have any rights of set-off against the Reference Entity. In addition, a Client generally will not have any voting or other consensual rights of ownership with respect to the Reference Obligation. A Client also will not directly benefit from any collateral supporting the Reference Obligation and will not have the benefit of the remedies that would normally be available to a holder of such Reference Obligation. A Client will be subject to the credit risk of the Synthetic Asset counterparty, as well as that of the Reference Entity, as well as the documentation risk associated with these instruments.

In the event of the insolvency of the Synthetic Asset counterparty, such Client will be treated as a general creditor of such counterparty, and will not have any claim of title with respect to the Reference Obligation. Consequently, such Client will be subject to the credit risk of the Synthetic Asset counterparty, as well as that of the Reference Entity. As a result, concentrations of Synthetic Assets entered into with any one Synthetic Asset counterparty will subject such Synthetic Assets to an additional degree of risk with respect to defaults by such Synthetic Asset counterparty as well as by the respective Reference Entities.

While the Adviser expects that returns on a Synthetic Asset may reflect those of each related Reference Obligation, as a result of the terms of the Synthetic Asset and the assumption of the credit risk of the Synthetic Asset counterparty, a Synthetic Asset may have a different expected return, a different (and potentially greater) probability of default and different expected loss and recovery characteristics following a default.

**Repurchase and Reverse Repurchase Agreements.** A Client may enter into repurchase and reverse repurchase agreements. When a Client enters into a repurchase agreement, such Client

effectively “sells” securities to a broker-dealer or financial institution, and agrees to repurchase such securities for the price paid by the broker-dealer or financial institution, plus interest at a negotiated rate. While the securities are “sold” a Client may not be able to vote such securities on issues that may affect the ultimate value of the investment. In a reverse repurchase transaction, a Client “buys” securities from a broker-dealer or financial institution, subject to the obligation of the broker-dealer or financial institution to repurchase such securities at the price paid by such Client, plus interest at a negotiated rate. The use of repurchase and reverse repurchase agreements by a Client involves certain risks including that the seller under a reverse repurchase agreement defaults on its obligation to repurchase the underlying securities. Disposing of the securities in such cases may involve costs to a Client.

Under repurchase agreements, if a Client’s financing counterparty believes that the securities pledged to it to secure a Client’s accounts have declined in value, a Client could be subject to a “margin call,” pursuant to which a Client must either deposit additional funds or securities with the financing counterparties or suffer mandatory liquidation of the pledged securities to compensate for the real or perceived decline in value of those securities. The financial institutions that may provide financing to a Client under these agreements may be able to apply essentially discretionary margin, haircut, financing and collateral valuation policies. Financing institutions can also refuse to enter into new repurchase agreements. If any financing institution refuses to enter into a new repurchase agreement or demands too large of a haircut, then a Client may be compelled to liquidate assets at an inopportune time at a loss to a Client. Furthermore, as part of such arrangements, a Client may be required to agree to certain covenants related to a Client’s net asset value and may be forced to fully repay the financing counterparties should a Client’s net asset value decline more than a predefined amount in a given month or other period or be considered in default under such arrangements.

Should a Client be declared to be in default under such arrangements, the financing counterparties may be empowered to sell or require the sale of the encumbered assets, and such forced liquidations of positions at disadvantageous prices could adversely affect a Client’s profitability and result in substantial losses.

**Risks of Counterparty Default.** The stability and liquidity of repurchase agreements, swap transactions, forward transactions and other over-the-counter derivative transactions depend in large part on the creditworthiness of the parties to the transactions. If there is a default by the counterparty to such a transaction, a Client will under most circumstances have contractual remedies pursuant to the agreements related to the transaction. However, exercising such contractual rights may involve delays or costs which could result in the net asset value of a Client being less than if such Client had not entered into the transaction.

**General Risks Associated with CDO Investments.** Certain Clients invest in CDOs. The value of the CDOs generally will fluctuate with, among other things, the financial condition of the obligors or issuers of the underlying portfolio of assets (the “CDO Collateral”), general economic conditions, the condition of certain financial markets, political events, developments or trends in any particular industry and changes in prevailing interest rates. Consequently, holders of CDOs must rely solely on distributions on the CDO Collateral or proceeds thereof for payment. If distributions on the CDO Collateral are insufficient to make payments on the CDOs,

no other assets will be available for payment of the deficiency and, following realization of the CDOs, the obligations of such issuer to pay such deficiency generally will be extinguished.

CDO Collateral may consist of high-yield debt securities, loans, ABS and other instruments (which often are rated below-investment-grade or of equivalent credit quality). High-yield debt securities and loans may be unsecured and subordinated to other obligations of the issuer. The lower ratings of high-yield securities and below-investment-grade loans reflect a greater possibility that adverse changes in the financial condition of an issuer and/or economic conditions may impair the ability of the issuer or obligor to make payments of principal or interest.

A Client's portfolio may consist of CDO equity and subordinate CDO debt. Subordinate CDO debt generally is fully subordinated to the CDO's senior tranches. CDO equity generally is fully subordinated to any CDO debt tranches. To the extent that any losses are incurred by a CDO, such losses will be borne by holders of CDO equity, then by holders of any subordinated CDO debt and finally by holders of the CDO senior tranches. In addition, if an event of default occurs under the governing instrument or underlying investment, the holders of any CDO senior tranches outstanding generally will be entitled to determine the remedies to be exercised under the instrument governing the CDO, which could be adverse to the interests of the holders of any subordinated CDO debt and/or the holders of the CDO equity, as applicable.

The lack of an established, liquid secondary market for some CDOs (and CDO equity in particular) may have an adverse effect on the market value of those CDOs and will in most cases make it difficult to dispose of such CDOs at market or near market prices. Additionally, the public markets for high-yield corporate debt securities have experienced periods of volatility and periods of reduced liquidity, and CDOs will be subject to certain other transfer restrictions that may contribute to illiquidity. Therefore, if a Client decides to dispose of any particular CDO, no assurance can be given that it will be able to dispose of such CDO at the prevailing market price, if at all. Such illiquidity may adversely affect the price and timing of liquidations of CDO securities by a Client.

**Insolvency of Issuers of CDOs.** If a court in a lawsuit brought by an unpaid creditor or representative of creditors of a U.S. issuer of a CDO, such as a trustee in bankruptcy, were to find that the issuer did not receive fair consideration or reasonably equivalent value for incurring the indebtedness constituting the CDO and, after giving effect to such indebtedness, the issuer: (i) was insolvent; (ii) was engaged in a business for which the remaining assets of such issuer constituted unreasonably small capital; or (iii) intended to incur, or believed that it would incur, debts beyond its ability to pay such debts as they matured, such court could determine to invalidate, in whole or in part, such indebtedness as a fraudulent conveyance, to subordinate such indebtedness to existing or future creditors of the issuer or to recover amounts previously paid by the issuer in satisfaction of such indebtedness. The measure of insolvency for this purpose varies. Generally, an issuer would be considered insolvent at a particular time if the sum of its debts was then greater than all of its property at a fair valuation or if the present fair saleable value of its assets was then less than the amount that would be required to pay its probable liabilities on its existing debts as they became absolute and matured. There can be no assurance as to what standard a court would apply in order to determine whether the issuer was insolvent

after giving effect to the incurrence of the indebtedness constituting the CDO or that, regardless of the method of valuation, a court would not determine that the issuer was insolvent upon giving effect to such incurrence. In addition, in the event of the insolvency of an issuer of a CDO, payments made on such CDO could be subject to avoidance as a preference if made within a certain period of time (which may be as long as one year) before insolvency. In general, if payments on a CDO are voidable, whether as fraudulent conveyances or preferences, such payments can be recaptured.

**Risks Associated with Commercial Mortgage Loans.** Certain Clients invest in commercial mortgage loans. The value of such Clients' commercial mortgage loans will be influenced by the rate of delinquencies and defaults experienced on the commercial mortgage loans and by the severity of loss incurred as a result of such defaults. The factors influencing delinquencies, defaults and loss severity include (i) economic and real estate market conditions by industry sectors (e.g., multi-family, retail, office, etc.); (ii) the terms and structure of the mortgage loans; and (iii) any specific limits to legal and financial recourse upon a default under the terms of the mortgage loan.

Commercial mortgage loans are generally viewed as exposing a lender to a greater risk of loss through delinquency and foreclosure than lending on the security of single-family residences. The ability of a borrower to repay a loan secured by income-producing property typically is dependent primarily upon the successful operation and operating income of such property (*i.e.*, the ability of tenants to make lease payments, the ability of a property to attract and retain tenants, and the ability of the owner to maintain the property, minimize operating expenses, and comply with applicable zoning regulations and laws) rather than upon the existence of independent income or assets of the borrower. Many commercial mortgage loans provide recourse only to specific assets, such as the property, and not against the borrower's other assets or personal guarantees.

Commercial mortgage loans generally do not fully amortize, which can necessitate a sale of the property or refinancing of the remaining "balloon" amount at or prior to maturity of the mortgage loan. Accordingly, investors in commercial mortgage loans and commercial mortgage-backed securities ("CMBS") bear the risk that the borrower will be unable to refinance or otherwise repay the mortgage at maturity, thereby increasing the likelihood of a default on the borrower's obligation.

Exercise of foreclosure and other remedies may involve lengthy delays and additional legal and other related expenses on top of potentially declining property values. In certain circumstances, the creditors may also become liable upon taking title to an asset for environmental or structural damage existing at the property.

Certain Clients may invest in small balance commercial ("SBC") loans. SBC loans are generally viewed as having the same risks as commercial mortgage loans.

**Risks Associated with Residential Mortgage Loans.** Certain Clients' investment program may include investments in residential mortgage loans, including subprime mortgages. Subprime mortgage loans are generally made to borrowers with lower credit scores. Accordingly, such

mortgage loans are more sensitive to economic factors that could affect the ability of borrowers to pay their obligations under the mortgage loans.

A factor that may result in higher delinquency rates is the increase in monthly payments on adjustable-rate mortgage loans (“ARMs”) and/or pay option ARMs, each of which present special default and prepayment risks. The primary attraction to borrowers of these ARM products was that initial monthly mortgage loan payments could be significantly lower than fixed-rate or level pay mortgage loans under which the borrower pays both principal and interest at an interest rate fixed for the life of the mortgage loan. As a result, during the time period when the ARMs were originated or modified, many borrowers were able to incur substantially greater mortgage debt using one of these adjustable payment mortgage loan products than they would have been able to incur using a standard amortizing fixed rate mortgage loan. Borrowers seeking to avoid these increased monthly payments by refinancing their mortgage loans may no longer be able to find available replacement loans at comparably low interest rates. A decline in housing prices may also leave borrowers with insufficient equity in their homes to permit them to refinance. Furthermore, borrowers who intend to sell their homes on or before the expiration of the fixed rate periods on their mortgage loans may find that they cannot sell their properties for an amount equal to or greater than the unpaid principal balance of their loans.

Certain residential mortgage loans may contain negative amortization features. Negative amortization arises when the mortgage payment in respect of a loan is smaller than the interest due on such loan. On any such mortgage loans, if the required minimum monthly payments are less than the interest accrued on the loan, the interest shortfall is added to the principal balance, causing the loan balance to increase rather than decrease over time. Because the related mortgagors may be required to make a larger single payment upon maturity, the default risk associated with such mortgage loans may be greater than that associated with fully amortizing mortgage loans.

**Counterparty Risk Associated with Mortgage Loans.** Certain Clients may be subject to counterparty risk and may be unable to seek indemnity or require its counterparties to repurchase mortgage loans if they breach representations and warranties, which could cause a Client to suffer losses. When a Client purchases loans, its counterparty may make representations and warranties about such loans to such Client. A Client’s residential mortgage loan purchase agreements may entitle such Client to seek indemnity or demand repurchase or substitution of the loans in the event a counterparty breaches a representation or warranty given to such Client. However, a Client cannot assure that its mortgage loan purchase agreements will contain appropriate representations and warranties, that it will be able to enforce its contractual right to repurchase or substitution, or that a counterparty will remain solvent or otherwise be able to honor its obligations under its mortgage loan purchase agreements. A Client’s inability to obtain indemnity or require repurchase of a significant number of loans could harm such Client’s business, financial condition, liquidity, results of operations and ability to make distributions to its investors. Further, as the market for mortgage loan purchase agreements becomes more competitive, the representations and warranties about such loans to a Client may become more limited as the counterparties have increased leverage during the negotiations for purchase of such loans.

**Risks Associated with Loan Origination.** In connection with loans that a Client may originate (indirectly or through FirstKey Mortgage, Spring EQ, or otherwise) in connection with a Client's investment program, a Client may be subject to liability indirectly for potential violations of various lending laws and additional costs associated with state and federal licensing. Residential mortgage loan originators and servicers are required to comply with various federal, state and local laws and regulations, including anti-predatory lending laws and laws and regulations imposing certain restrictions and requirements on "high cost" loans. Licensing laws may also require disclosure of certain investor's names. Continued changes in legislation and licensing laws may also require technology updates and additional implementation costs for loan originators. Such legislative changes will likely continue for the foreseeable future and may increase a Client's subsidiaries' operating expenses related to its loan origination services.

Additionally, there is a risk that a Client may be required (through FirstKey Mortgage, SpringEQ, or otherwise) to indemnify or repurchase originated loans if such loans fail to meet certain criteria or characteristics. Many contracts with purchasers of whole loans contain provisions that require originators to indemnify or repurchase the related loans under certain circumstances. While specific contracts will vary, they may contain provisions that will require a Client's subsidiaries to repurchase loans if: (i) the subsidiaries' representations and warranties concerning loan quality and loan circumstances are inaccurate, including representations concerning the licensing of a mortgage broker; (ii) the subsidiary fails to secure adequate mortgage insurance within a certain period after closing; (iii) a mortgage insurance provider denies coverage; or (iv) the subsidiary fails to comply, at the individual loan level or otherwise, with regulatory requirements in the current dynamic regulatory environment. If a Client's subsidiaries are required to indemnify or repurchase loans that they originate and sell that result in losses that exceed its projections, this could adversely affect a Client's business operations and result in losses to a Client.

**Risks Associated with MSRs and Excess MSRs.** Certain Clients invest in MSRs. MSRs arise from contractual agreements between a Client and the investors (or their agents) in mortgage securities and mortgage loans. Excess MSRs are interests in MSRs, representing a portion of the fee paid to mortgage servicers. The fee that a mortgage servicer is entitled to receive for servicing a pool of mortgages generally exceeds the reasonable compensation that would be charged in an arm's-length transaction. For example, Fannie Mae and Freddie Mac generally require mortgage servicers to be paid a minimum servicing fee that significantly exceeds the amount a servicer would charge in an arm's length transaction. The portion of the fee in excess of what would be charged in an arm's length transaction is commonly referred to as the excess mortgage servicing fee. A Client may acquire MSRs from the sale of mortgage loans where such Client assumes the obligation to service the loan in connection with the sale transaction or a Client may purchase MSRs and excess MSRs. Any MSRs and excess MSRs that a Client acquires will be recorded at fair value on such Clients' balance sheets. The determination of fair value of MSRs and excess MSRs will require the Advisers to make numerous estimates and assumptions. Such estimates and assumption include, without limitation, estimates of future cash flows associated with MSRs based upon assumptions involving interest rates as well as the prepayment rates, delinquencies and foreclosure rates of the underlying serviced mortgage loans.

The ultimate realization of the value of MSRs and excess MSRs may be materially different than the fair values of such assets as may be reflected in a Client's balance sheets as of any particular date. The use of different estimates or assumptions in connection with the valuation of these assets could produce materially different fair values of such assets, which could have a material adverse effect on a Client's business, financial condition, results of operations and cash flows. Accordingly, there may be material uncertainty about the fair value of any MSRs or excess MSRs a Client acquires.

**Interest-Only Mortgage Loans.** Certain Clients invest in interest-only mortgage loans. Interest-only mortgage loans permit the borrowers to make monthly payments of only accrued interest generally for an initial period following origination. After such interest-only period, the borrower's monthly payment will be recalculated to cover both interest and principal so that the mortgage loan will amortize fully prior to its final payment date. If the monthly payment increases, the related borrower may not be able to pay the increased amount and may default or may refinance the related mortgage loan to avoid the higher payment. Interest-only mortgage loans reduce the monthly payment required by borrowers during the interest-only period and consequently the monthly housing expense used to qualify borrowers. As a result, the interest-only mortgage loans may allow some borrowers to qualify for a mortgage loan who would not otherwise qualify for a fully amortizing mortgage loan or may allow them to qualify for a larger mortgage loan than otherwise would be the case.

**Higher Risk of Loss on Loans Secured by Non-Owner Occupied Properties.** Certain Clients invest in mortgage loans that are secured by properties held by borrowers for investment or as second homes, including improved and unimproved land. These mortgage loans may present a greater risk of loss, and the unimproved land may present a significantly greater risk of loss, if a borrower experiences financial difficulties, because these borrowers may be more likely to default on a mortgage loan secured by non-owner occupied property than a mortgage loan secured by a primary residence of a borrower.

**Increased Risk of Loss Associated with Second Lien Mortgage Loans.** Certain Clients invest in second lien mortgage loans, which are junior in priority to the related first lien mortgage on the related mortgaged property, and such Clients may not own such associated first lien mortgage. In certain cases, the second lien mortgage loan and the related associated first lien mortgage may have been originated at the same time, allowing the borrower to purchase the related mortgaged property with little or no down payment. In other cases, the borrower might take out a second lien home equity loan. Generally, the holder of a second lien mortgage loan will be subject to a loss of its mortgage if the holder of the related associated first lien mortgage loan is successful in foreclosure of its mortgage as no liens or encumbrances would typically survive such a foreclosure, and the holder of the related associated first lien mortgage loan generally may foreclose on the related mortgaged property without the consent of the second lien holder or the related second lien servicer. Due to the priority of the associated first lien mortgage loan, the holder of a second lien mortgage loan may not be able to control the timing, method or procedure of any foreclosure action relating to the related mortgaged property. Furthermore, any liquidation, insurance or condemnation proceeds received on a second lien mortgage loan will be available to satisfy the outstanding balance of such mortgage loan only to the extent that the claim of the holder of the associated first lien mortgage loan has been satisfied.

in full, including any foreclosure costs. Therefore, there may not be enough proceeds to pay both the first lien and second lien holders. Moreover, borrowers with little equity, no equity, or, in certain circumstances, negative equity, may not have the ability to sell their home or to refinance, and a second lien holder would be unlikely to foreclose if there is little to no chance of recovery.

Given the practical inability for the related second lien servicer to foreclose on the second lien mortgage loans serviced by it, in certain respects such second lien mortgage loans could be viewed as being unsecured, the consequence of which, among other things, is that the value of the related mortgaged properties may be unavailable to satisfy any amounts owed on such second lien mortgage loans.

**Risks Associated with Revolving Home Equity Lines of Credit.** Certain clients invest in revolving home equity lines of credit (each, a “HELOC Mortgage Loan”) which have a “draw period” during which the related borrower may make draws in respect of such HELOC Mortgage Loan, resulting in an increase in the total unpaid principal balance of such HELOC Mortgage Loan (up to the related credit limit), though such right to make draws may be frozen (temporarily or permanently) in certain circumstances. During the draw period of a HELOC Mortgage Loan, the related borrower is generally only required to make payments in respect of accrued and unpaid interest as well as certain fees or charges that may become due under such HELOC Mortgage Loan. With respect to HELOC Mortgage Loans that are used for debt consolidation or debt management, there can be no assurance that the related borrower will not incur further debt. This reloading of debt could impair the ability of borrowers to service their debts, which in turn could result in higher rates of delinquency and loss on the HELOC Mortgage Loans. In addition, a borrower could make a large draw on their HELOC Mortgage Loan for a life event or due to changing economic conditions generally, or the deteriorating financial condition of a borrower, and not be prepared financially or able to repay such draw.

HELOC Mortgage Loans pose a special payment risk because the borrower may be required to begin making substantially higher monthly payments at the start of the repayment period during which the total unpaid principal balance of a HELOC Mortgage Loan (at the end of the draw period) is due in monthly installments, together with accrued interest. In particular, after the draw period for such HELOC Mortgage Loan, a payment shock to the related borrower could occur in the event that the borrower’s monthly payment is significantly increased, the degree of which will depend on many factors, including the then-current outstanding principal balance, credit line utilization and the interest rate on each such HELOC Mortgage Loan. If the borrower is unable to make such payment or payments, the borrower may default. Clients may suffer a loss if the related mortgaged property is insufficient or unavailable to cover the loss, which may be more likely in the case of a second lien HELOC Mortgage Loan in which foreclosure on the related mortgaged property may not be pursued.

In certain instances, Clients that invest in HELOC Mortgage Loans will be obligated to, directly or indirectly, remit funds to reimburse the servicer for draws made on such HELOC Mortgage Loans. To the extent that such funds are not remitted when required, the servicer may elect to treat a draw for which it has not been reimbursed as an asset of the servicer. Additionally, if the servicer believes that it is unlikely to be subsequently reimbursed for a draw made by a borrower



on a HELOC Mortgage Loan, it may not be required to fund such draw (or any other draws), which, may cause a breach of the terms of the related HELOC agreement and could result in the related borrower initiating litigation.

**Lack of Information Regarding Underwriting Standards; Higher Expected Delinquencies in Payment.** Clients will acquire mortgage loans from various unaffiliated savings institutions, finance companies and other sellers. From time to time, the seller will not have information available to it as to the underwriting standards that were applied in originating the mortgage loans, and such mortgage loans may have been originated with low standards. In addition, even when Clients acquire mortgage loans where the seller has information regarding the underwriting guidelines of the originator of such mortgage loans, such underwriting guidelines may have evolved since their initial development in response to changing market conditions, regulatory and other legal guidance or clarification and other factors. As a result, certain Clients' investments may experience rates of delinquency and default that are higher than those experienced by mortgage loans that were underwritten in accordance with higher standards.

**Risks Associated with Investments in Whole Loans.** If a Client acquires whole loans, it may be required to purchase other types of mortgage assets as part of an available pool of mortgage assets in order to acquire the desired whole loans. These other mortgage assets may include mortgage assets that subject a Client to additional risks. Acquisition of less desirable mortgage assets may impair a Client's performance and reduce the return on its investments.

**Risks Associated with Single-Family Residential Rental Properties.** Certain Clients' investment program includes acquisition of single-family residential rental ("SFR") properties. The SFR properties are managed by FirstKey Homes. The ability to lease SFR properties, and produce sufficient cash flow, to among other things, meet debt service on financing obligations associated with such SFR properties, will depend on a variety of factors. Some of these factors relate to the SFR properties themselves, such as the location, age, condition, design and construction quality of the properties, perceptions regarding the safety, convenience, quality of appliances and finishes and attractiveness of the properties and the characteristics of the neighborhood, availability of other rental properties (including single-family rental properties) in close proximity, and if applicable to a property, perceptions regarding the lifestyle afforded by an individual single-family residence compared to a multi-family rental property.

Other factors that could impact the successful rental of SFR properties relate to the overall management of the properties and include the adequacy of FirstKey Homes' management, the performance of FirstKey Homes and of any service providers (including affiliated service providers) on whom FirstKey Homes depends in the provision of management services, the amount of and increases in the capital expenditures needed to maintain the properties or make improvements as a result of inflation or otherwise, an increase in tenant vacancy rates, the proportion of existing leases that are renewed at expiration of their terms, the rental rates at which leases are renewed or replaced, and the amount of and increases in homeowner's association ("HOA") dues and expenses, real estate taxes, labor costs, insurance, repair costs, materials costs, management fees, leasing commissions and other overhead of the properties. Competition for tenants could reduce the occupancy and rental rates of the properties or cause a

decline in the number and credit quality of prospective tenants and adversely affect the financial performance of such investment.

Additional factors that could impact the performance of the SFR investment program are more general in nature, such as national, regional or local economic conditions, local real estate conditions, demographic factors, consumer tastes and preferences, supply chain disruptions, zoning laws or other governmental rules and policies (including environmental restrictions and changes in licensing laws) and their enforcement by the applicable authorities, restrictions in leasing including such restrictions imposed by HOAs and planned developments, retroactive changes in building codes, vulnerability to litigation by tenants, and natural disasters and civil disturbances.

The volatility of cash flow available to the properties indirectly owned by certain Clients will be influenced by many of these factors, as well as by the creditworthiness of tenants, the level of tenant defaults, delinquencies, forbearances, abatements or modifications, the property owners' operating leverage, the ratio of fixed operating expenses to those that vary with revenues, and the level of capital expenditures required to maintain each property and to maintain or replace tenants. Any decline in any of the factors described herein may impair a Client's performance and reduce the return on its investments.

In addition, the financing facilities indirectly secured by the SFR properties are typically interest only loans. Loans with the full principal balance remaining on their stated maturity involve greater degrees of risk than fully or partially amortizing loans. As a result, the ability of the borrower to repay the related loan on the maturity date will largely depend on its ability either to refinance such loan or to sell, to the extent permitted under the related loan documents, all or a portion of the properties at a price sufficient to permit such repayment. The ability of the borrower to accomplish such a transaction will be affected by a number of factors at the time of attempted refinancing or sale, including, but not limited to, the availability of, and competition for, credit for direct or indirect interests in residential real estate, prevailing interest rates, the net cash flow generated by the properties, the fair market value of the properties, the borrower's equity in the properties, the rental history of the properties, and the prevailing general, local and regional economic conditions.

**Risks Associated with Consumer Loans.** Certain Clients' investment program may include direct and indirect (through instruments backed by) investments in consumer loans. Repayments of unsecured consumer loans may be affected by a variety of social and economic factors. Economic factors include interest rates, unemployment levels, gasoline prices, upward adjustments in monthly mortgage payments or other debt payments, the rate of inflation and consumer perceptions of economic conditions generally. Social factors include changes in consumer confidence levels and attitudes toward incurring debt and changing attitudes regarding the stigma of personal bankruptcy. Economic conditions may also be impacted by localized events, such as weather and environmental disasters.

The proceeds of unsecured consumer loans may be used by borrowers for a variety of purposes. They are not secured by any property or other collateral of the related borrower or others, and they are not guaranteed or insured by the originator, seller, servicer, or any third party, or backed

by any governmental authority in any way. The servicer and third-party collection agents will be limited in their ability to collect on such loans. In addition, no provision of any document may obligate any party to pursue any remedies directly against any borrower. Accordingly, collections on unsecured consumer loans may be entirely dependent on voluntary payments made by the borrowers and the collection efforts and activities of the servicer (or its successors or delegees).

Repayments on motor vehicle financings may be affected by a variety of factors. In the event of a default, repossession of the related financed vehicle is the most likely alternative for recovery. The prices of used vehicles, including the prices at which the servicer is able to sell repossessed vehicles, are variable, and a decline in such prices at the time at which a vehicle is repossessed may result in increased losses and reduce the return on a Client's investment. The pricing of used cars is affected by the supply and demand for those cars, which, in turn, is affected by consumer demand and tastes (including preferences that may change quickly based on factors such as fuel costs, an actual or perceived increase in extreme weather or consumer perceptions of climate change and consumer efforts to mitigate or reduce climate change-related events by purchasing vehicles that are viewed as more fuel efficient (including vehicles powered primarily or solely through electricity)), recalls, economic factors (including the price of gasoline, energy prices and closure of dealerships), the introduction and pricing of new car models and other factors, including legislation related to emissions and fuel efficiency and any government programs to stimulate the sale of new vehicles. Decreases in the value of used vehicles may, in turn, reduce the incentive of borrowers to make payments on their financing obligations and decrease the proceeds realized from repossessions of financed vehicles.

While the U.S. economy has recovered from the financial crisis, there can be no assurance that high levels of unemployment or underemployment will not recur or other factors relating to the uncertain economic climate (e.g., inflation) will not result in increased delinquencies and defaults with respect to consumer receivables in the future, or materially impair the value of a Client's investments.

The U.S. federal and state governments extensively regulate the lenders, marketers and servicers involved in consumer finance. These regulations include bankruptcy, tax, usury, disclosure, credit reporting, identity theft, licensing, privacy, fraud and abuse and other laws aimed at protecting borrowers. These laws and regulations may apply to assignees, and violations may result in the imposition of criminal or civil penalties, exclusion from participating in certain loan programs or defenses to the enforceability of such loans.

**Credit Scores May Not Accurately Predict the Performance of the Mortgage Loans.** The Advisers may rely on credit scores as part of their due diligence process. Credit scores are obtained by many lenders in connection with mortgage loan applications to help them assess a borrower's creditworthiness. Credit scores are generated by models developed by a third party that analyzed data on consumers in order to establish patterns that are believed to be indicative of the borrower's probability of default over a two-year period. The credit score is based on a borrower's historical credit data, including, among other things, payment history, delinquencies on accounts, levels of outstanding indebtedness, length of credit history, types of credit and bankruptcy experience. Credit scores range from approximately 250 to approximately 850, with

higher scores indicating an individual with a more favorable credit history compared to an individual with a lower score. However, a credit score purports only to be a measurement of the relative degree of risk that a borrower represents to a lender (*i.e.*, a borrower with a higher score is statistically expected to be less likely to default in payment than a borrower with a lower score). Lenders have varying ways of analyzing credit scores and, as a result, the analysis of credit scores across the industry is not consistent. In addition, it should be noted that credit scores were developed to indicate a level of default probability over a two-year period, which does not correspond to the life of a mortgage loan. Furthermore, credit scores were not developed specifically for use in connection with mortgage loans, but for consumer loans in general, and assess only the borrower's past credit history. Therefore, a credit score does not take into consideration the effect of mortgage loan characteristics (which may differ from consumer loan characteristics) on the probability of repayment by the borrower. There can be no assurance that the credit scores of the mortgagors will be an accurate predictor of the likelihood of repayment of the related mortgage loans.

**Geographic Concentration of Portfolio Investments.** In connection with a Client's investment strategy, a Client's portfolio investments may be concentrated in a specific geographic region. To the extent that the Client invests in areas with weak economic conditions, economic conditions may deteriorate in these locations or any other location (which may or may not affect real property values), which may affect the ability of borrowers to repay their debt obligations on time. Properties in certain jurisdictions may be more susceptible than properties located in other parts of the country to certain types of uninsurable hazards, such as earthquakes, as well as floods, hurricanes, wildfires, mudslides and other natural disasters. Declines in the real estate market of a particular jurisdiction may reduce the values of properties located in that jurisdiction, which would result in an increase in loan-to-value ratios. Any increase in the market value of properties located in a particular jurisdiction would reduce the loan-to-value ratios of the mortgage loans and could, therefore, make alternative sources of financing available to the borrowers at lower interest rates, which could result in an increased rate of prepayment of the mortgage loans. Natural disasters, such as wildfires, severe storms and flooding affecting different geographic regions from time to time may result in prepayments of mortgage loans.

**Asset-Backed Securities and Mortgage-Backed Securities Generally.** The investment characteristics of ABS and MBS differ from traditional debt securities. Among the major differences are that interest and principal payments are made more frequently, usually monthly, and that the principal may be prepaid at any time because the underlying loans or other assets generally may be prepaid at any time. Further, default risks may be more pronounced in the case of MBS and ABS secured by, or evidencing an interest in, a relatively small or less diverse pool of underlying loans.

ABS are not secured by an interest in the related collateral. ABS use trusts and special purpose corporations to securitize various types of assets, primarily automobile and credit card receivables. Investments in ABS may be made either directly or indirectly, through CDOs, in these and other types of ABS that may be developed in the future. The collateral supporting ABS is of shorter maturity than certain other types of loans and is less likely to experience substantial prepayments. ABS are often backed by pools of a variety of assets, including, for example, leases, mobile home loans and aircraft leases, which represent the obligations of a number of

different parties and use credit enhancement techniques such as letters of credit, guarantees or preference rights. The value of an ABS is affected by changes in the market's perception of the asset backing the security and the creditworthiness of the servicing agent for the loan pool, the originator of the loans or the financial institution providing any credit enhancement, as well as by the expiration or removal of any credit enhancement.

CMBS are a type of MBS secured by mortgage loans on commercial property. Mortgage loans on commercial properties often are structured so that a substantial portion of the loan principal is not amortized over the loan term but is payable at maturity. Thus, repayment of the loan principal often depends upon the future availability of real estate financing from the existing or an alternative lender and/or upon the current value and salability of the real estate. Therefore, the unavailability of real estate financing may lead to default. Most commercial mortgage loans underlying MBS are effectively non-recourse obligations of the borrower, meaning that there is no recourse against the borrower's assets other than the collateral. If borrowers are not able or willing to refinance or dispose of encumbered property to pay the principal and interest owed on such mortgage loans, payments on the subordinated classes of the related MBS are likely to be adversely affected.

Holders of residential mortgage-backed securities ("RMBS") bear various risks, including credit, market, interest rate, structural and legal risks. RMBS represent interests in pools of residential mortgage loans secured by one to four family residential mortgage loans. Such loans may be prepaid at any time. Residential mortgage loans are obligations of the borrowers thereunder only and are not typically insured or guaranteed by any other person or entity, although such loans may be securitized by government agencies and the securities issued are guaranteed.

Holders of securities backed by loans secured by SFR properties should be evaluated differently than investments in CMBS. For example, SFR portfolios are exposed to a significant extent to both the residential rental market and the market for sales of SFR properties. In addition, maintenance and leasing activities for an SFR portfolio may be more time-consuming than those for a multi-family development as a result of the geographic dispersion of the residences (even within a local clustering) and each SFR property has certain unique features, appliances, fixtures and building materials, which may result in higher per-unit operating costs. Further, the cash flow generated by a portfolio of SFR properties will depend on the payment of rent by individual tenants, generally from their personal income, and not on the income and assets of operating businesses as commonly would be the case with respect to office buildings, warehouses and certain other forms of commercial real estate. If a default occurs under a loan secured by a portfolio of SFR properties, resolution by means of a note sale or bulk property sale will likely be substantially more difficult than would be the case with a defaulted loan secured by commercial or multi-family real estate.

SFR securities should also be evaluated differently than investments in RMBS. For example, the cash flow generated by SFR properties will depend in part on the income and assets of the individual tenants, whose motivations as short-term tenants may differ from the motivations of individuals who obtain mortgage loans to finance the acquisition and ownership of their homes. In addition, the underwriting standards applied to tenants at SFR properties are different from the underwriting standards that commonly have been applied in recent periods to prospective

borrowers of residential mortgage loans. Tenants (individually or in the aggregate) may be less creditworthy and/or experience greater financial hardship than borrowers (individually or in the aggregate) under residential mortgage loans originated in recent years.

**Leverage and Borrowing Risks.** A Client may have the power to borrow funds and may do so when deemed appropriate by the Advisers. Clients may borrow funds from brokers, banks and other lenders to finance such Clients' trading operations, which borrowings may be secured by assets of the Clients. Additionally, a Client may borrow funds through a related borrower, when deemed appropriate by the Advisers, including to enhance a Client's returns. The use of such leverage can, in certain circumstances, maximize the losses to which the Clients' investment portfolios may be subject. Any event that adversely affects the value of an investment would be magnified to the extent that such asset or such Client is leveraged. The cumulative effect of the use of leverage by the Clients in a market that moves adversely to the Clients' investments could result in a substantial loss to the Clients, which would be greater than if the Clients were not leveraged. Leverage may be achieved through, among other methods, direct borrowing, purchases of securities on margin and the use of options, futures, forward contracts, repurchase and reverse repurchase agreements, swaps and other derivative instruments. The access to capital could be impaired by many factors, including market forces or regulatory changes.

The use of margin and short-term borrowing creates several risks for the Clients. If the value of the Clients' securities were to fall below the margin level required by a prime broker, additional margin deposits would be required. If the Clients were unable to satisfy any margin call by a prime broker, then the prime broker could liquidate the Clients' position in some or all of the financial instruments in the Clients' accounts at the prime broker and could cause the Clients to incur significant losses. Furthermore, secured counterparties and lenders may have the right to sell, pledge, rehypothecate, assign, use or otherwise dispose of collateral posted by the Clients. This could increase exposure to the risk of a counterparty default since, under such circumstances, the Clients could be unable to recover the posted collateral promptly or could be unable to recover all of the posted collateral. The occurrence of defaults may trigger cross defaults under the Clients' agreements with other brokers, lenders, clearing firms or other counterparties, creating or increasing a material adverse effect on the performance of the Clients.

The purchase of options, futures, forward contracts, repurchase agreements, reverse repurchase agreements and equity swaps generally involve little or no margin deposit and, therefore, will provide substantial leverage. Accordingly, relatively small price movements in these financial instruments may result in immediate and substantial losses to the Clients. Leverage will increase the exposure of the Clients to adverse economic factors such as rising interest rates, economic downturns or a deterioration in the condition of the Clients' investments or their corresponding markets.

**Impact of Risk Retention Rules on Certain Structures through which Clients Invest; Potential for Cross-Investment and Cross-Fund Liability Among Certain Clients for Select Investments Held in Risk Retention Entities.** The final credit risk retention rules promulgated under the U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") require that, among other conditions, sponsors of ABS transactions (including, without limitation, securitizations of mortgage loans) or their majority-owned affiliates retain a minimum

of 5% of the credit risk of the assets collateralizing such ABS (the “U.S. Retained Interests”) for, in the case of RMBS, a minimum of five years from the date of the transaction, or, in the case of other ABS, a minimum of two years from the date of the transaction (the “Dodd-Frank RR Rules”). Similarly, the EU has adopted risk retention and disclosure rules, currently set forth in Article 6 and Article 7 of Regulation (EU) 2017/2402 (the “EU Securitization Regulation”), with respect to securitization activities in the EU (the “EU RR Rules”) and, following its withdrawal from the EU, the UK has adopted risk retention rules, currently set forth in Article 6 and Article 7 of Regulation (EU) 2017/2402 as it forms part of retained UK domestic law, by virtue of the EU (Withdrawal) Act 2018 (as amended) (the “UK Securitization Regulation”), with respect to securitization activities in the United Kingdom (the “RR Rules” and, together with the EU RR Rules and the Dodd-Frank RR Rules, the “Risk Retention Rules”). The EU RR Rules require among other conditions, that the originator or sponsor of any securitization retain on an ongoing basis a material net economic interest of not less than 5% of certain specified credit risk tranches or securitized exposures (the “EU Retention Interests”) in an entity of economic and operational substance for the life of the securitization and make available information required by Article 7 of the EU Securitization Regulation in accordance with the frequency and modalities provided for in that Article. Similarly the UK RR Rules require, among other conditions, that the originator or sponsor of any securitization retain on an ongoing basis a material net economic interest of not less than 5% of certain specified credit risk tranches (the “UK Retention Interests” and collectively with the EU Retention Interests and the U.S. Retained Interests, the “Retention Interests”) in an entity of economic and operational substance for the life of the securitization and make available information required by Article 7 of the UK Securitization Regulation in accordance with the frequency and modalities provided for in that Article. The Adviser has utilized certain suitable entities (each, a “Risk Retention Entity”) to address various regulatory requirements imposed by the Risk Retention Rules (in each case where applicable) on its securitization activities, including, without limitation, the regulatory requirement that an entity of economic and operational substance serve as sponsor or originator for UK and European securitization activity.

Article 5 of the EU Securitization Regulation contemplates that any EU investors will diligence transparency disclosure reports from the applicable issuer. Similarly, Article 5 of the UK Securitization Regulation contemplates that any UK investors will diligence transparency disclosure reports from the applicable issuer. It is not clear what form such disclosure reports should take and there can be no assurance that the investor reports do or will enable EU investors or UK investors to satisfy the requirements of Article 5 of the EU Securitization Regulation and Article 5 of the UK Securitization Regulation respectively.

Such Risk Retention Entities may, among other things, serve as the sponsor or originator for one or more securitization issuances in the U.S., UK and EU (with some transactions being qualified in one or more jurisdictions) and hold (either directly or through a directly or indirectly wholly-owned entity (or entities) or, in the case of compliance with the U.S. rules, through a majority-owned affiliate (or affiliates)) such Retention Interests and, as a result, may hold the investments created by previous securitization activity collectively and/or hold the Retention Interests collectively. To the extent that any Risk Retention Entity holds more than one investment, a distinct class of interests may be created in each Risk Retention Entity that corresponds to the underlying investment and, accordingly, the beneficial owners of such class are the Clients that

have an interest in such underlying investment. Since a Risk Retention Entity may hold multiple investments, it is possible that any such classes corresponding to such investments are owned (i) by the same Clients, but in different respective percentages, and/or (ii) by different Clients, so that certain Clients, may own some, but not all, of the classes and corresponding underlying investments. Because the law in most jurisdictions generally does not limit claims against a SPV to the distinct class of interests in such SPV to which such claims relate, to the extent that a liability is incurred by such Risk Retention Entity (whether or not with respect to a particular underlying investment and its corresponding class of interests), any related claim may be sought against such Risk Retention Entity as a whole and such claim may extend to all assets held by such Risk Retention Entity including the Retention Interests, despite that such liability may have arisen in connection with a specific investment and/or transaction. As a result, each Client with an interest in such Risk Retention Entity could incur a loss greater than it would otherwise be exposed to or otherwise would incur had each such investment been held by a separate and distinct entity.

The Adviser generally seeks to mitigate such risk in a number of ways, including, without limitation, by: (i) requiring each Client with an interest in a particular investment held by any Risk Retention Entity to enter into a contribution and indemnification agreement to appropriately allocate any potential liability or loss related to a specific investment to the relevant Clients with an interest in such investment; (ii) seeking to ensure that the relevant Clients that have entered into such a contribution and indemnification agreement have sufficient assets and/or reserves to satisfy such losses and liabilities to the extent they exceed the value of the underlying investments which gave rise to such losses and liabilities; and (iii) when possible, structuring the investments held by a Risk Retention Entity in a manner such that a claim by a counterparty with respect to such investment is limited solely to the assets relating to such investment. If a potential loss and/or liability exceeds the assets and/or reserves corresponding to a particular investment held by any such Risk Retention Entity, the Adviser will seek to allocate such loss and/or liability equitably among the relevant Clients to the greatest extent possible. Although the Adviser believes that the use of Risk Retention Entities addresses the regulatory requirements imposed by the Risk Retention Rules, the Risk Retention Rules are subject to change and there can be no assurance that such disproportionate declines in value, losses or liabilities will not be incurred by any Client with an interest in any Risk Retention Entity, including, without limitation, as a result of a failure to comply with the Risk Retention Rules.

**Impact of Risk Retention Rules on Financing Defaults.** A Risk Retention Entity or the Clients may enter into secured, full recourse financing of bonds held by the Clients (or its affiliates) in compliance with the Risk Retention Rules. Such financing may result in the financing counterparty having enforcement rights and remedies in case of an event of default which may include the right to appropriate or sell the Retention Interests. In carrying out any such sale or appropriation, the financing counterparty would not be required to have regard for the Risk Retention Rules and any such sale or appropriation may therefore cause the Risk Retention Entity to be out of compliance with the Risk Retention Rules. In such an event, with respect to the EU Securitization Regulation and the UK Securitization Regulation, securities held by other investors could be subject to an increased regulatory capital charge levied by a relevant regulator with jurisdiction over any such investor, and, also, with respect to all of the Risk Retention Rules, the price and liquidity of the securities held by an investor in the secondary market could be



negatively impacted, as certain investors may not be able to purchase the securities due to their non-compliance and investors generally may be unwilling or unable to acquire securities that are non-compliant. A Risk Retention Entity may also find itself to be in violation of the Risk Retention Rules that are currently in effect and may be subject to fines and penalties, as well as lawsuits from investors, as a result. Additionally, the Clients and their affiliated sponsors could be barred or suspended from arranging future securitization transactions as a result of failing to comply with the Risk Retention Rules.

**Alternative Investment Fund Managers Directive.** Directive 2011/61/EU of the European Parliament and of the Council dated 8 June 2011 on Alternative Investment Fund Managers, as implemented in any relevant jurisdiction, together with Commission Delegated Regulation (EU) No 231/2013, as well as any similar or supplementary law, rule or regulation, in each case as amended from time to time, including as implemented in the UK pursuant to applicable legislation including the UK Alternative Investment Fund Managers Regulations 2013/1773, and retained and amended from time to time (the “AIFMD”), as implemented in each member state of the European Economic Area (“EEA”) and as implemented and retained by the UK following its departure from the European Union, regulates the activities of certain private fund managers undertaking fund management activities or marketing fund interests to investors in the EEA, and the UK respectively.

AIFMD regulates: (i) alternative investment fund managers based in the EEA; (ii) the management of any alternative investment fund (“AIF”) established in the EEA (irrespective of where an AIF’s alternative investment fund manager is based); and (iii) the marketing of any AIF to professional investors in the EEA.

AIFs organized in the EU within the meaning of the AIFMD and accompanying rules (the “EU Clients”) are typically AIFs established as a special limited partnership (*société en commandite spéciale*) under the laws of the Grand Duchy of Luxembourg. The applicable General Partner, on behalf of the EU Client(s), will appoint Cerberus Capital Luxembourg as the alternative investment fund manager of the EU Client within the meaning of the AIFMD and as such, to exercise such powers and discretions pursuant to and on the terms of the applicable AIFM Agreement. Typically, Cerberus Capital Luxembourg, in accordance with the AIFM Agreement, will delegate to the Advisor the provision of certain portfolio management and other services with respect to the EU Clients.

The AIFMD contains detailed requirements applicable to EEA alternative investment fund managers and accordingly, the EU Clients, the Advisers and the service providers of the EU Clients are required to take significant measures to comply with, or to enable the AIFM to comply with, the requirements of the AIFMD.

Compliance with the requirements of the AIFMD and marketing rules in the EEA may be costly to the EU Clients and requires significant time and effort by Cerberus. In addition, compliance with the AIFMD requires the AIFM and the EU Clients to comply with certain restrictions and/or meet certain conditions which may include, without limitation, provision of information to European regulators, the appointment of a depositary and disclosure obligations concerning the acquisition of major holdings and control of unlisted companies.

Among others, as a result of the AIFMD, the EU Clients may be bound by restrictions where it (individually or jointly with other AIFs) takes “control” (generally 30% or more of the equity or voting capital of listed companies or 50% of the voting capital of unlisted companies) and notification requirements where it takes a major holding (10% or more) of an EEA-registered portfolio company. The intention of the restrictions is to prevent an acquiring AIF from using the inherited capital and reserves of an EEA target company to fund the cost of the acquisition, or to provide short-term profits. The AIFMD, therefore, imposes restrictions on distributions, capital reductions, share redemptions or purchases of own shares by companies “controlled” by an AIF (individually or jointly with other AIFs) during the first two years following such AIF’s acquisition of control. These restrictions may increase operational costs and restrict activities in respect of such holdings. These restrictions may also affect the allocation of investments between Clients.

It is possible that such restrictions and/or conditions may limit the Clients’ investments and the Advisor’s discretion with respect to such investments and adversely affect the business, operations and results of the EU Clients.

The European Commission published proposals for a directive to amend AIFMD (“AIFMD II”) in November 2021. AIFMD II will impose obligations including: (i) minimum substance considerations that EU regulators will need to take into account during the alternative investment fund managers (“AIFM”) authorization process; (ii) enhanced requirements around delegation, including additional reporting requirements in relation to delegation arrangements; (iii) new requirements applying to AIFMs managing funds that originate loans; (iv) increased investor pre-contractual disclosure requirements, notably around fees and charges; and (v) a prohibition on non-EU AIFMs and alternative investment funds established in jurisdictions identified as “high risk” countries under the European Anti-Money Laundering Directive (as amended) or the revised EU list of non-cooperative tax jurisdictions. Technical negotiations have completed and the final text is expected to be published in 2024, with AIFMD II due to be implemented by EU member states in 2026. It is possible that AIFMD II may require additional costs, expenses and/or resources, as well as restricting or prohibiting certain activities, including in relation to loan-originating funds and managers or funds established in jurisdictions outside the EU identified as having anti-money laundering and/or tax failings.

#### NOTE REGARDING MARKETING UNDER THE AIFMD

Each member state of the EEA has adopted legislation implementing the AIFMD into national law. Under the AIFMD, marketing to any (prospective) investor domiciled or with a registered office in the EEA will be restricted by such laws and no such marketing will take place except as permitted by such laws. an interest in the EU Clients may only be offered and issued in accordance with applicable laws in relevant member states, and potential investors should ensure they are able to subscribe for an interest in the EU Client(s) in accordance with those laws.

When marketing EU Client interests in any territory of the EEA (other than Luxembourg) to professional clients within the meaning of Annex II of MIFID II (“Professional Investors”) that are domiciled, or have a registered office in the EEA, the AIFM intends to utilize marketing

passports made available under the provisions of the AIFMD. Interests may only be marketed pursuant to such passports to Professional Investors in those territories of the EEA in respect of which a passport has been obtained.

**Systemic Risk.** Credit risk may arise through a default by one of several large institutions that are dependent on one another to meet their liquidity or operational needs, so that a default by one institution causes a series of defaults by the other institutions. This is sometimes referred to as a “systemic risk” and may adversely affect financial intermediaries, such as clearing agencies, clearinghouses, banks, securities firms and exchanges, with which the Clients or their borrowers interact on a daily basis. A systemic failure could have material adverse consequences on the Clients, their borrowers, and on the markets for securities in which a Client seeks to invest.

**Regulation in the Derivatives Industry.** There are many rules related to derivatives that may negatively impact the Clients, such as requirements related to recordkeeping, reporting, portfolio reconciliation, central clearing, minimum margin for uncleared OTC instruments and mandatory trading on electronic facilities, and other transaction-level obligations. Parties that act as dealers in swaps, are also subject to extensive business conduct standards, additional “know your counterparty” obligations, documentation standards and capital requirements. All of these requirements may add costs to the legal, operational and compliance obligations of the Advisers and the Clients, and increase the amount of time that the Advisers and the Clients spend on non-investment-related activities. Requirements such as these also raise the costs of entering into derivative transactions, and these increased costs will likely be passed on to the Clients to the extent that the Clients are engaged in derivatives transactions.

These rules are operationally and technologically burdensome for the Advisers and the Clients. These compliance obligations require employee training and use of technology, and there are operational risks that may be borne by the Clients in implementing procedures to comply with many of these additional obligations.

These regulations may also result in the Clients forgoing the use of certain trading counterparties (such as broker-dealers and futures commission merchants (“FCMs”)), as the use of other parties may be more efficient for the Clients from a regulatory perspective. However, this could limit the Clients’ trading activities, create losses, preclude the Clients from engaging in certain transactions or prevent the Clients from trading at optimal rates and terms.

Many of these requirements were implemented pursuant to the Dodd-Frank Act, the EU Regulation on OTC Derivatives, Central Counterparties and Trade Repositories (known as the European Market Infrastructure Regulation, or “EMIR”) and similar regulations globally. In the U.S., the Dodd-Frank Act divides the regulatory responsibility for derivatives between the U.S. Securities and Exchange Commission (the “SEC”) and the Commodity Futures Trading Commission (the “CFTC”), a distinction that does not exist in any other jurisdiction. The SEC has regulatory authority over “security-based swaps” and the CFTC has regulatory authority over “swaps”. EMIR was implemented in phases through the adoption of delegated acts by the European Commission and has since been subject to further amendments by the European Commission, including by EMIR REFIT. Additionally, MIFID II requires European broker-dealers to unbundle trading costs (i.e., commissions or spreads) from the investment research

that they provide to clients. Clients trading with European broker-dealers may therefore be required to pay for investment research. The costs to the Client resulting from MIFID II could have adverse impacts on the Client's ability to efficiently use such derivatives, including for hedging transactions. Future changes in the regulation of derivatives in Europe may, in due course, require the Client to revise its use of derivatives and related operational procedures, employ third-party service providers to effect the new requirements and adversely affect the Client ability to efficiently employ derivatives.

The following describes derivatives regulations that may have the most significant impact on a Client:

*Reporting.* Most swap transactions have become subject to anonymous "real time reporting" requirements, meaning that information relating to transactions entered into by a Client will become visible to the market in ways that may impair such Client's ability to enter into additional transactions at comparable prices or could enable competitors to "front run" or replicate such Client's strategies.

*Swap Execution Facilities.* In addition to the central clearing requirement, certain swap transactions are required to trade on regulated electronic platforms, such as swap execution facilities ("SEFs"), which require a Client to subject itself to regulation by these venues and subject the Client to the jurisdiction of the CFTC. CFTC rules governing the operation of SEFs continue to evolve; the SEC has yet to finalize rules related to security-based SEFs.

The EU regulatory framework governing derivatives is set not only by EMIR but also a legislative package known as a recast of the Markets in Financial Instruments Directive ("MiFID II"). Among other things, MiFID II requires transactions in derivatives to be executed on regulated trading venues. The SEC has yet to finalize rules related to security-based SEFs. It is not clear whether these trading venues will benefit or impede liquidity, or how they will fare in times of market stress. Trading on these trading venues may increase the pricing discrepancy between assets and their hedges as products may not be able to be executed simultaneously, therefore increasing basis risk. It may also become relatively expensive for a Client to obtain tailored swap products to hedge particular risks in its portfolio due to higher collateral requirements on bilateral transactions as a result of these regulations.

*Margin Requirements for Non-Cleared Swaps.* Rules issued by U.S., EU and other regulators globally (the "Margin Rules") impose various margin requirements on all swaps that are not centrally cleared, including the establishment of minimum amounts of initial margin that must be posted, and, in some cases, the mandatory segregation of initial margin with a third-party custodian. Although the Margin Rules are intended to increase the stability of the derivatives market, the overall amount of margin that a Client will be required to post to swap counterparties may increase by a material amount, and, as a result, such Client may not be able to deploy capital as effectively. Additionally, to the extent that a Client is required to segregate initial margin with a third-party custodian, additional costs will be incurred by such Client.

**Investment in Secondary Private Fund Interests.** Certain Clients invest, generally in minority positions, in existing private funds. Investments in private funds whose interests are not quoted

can involve a greater risk than investments in quoted companies. The ability of a minority investor in such funds to influence such funds' affairs or to protect such investor's position is generally limited. As a result, a Client may not be permitted to participate in the management and operations of such funds. Instead, the managers of such funds will have the sole authority to manage and operate such funds. The success of each investment will depend on the ability and success of the management of the funds, in addition to economic and market factors. Moreover, the marketability of interests in such funds is restricted. Managers of the funds in which a Client holds secondary interests generally will receive compensation based on the performance of their portfolios.

**Uninsured Losses.** The Advisers, on behalf of the Clients, may attempt to maintain insurance coverage against liability to third parties and property damage as is customary for similarly situated businesses. However, there can be no assurance that insurance will be available or sufficient to cover any such risks. Insurance against certain risks, such as environmental liabilities, pollution, earthquakes, floods, hurricanes, windstorms, biological agents, mold or damage by terrorism may be unavailable, available in amounts that are less than the full market value or replacement cost of underlying properties or subject to a large deductible. In addition, there can be no assurance that the particular risks which are currently insurable will continue to be insurable on an economically affordable basis. Clients may be at risk in the event of an uninsured liability to third parties.

**Catastrophic Risks.** Clients may be subject to the risk of loss arising from direct or indirect exposure to a number of types of other catastrophic events, including without limitation: (i) other public health crises, including any outbreak of existing or new epidemic diseases, or the threat or fear thereof or (ii) other major events or disruptions, such as hurricanes, earthquakes, tornadoes, fires, flooding and other natural disasters; acts of war, military conflicts, social unrest or terrorism, including cyberterrorism; or major or prolonged power outages or network interruptions. Such events could exacerbate political, social and economic risks previously mentioned and result in significant breakdowns, delays and other disruptions on a local, regional and global scale, which may have adverse effects on the operating performance of a Client and/or its portfolio companies. The extent of the impact of any such catastrophe or other emergency on a Client's and/or its portfolio companies' operational and financial performance will depend on many factors, including the duration and scope of such emergency, the extent of any related travel advisories and restrictions, the impact on overall supply and demand for goods and services, investor liquidity, consumer confidence and levels of economic activity, and the extent of its disruption to important global, regional and local supply chains and economic markets, all of which are highly uncertain and cannot be predicted. In particular, to the extent that any such event occurs and has a material effect on global financial markets or specific markets in which a Client participates (or has a material effect on any portfolio companies or locations in which such portfolio companies or the Advisers operate or on any of their respective personnel) the risks of loss could be substantial and could have a material adverse effect on a Client or the ability of the Advisers to fulfill its investment objectives.

**Inflation Risk.** High rates of inflation and rapid increases in the rate of inflation are expected to have a significant impact (often a negative or adverse impact) on financial markets and the broader economy. In an attempt to stabilize inflation, governments may impose wage and price

controls or otherwise intervene in a country's economy. Governmental efforts to curb inflation, including by increasing interest rates or reducing fiscal or monetary stimuli, often have corresponding impacts (often negative) on the level of economic activity and also potentially result in market or financial sector uncertainty as a result of unintended consequences. Certain countries, including the U.S., have recently seen increased levels of inflation, and persistently high levels of inflation could have a material and adverse impact on the investments and a Client's aggregated returns. For example, if a portfolio company of a Client were unable to increase its revenue while the cost of relevant inputs were increasing, the company's profitability would likely suffer. Likewise, to the extent that a portfolio company has revenue streams that are slow or unable to adjust to changes in inflation, including by contractual arrangements or otherwise, the portfolio company could increase revenue by less than its expenses increase. Conversely, as inflation declines, the portfolio company may see its competitors' costs stabilize sooner or more rapidly than its own.

**Environmental Matters.** Ordinary operation or the occurrence of an accident with respect to a portfolio company or real property could cause major environmental damage, which may result in significant financial distress to such portfolio company or owner or operator of such real property, even if covered by insurance. In addition, persons who arrange for the disposal or treatment of hazardous materials may also be liable for the costs of removal or remediation of these materials at the disposal or treatment facility, whether or not that facility is or ever was owned or operated by those persons. Certain environmental laws and regulations may require that an owner or operator of an asset address prior environmental contamination, which could involve substantial cost and other liabilities. Such laws and regulations often impose liability without regard to whether the owner or operator knew of, or was responsible for, the release or presence of environmental contamination and may impose joint and several liability (including amongst a Client and the applicable portfolio company) or liabilities or obligations that purport to extend to (and pierce any corporate veil that would otherwise protect) the ultimate beneficial owners of the owner or operator of the relevant property or operating company that stand to financially benefit from such property's or company's operations. A Client may therefore be exposed to substantial risk of loss from environmental claims arising in respect of its investments. Furthermore, changes in environmental laws or regulations or the environmental condition of an investment may create liabilities that did not exist at the time of its acquisition and that could not have been foreseen. Community and environmental groups may protest about the development or operation of portfolio company assets, which may induce government action to the detriment of a Client. New and more stringent environmental or health and safety laws, regulations and permit requirements, or stricter interpretations of current laws, regulations or requirements, could impose substantial additional costs on a portfolio company, or could otherwise place a portfolio company at a competitive disadvantage compared to other companies, and failure to comply with any such requirements could have an adverse effect on a portfolio company. Even in cases where a Client is indemnified by the seller with respect to an investment against liabilities arising out of violations of environmental laws and regulations, there can be no assurance as to the financial viability of the seller to satisfy such indemnities or the ability of a Client to achieve enforcement of such indemnities.

**Environmental, Social and Governance ("ESG") Factors.** ESG factors are among the many factors that the Advisers expect to generally consider when making investments and managing

Client assets, consistent with and subject to the Advisers' ESG policy and any applicable legal, regulatory, fiduciary or contractual duties as well as the applicability of such ESG factors to a particular investment and/or Client's investment strategy. ESG factors, issues and considerations could be deemed by the Advisers to not apply in every instance or with respect to each investment held, or proposed to be made, by a Client, and can vary greatly based on numerous criteria, including, but not limited to, country, industry, investment strategy, and issuer-specific/investment-specific characteristics. The process of selecting and evaluating ESG factors is subjective by nature, and the Advisers may be subject to competing demands from different investors with divergent views on ESG matters, including the role of ESG factors in the investment process. There is no guarantee that the Advisers' ESG program, which depends in part on qualitative judgments, will positively impact the performance of any individual investment or the Clients as a whole, or that consideration of ESG factors will enhance long-term value and financial returns for investors. There is similarly no guarantee that the Advisers' consideration of ESG factors will not lead to worse performance. Certain of the Advisers' ESG programs, policies and procedures are expected to change over time.

In evaluating an investment, the Advisers often rely upon information and data voluntarily provided by the issuer or company or obtained via third-party reporting or advisors, which could be incomplete, inaccurate or unavailable and could cause the Advisers to incorrectly identify, prioritize, assess or analyze the company's ESG practices and/or related risks and opportunities. The Advisers do not intend to independently verify certain of the ESG information reported by the portfolio companies.

Successful engagement efforts on the part of the Advisers will depend on the Advisers' skill in properly identifying and analyzing material ESG and other factors, and there can be no assurance that the strategy or techniques employed will be successful. Further, the Advisers could determine in their discretion that it is impractical, inadvisable, or impossible to implement or complete certain of its ESG initiatives (either with respect to certain Clients or in general), including with respect to ESG risk and opportunity management, based on cost, timing, market dynamics, or other considerations determined in their sole discretion. To the extent that the Advisers engage with companies on ESG-related practices and potential enhancements thereto, such engagements could fail to achieve the desired financial and ESG-related results, or the market or society could view any such changes as undesirable.

Finally, there is also growing regulatory interest, particularly in the U.S., EU, and UK (which may be looked to as models in growth markets), in improving transparency around how asset managers identify and manage financially material ESG risks as well as how they define and measure ESG performance in order to allow investors to validate and better understand sustainability claims. There could also be an increase in related enforcement. The Advisers' ESG policy, as well as that of the Clients, is subject to evolving regulations and could become subject to additional regulation, regulatory scrutiny, penalties, or enforcement in the future. The Advisers cannot guarantee that its current approach (including its ESG policy) will meet future regulatory requirements, reporting frameworks or best practices, increasing the risk of related enforcement. Moreover, ESG consideration and responsible investing practices as a whole are evolving rapidly and there are different principles, frameworks, methodologies, and tracking tools being implemented by asset managers, and the Advisers adoption of and adherence to such

principles, frameworks, methodologies and tools may vary over time. The Advisers' approach to ESG consideration is not expected to necessarily align with the approach used by other asset managers or preferred by prospective investors or market trends. Any ESG-related initiatives to which the Adviser is or becomes a signatory member or supporter may not align with the approach used by other asset managers (or preferred by investors) or with future market trends. There is no guarantee that the Advisers will remain a signatories, supporters or members of such initiatives or other similar industry frameworks.

**Weather and Climate Risk.** Global climate change is widely considered to be a significant threat to the global economy. Investments may face risks associated with climate change, including physical risks to assets or transition risks including political and policy risks, regulatory and litigation risks, technology and market risks, and reputational risk. The Advisers cannot rule out the possibility that climate risks, including changes in weather and climate patterns, could impact long-term value and financial returns for the Clients.

**Systems Risks.** The Clients depend on the Advisers to develop and implement appropriate systems for the Clients' activities. The Clients will rely extensively on computer programs and systems to evaluate certain securities based on real-time trading information, to monitor its portfolio and capital, and to generate risk management and other reports that are critical to oversight of the Clients' activities. In addition, certain of the Advisers' operations systems interface with or depend on systems operated by third parties, including market counterparties and other service providers, and a Client or the Advisers may not be in a position to verify the risks or reliability of such third-party systems. These programs or systems may be subject to certain defects, failures or interruptions, including, but not limited to, those caused by worms, viruses and power failures. Any such defect or failure could have a material adverse effect on a Client. For example, such failures could cause settlement of trades to fail, lead to inaccurate accounting, recording or processing of trades, and cause inaccurate reports, which may affect the Client's ability to monitor its investment portfolio and its risks.

**Operational Risk.** The Clients depend on the Advisers to develop the appropriate systems and procedures to control operational risk. Operational risks arising from mistakes made in the confirmation or settlement of transactions, from transactions not being properly booked, evaluated or accounted for or other similar disruptions in a Client's operations may cause a Client to suffer financial loss, the disruption of its business, liability to clients or third parties, regulatory intervention or reputational damage. The Clients rely heavily on the Advisers' financial, accounting and other data processing systems.

**Cybersecurity Risk.** As part of its business, the Adviser processes, stores and transmits large amounts of electronic information, including information relating to the transactions of the Clients and personally identifiable information of the investors in Clients. Similarly, service providers, especially administrators, may process, store and transmit such information. The Adviser has procedures and systems in place to protect such information and prevent data loss and security breaches. However, such measures cannot provide absolute security. The techniques used to obtain unauthorized access to data, disable or degrade service, or sabotage systems change frequently and may be difficult to detect for long periods of time. Hardware or software acquired from third parties may contain defects in design or manufacture or other problems that



could unexpectedly compromise information security. Network-connected services provided by third parties to the Adviser may be susceptible to compromise, leading to a breach of the Adviser's network. The Adviser's systems or facilities may be susceptible to employee error or malfeasance, government surveillance, or other security threats. Online services provided by the Adviser to the Clients may also be susceptible to compromise. Breach of the Adviser's information systems may cause information relating to the transactions of the Clients and personally identifiable information of the investors to be lost or improperly accessed, used or disclosed.

Service providers are subject to the same electronic information security threats as the Adviser. If a service provider fails to adopt or adhere to adequate data security policies, or in the event of a breach of its networks, information relating to the transactions of the Clients and personally identifiable information of the investors may be lost or improperly accessed, used or disclosed.

The loss or improper access, use or disclosure of the Adviser's or the Clients' proprietary information may cause the Adviser or the Clients to suffer, among other things, financial loss, the disruption of its business, liability to third parties, regulatory intervention or reputational damage. Any of the foregoing events could have a material adverse effect on the Adviser and the Clients' investments therein.

**Global Privacy and Data Protection Regulation.** The Adviser, the Clients and their portfolio companies, and each of their affiliates, may be subject to laws and regulations related to privacy, data protection and information security in the jurisdictions in which they do business (collectively, "Data Protection Legislation"). Compliance with the Data Protection Legislation may require adhering to stringent legal and operational obligations and, therefore, the dedication of substantial time and financial resources which may increase over time. Failure to comply with applicable Data Protection Legislation may lead to fines, other enforcement action or reputational damage.

The U.S. operations of a Client and its portfolio companies in particular will be impacted by a growing movement to adopt comprehensive privacy and data protection laws similar to the GDPR, where such laws focus on privacy as an individual right in general. For example, California has passed the California Consumer Privacy Act of 2018, as amended (the "CCPA"), which took effect on January 1, 2020. The CCPA generally applies to businesses that collect personal information about California consumers and meet certain thresholds with respect to revenue or buying and/or selling consumers' personal information. The CCPA imposes stringent legal and operational obligations on such businesses as well as certain affiliated entities that share common branding. The CCPA is enforceable by the California Attorney General. Additionally, if unauthorized access, theft or disclosure of a consumer's personal information occurs, and the business did not maintain reasonable security practices, consumers could file a civil action (including a class action) without having to prove actual damages. Statutory damages range from \$100 to \$750 per consumer per incident, or actual damages, whichever is greater. The Attorney General also may impose civil penalties ranging from \$2,500 to \$7,500 per violation. Further, California passed the California Privacy Rights Act of 2020 (the "CPRA") to amend and extend the protections of the CCPA. When the CPRA became effective on January 1, 2023, California established a new state agency focused on the enforcement of its privacy

laws, likely leading to greater levels of enforcement and greater costs related to compliance with the CCPA and CPRA.

Other states in the U.S., have either passed, proposed or are considering similar privacy laws to the CCPA, the CPRA and the GDPR, which could impose similarly significant costs, potential liabilities and operational and legal obligations. Such laws and regulations are expected to vary from jurisdiction to jurisdiction, thus increasing costs, operational and legal burdens and the potential for significant liability on regulated entities. There are also ongoing discussions around enactment of U.S. Privacy Laws at a federal level.

**Financing Among Clients.** Applicable tax and regulatory considerations may sometimes lead to certain investments being structured in a manner such that a Client (or an entity through which such Client makes an investment) obtains debt financing from (or enters into a similar transaction with) other Clients. In such cases, the equity interest of such Client is subordinate to such loans and, accordingly, there may be circumstances in which the loans made by the other Clients are repaid in full while such Client is not able to recoup its equity investment or earn an adequate return. These transactions, however, are generally structured so that the projected return to the equity investment of such Client, after taking into account such borrowings, if obtained, would exceed the return to the other Clients with respect to their loans. To the extent practicable in light of their duties to multiple Clients, Advisers and their affiliates will act in the best interests of the Clients in determining the amount of each such investment opportunity to structure as debt, the amount to structure as equity and the terms of any debt instruments.

The equity holders and debtholders of a particular investment may have conflicting interests during the term of such an investment, especially if the investment is underperforming. In such circumstances, the Advisers will seek to ensure that all procedures that are necessary and proper, in its discretion, are implemented so that the interests of each Client are protected and that all such transactions are fair and appropriate to, and in the best interests of, each of the parties thereto.

**Co-Investments with Third Parties.** A Client may co-invest with third parties through partnerships, joint ventures or other entities. Such investments may involve risks in connection with such third-party involvement and risks not present in direct investments, including the possibility that a third-party co-venturer may have financial difficulties resulting in a negative impact on such investment; may have economic or business interests or goals that are inconsistent with those of a Client; may be in a position to take (or block) action in a manner contrary to a Client's investment objective; or may have priority rights with respect to the timing of an exit or return of capital. Furthermore, if such co-venturer or partner defaults on its funding obligations, it may be difficult for a Client to make up the shortfall from other sources. Such Clients may be required to make additional contributions to replace such shortfall, thereby reducing the diversification of their investments. Any default by such co-venturer or partner could have an adverse effect on a Client, its assets and the interests of the underlying investors in such Clients. In addition, a Client may be liable for the actions of its co-venturers or partners. While the Advisers will attempt to limit the liability of a Client through contractual arrangements and by reviewing the qualifications and previous experience of co-venturers or partners, it may not undertake private investigations with respect to prospective co-venturers or partners. A

Client may enter into compensation arrangements with third parties relating to such investments, including incentive compensation arrangements. Though the Advisers consider the effect of such compensation on the expected returns, such compensation arrangements will reduce the returns to participants in the investments and create potential conflicts of interest between such parties and a Client.

**Risks Upon Disposition of Investments; Contingent Liabilities.** In connection with the disposition of an investment, a Client may be subject to various contingent liabilities. For example, should a Client own real estate as a consequence of default or foreclosure on the collateral securing the Client's loans, a Client may be required to make representations about the business, financial affairs and other aspects (such as environmental, property, tax, insurance and litigation) of such investment typical of those made in connection with the sale of a real estate investment or business. The Client may be required to indemnify the purchasers of such investment to the extent that any such representations are inaccurate, as well as to indemnify the purchasers, subsequent owners or occupants, and others for certain matters without regard to breaches of representations and warranties. The Client may also incur contingent liabilities in connection with the purchase of a revolving credit facility from a lender that has not yet been fully drawn. If the borrower subsequently draws down on the facility, a Client would be obligated to fund the amounts due. These arrangements may result in the incurrence of contingent liabilities for which the Advisers may establish reserves or escrows.

**Necessity for Counterparty Trading Relationships; Counterparty Risk.** The Advisers, on behalf of the Clients, expect to establish relationships to obtain financing, derivative intermediation and other services that permit such Client to trade in any variety of markets or asset classes over time; however, there can be no assurance that the Advisers will be able to maintain or establish such relationships. An inability to establish or maintain such relationships would limit a Client's trading activities; could create losses; could preclude such Client from engaging in certain transactions, financing, derivative intermediation and other services and could also prevent such Client from trading at optimal rates and terms. Moreover, a disruption in the financing, derivative intermediation and other services provided by any such relationships before the Advisers, on behalf of the Clients, establish additional relationships could have a significant impact on a Client's business due to such Client's reliance on such counterparties. The size of a Client may affect a Client's ability to maintain or establish relationships with counterparties on similar terms as those that exist for the other Clients.

Some of the markets in which a Client may effect its transactions are "over-the-counter" or "inter-dealer" markets. The participants in such markets are typically not subject to credit evaluation and regulatory oversight as are members of "exchange-based" markets. This exposes a Client to the risk that a counterparty will not settle a transaction due to a credit or liquidity problem, thus causing such Client to suffer a loss. In addition, in the case of a default, a Client could become subject to adverse market movements while replacement transactions are executed. Such "counterparty risk" is accentuated for contracts with longer maturities where events may intervene to prevent settlement, or where a Client has concentrated its transactions with a single counterparty or small group of counterparties on similar terms as those that exist for other Clients.

Furthermore, there is a risk that any of a Client's counterparties could become insolvent and/or the subject of insolvency proceedings. If one or more of a Client's counterparties were to become insolvent or the subject of insolvency proceedings in the U.S. (either under the U.S. Securities Investor Protection Act or the U.S. Bankruptcy Code) or elsewhere, there exists the risk that the recovery of such Client's securities and other assets from such Client's prime brokers or broker-dealers may be delayed or may be of a value that is less than the value of the securities or assets originally entrusted to such prime broker or broker-dealer.

In addition, a Client may use counterparties located in jurisdictions outside the U.S. Such local counterparties are subject to the laws and regulations in non-U.S. jurisdictions that are designed to protect their customers in the event of their insolvency. However, the practical effect of these laws and their application to a Client's assets are subject to substantial limitations and uncertainties. Because of the large number of entities and jurisdictions involved and the range of possible factual scenarios involving the insolvency of a counterparty, it is impossible to generalize about the effect of their insolvency on a Client and its assets.

A Client is not restricted from dealing with any particular counterparty or from concentrating any or all of its transactions with one counterparty. Moreover, a Client will have a limited internal credit function which evaluates the creditworthiness of its counterparties. The ability of a Client to transact business with any one or more counterparties, the lack of complete evaluation of such counterparty's financial capabilities and the absence of a regulated market to facilitate settlement may increase the potential for losses by a Client.

**Bank or Broker-Dealer Insolvency or Bankruptcy.** While care is taken in selecting banks and broker-dealers that will maintain custody of certain of the assets of a Client, there is a residual risk that any of such banks or broker-dealers could become insolvent or file for bankruptcy. Additionally, a large percentage of the Clients' assets are held by a limited number of banks and broker-dealers. While most securities and assets deposited with broker-dealers will be clearly identified as being assets of a Client, such Client will be an unsecured creditor with respect to cash balances held with banks and broker-dealers, and hence, such Client may be exposed to a credit risk with regard to such parties.

**Risk Arbitrage Trading by a Client Entails Significant Risks.** In addition to investing in distressed securities, a Client may invest in risk arbitrage transactions, which are inherently volatile. The short-term performance of a Client's investments therefore may fluctuate significantly.

The price offered for securities of a company in a tender offer, merger or other acquisition transaction will generally be at a significant premium above the market price of the securities prior to the offer. The announcement of such a transaction generally will cause the market price of the securities to begin rising. A Client may purchase such securities after the announcement of the transaction at a price that is higher than the pre-announcement market price, but that is lower than the price at which the Advisers expect the transaction to be consummated. If the proposed transaction is not consummated, the value of such securities purchased by such Client may decline significantly. It also is possible that the difference between the price paid by a Client for securities and the amount anticipated to be received upon consummation of the proposed

transaction may be very small. If a proposed transaction in fact is not consummated or is delayed, the market price of the securities may decline sharply. In addition, where a Client has sold short the securities it anticipates receiving in an exchange offer or merger, such Client may be forced to cover its short position in the market at a higher price than its short sale, with a resulting loss. If a Client has sold short securities which are not the subject of a proposed exchange offer, merger or tender offer and the transaction is consummated, such Client also may be forced to cover its short position at a loss.

In certain proposed takeovers, a Client may determine that the price offered for the securities is likely to be increased, either by the original bidder or by a competing offeror. In such circumstances, such Client may purchase securities at a market price that is above the offer price, incurring the additional risk that the offer price will not be increased or that the offer will be withdrawn. If no transaction ultimately is consummated, it is likely that a substantial loss will occur.

The consummation of an acquisition, merger, tender offer or exchange offer can be prevented or delayed, or the terms changed, by a variety of factors, including: (i) the opposition of the management or shareholders of the target company, which may result in litigation to enjoin the proposed transaction; (ii) the intervention of a governmental regulatory agency; (iii) efforts by the target company to pursue a defensive strategy, including a merger with, or a friendly tender offer by, a company other than the offeror; (iv) in the case of an acquisition or merger, the failure to obtain the necessary shareholder (and, in some cases, regulatory) approvals; (v) market conditions resulting in material changes in securities prices; (vi) compliance with any applicable securities laws; or (vii) the failure of an acquirer to obtain the necessary financing to consummate the transaction.

In addition to engaging in securities arbitrage activity, a Client may invest and trade in the securities of companies that it believes are undervalued or that may become the target of a takeover. If the anticipated transaction in fact does not occur, or if the securities do not increase in value as anticipated, such Client may sell them at no gain or at a loss.

**Litigation.** In the normal course of a Clients' operations, whether directly or indirectly, it may become involved in, named as a party to or otherwise become the subject of or a participant in, various legal proceedings. The outcome with respect to outstanding, pending or future proceedings cannot be predicted with certainty and may be determined in a manner adverse to the Client and as a result, could have a material adverse effect on the Client's assets, liabilities, business, reputation, financial condition and results of operations, or adversely affect a Client's reputation. Even if the Client prevails in any such legal proceedings, the proceedings could be costly and time-consuming and may divert the attention of management and key personnel from the Client's business operations, which could have a material adverse effect on the Client's business, cash flow, financial condition and results of operations and ability to make distributions to investors.

**Uncertain Exit Strategies.** Due to the illiquid nature of many of the positions which a Client is expected to acquire, as well as the uncertainties of the reorganization and active management process, the Advisers are unable to predict with confidence what the exit strategy will ultimately

be for any given investment, or that one will definitely be available. Exit strategies which appear to be viable when an investment is initiated may be precluded by the time the investment is ready to be realized due to economic, legal, political or other factors. Exit timing for a portfolio company may also be impacted by additional financing rounds for such portfolio company in which the Client or other existing or new investors participate. For example, a large additional financing round may enable a portfolio company to stay private for an extended period of time rather than pursuing a potential initial public offering or acquisition that would have constituted (or potentially led to) an exit event for the Client with respect to an investment in such company. Exit timing for venture investments may similarly be difficult to predict. Certain Venture investments may be minority positions and the timing of an exit will not be in the control of the Adviser.

**Contribution and Indemnity Agreements.** In connection with certain investments participated in by multiple Clients, one or more Clients may be required to execute agreements with a counterparty on behalf of each of such Client's participation in the transaction. In connection therewith, one or more Clients may be required to provide to third parties guarantees or indemnification rights or to assume certain liabilities associated with such investments (each, a "Liability"). In instances where fewer than all of the Clients participating in the investment agree to bear such a Liability vis-à-vis the third party, the Advisers will cause the other Clients participating in the investment to enter into contribution and indemnification agreements for the benefit of the Clients that have agreed to bear such Liability, in amounts equal to their respective *pro rata* shares of such Liability, based on their respective ownership of the related investment. Although the Clients entering into such contribution and indemnification agreements will have assets in an amount necessary to cover their share of the relevant Liability at the time of entering such contribution and indemnification agreements, such assets may depreciate in value and/or may not be sufficiently liquid to provide prompt contribution to the other Clients in the event that an assumed Liability is required to be paid to such third party. If one Client defaults on an obligation under a contribution and indemnification agreement, the other Clients participating in the investment would be responsible, on the *pro rata* basis as described above, for the amount of the default.

**Investments in Technology and Infrastructure.** The market for technology is characterized by periodic new product introductions, innovations and evolving industry standards. The emerging nature of these products and services with their rapid evolution will require technology companies that are portfolio investments of Clients to continually improve the performance, features and reliability of their products or services, particularly in response to possible competitive offerings. There can be no assurance that these companies will be successful in achieving widespread acceptance of their products or services before competitors offer products and services with features and performance similar to those of such technology companies. In addition, the widespread adoption of new technologies or standards could require substantial expenditures by such technology companies to modify or adapt their products or services. Such expenditures could affect the profitability of these technology companies and in turn the operating results and financial condition of Clients.

Clients may make investments in communications companies. Communications companies are subject to changes in their businesses due to evolving levels of governmental regulation or

deregulation as well as the development of communication technologies. Competitive pressures within the communications industry are intense and the securities of communications companies may be subject to significant price volatility. In addition, because the technology and communications industries are subject to significant changes in technology, the companies that Clients may invest in may face competition from technologies being developed or to be developed in the future by other entities, which may make such companies' products and services obsolete. Finally, while all companies may be susceptible to network security breaches, certain technology and communications companies may be particular targets of hacking and potential theft of proprietary or consumer information or disruptions in service, which could have a material adverse effect on their businesses.

**Risks Associated with Generative Artificial Intelligence.** The emergence, use, and development of generative artificial intelligence such as ChatGPT and similar large language models and chatbots (collectively, "Generative AI") can pose risks to the Clients and the Adviser. The Adviser has begun using Generative AI in various processes, including in connection with its investment research process, deal sourcing, due diligence and various administration functions.

Further, the Adviser's affiliate, Cerberus Technology Solutions, is developing tools that utilize Generative AI in connection with certain services and products it provides to portfolio companies owned by the Clients and that it expects to provide to other parties, including the Adviser, Clients, and unaffiliated third parties. The Adviser and its Affiliates also are likely to be exposed to the risks of Generative AI through third parties (including, but not limited to, the Clients' and the Adviser's providers or counterparties) that use Generative AI. The Adviser may not always be aware of such use. The Adviser cannot necessarily control the manner in which products created and/or utilized by third parties are developed or maintained.

Generative AI is often highly reliant on the collection and analysis of large amounts of data. In many instances, it likely will not be possible or practicable to know all of the sources used to train Generative AI or to evaluate the reliability of the data being analyzed. Further, certain outputs of Generative AI are expected to be inaccurate or unreliable and also susceptible to errors in such outputs' subsequent analysis. Additionally, the use of Generative AI may create or exacerbate certain risk, including but not limited to: (i) cybersecurity risks (including, but not limited to, the increased likelihood that the Adviser and Clients' investments become a victim of cybercrime), (ii) threats to proprietary and confidential information, (iii) intellectual property violations, (iv) access to, or disclosure of, personal information in violation of applicable data protection laws, and (v) other risks that are not currently foreseen. Such inaccuracies, errors, risks, threats, and/or violations could have adverse impacts on the Clients' investments.

Generative AI continues to develop rapidly, making it difficult to predict the future risks that may arise from such developments. Due to the rapidly evolving nature of Generative AI and its widespread potential uses, the Adviser expects that its policies and procedures will continue to evolve in response to any unique challenges.

**Investments in Supply Chain Priorities.** Portfolio investments that focus on supply chain priorities may be dependent primarily on government spending on the specific platforms and

programs where certain Clients' portfolio companies participate. Any reduction in appropriations for these platforms or programs could impact the performance of a portfolio company. The global supply chain and defense industries are highly regulated. The changing regulatory landscape may adversely affect Clients and its portfolio investments. Portfolio investments may be subject to investigation and audit for compliance with the requirements governing government contracts, including requirements related to procurement integrity, manufacturing practices and quality procedures, export control, employment practices, the accuracy of records and the recording of costs, the adequacy of internal systems, the accuracy of billings and information security requirements. A failure to comply with these requirements could result in suspension of these contracts, and suspension or debarment from government contracting or subcontracting, the withholding of payments, or the recoupment of amounts previously paid. Failure to comply with any of these regulations could result in civil and criminal liability, monetary and non-monetary penalties, fines, disruptions to business, limitations on the ability to export products and services, and damage to a portfolio company's reputation that, in each case, would negatively impact Clients.

**Investments in Software.** Certain Clients' portfolio companies may be concentrated in software, software-enabled services and internet companies. Adverse economic conditions in the U.S. and other countries could have a material adverse effect on consumer and business spending in the information technology sector, which could limit or cause a substantial reduction in the revenues, profitability and/or continued viability of the portfolio companies in which Clients invests. The information technology sector (including software, software-enabled services and internet companies) could be adversely affected by overall economic conditions, short product cycles, rapid obsolescence of products, competition, and government regulation. Further, the success of Clients' portfolio companies may depend on the development and marketing of new technologies that at any time may be rendered unattractive or obsolete by technological advances, new social trends and/or communication methods as seen in the emergence of social networking tools and platforms. There can be no assurance that any portfolio company will continue or improve its historical or expected levels and direction of growth, revenues or profitability even if general economic conditions in the U.S. and/or other countries improves or if economic conditions in the information technology sector improve. Further, there is no assurance that products or services sold by the portfolio companies will not be rendered obsolete or adversely affected by competing products and services or that the portfolio companies will not be adversely affected by other challenges. Moreover, competition can result in significant downward pressure on pricing. Changes in laws and regulations related to the internet or changes in the infrastructure of the internet itself could also affect Clients' portfolio companies.

**Investments in Industrial and Business Services.** Certain Clients may invest in companies in the industrial and business services sector that support the supply chain sector, such as those involved in construction and manufacturing, transportation (*e.g.*, rails and roads), industrial machinery and equipment and electrical components and equipment. Investments in the industrial sector may entail risks associated with more mature businesses and heavily regulated industries. These portfolio companies may also serve customers that include governmental entities. Investments that are subject to greater amounts of governmental regulation, or with significant customer concentration with governmental entities, pose additional and unique risks. Governmental budgeting and procurement requirements could adversely affect profitability.



Changes in applicable laws or regulations, or in the interpretations of these laws and regulations, could result in increased operating costs, increased compliance costs or the need for additional capital expenditures generally. The industrials sector can also be significantly affected by general economic trends, including employment, economic growth, wage inflation, and interest rates; changes in consumer sentiment and spending; the supply of and demand for specific industrial and energy products or services; government regulation and spending; and global competition. Additionally, certain industrial portfolio companies may have a unionized work force or employees who are covered by a collective bargaining agreement, which could subject a portfolio company to complex laws and regulations as well as labor relations disputes, operating limitations or difficulties generally. Business operations at one or more facilities may be interrupted as a result of work stoppages and delays in the process of renegotiating collective bargaining agreements. Business services investments, including logistics, facility management, delivery and distribution businesses are generally highly fragmented, can be subject to heavy competition and low barriers to entry, and can be adversely affected by business cycles, economic downturns and the availability of skilled and unskilled labor.

**Investments in the Energy Sector.** Certain Clients' investment programs may include investments in the assets, securities and other instruments of energy-related companies. Such securities and other instruments may be subject to risk due to a variety of factors, including: (i) weather; (ii) international political and economic developments; (iii) fuel supply and demand; (iv) interest rates, currency exchange rates, investment and trading activities in commodities markets; (v) special risks of constructing and operating facilities, breakdowns in the facilities for the production, storage or transport of energy and energy-related products; (vi) acts of terrorism; (vii) changes in government regulation; and (viii) sudden changes in fuel prices. The businesses in which Clients invests may be adversely affected by non-U.S. and U.S. federal, state and local laws and regulations including regulations governing energy production, distribution and sale, as well as environmental, health and safety, taxation, land access and other regulations. Present, as well as future, statutes and regulations could cause additional expenditures, restrictions and delays that could materially and adversely affect the prospects of Clients.

**Investments in Healthcare Companies.** Certain Clients may invest in the assets, securities or other instruments of healthcare companies, which involves substantial risks, including, but not limited to, the following: (i) certain companies in which Clients may invest may have limited operating histories; (ii) rapidly changing technologies and the obsolescence of products; (iii) challenges by new market entrants, (iv) changes in government policies or regulations; (v) volatility in the U.S. and non-U.S. stock markets affecting the prices of healthcare company securities; and (vi) most pharmaceutical and biotechnology companies, and many other companies in the healthcare sector, are subject to extensive government regulation. In addition, obtaining governmental approval for new products from governmental agencies can be lengthy, expensive and uncertain.

**Investments in the Shipping Industry.** Certain Clients invest in loans and/or assets in the shipping industry, including assets that serve as collateral for an NPL or pools of NPLs, assets purchased from financial institutions and distressed sellers (including those looking to de-lever their balance sheets or divest of non-core assets) and foreclosed assets. Investments in the shipping industry are subject to risks including, without limitation: (i) extensive and changing

safety, environmental protection and other international, national and local governmental laws and regulations, compliance with which may require ship modifications and changes in operating procedure; (ii) international sanctions, embargoes, import and export restrictions, nationalizations and wars or terrorist attacks; (iii) acts of piracy on ocean-going vessels; (iv) severe weather and natural disasters, which may cause serious damage to vessels, any cargo and other equipment and loss of life or physical injury; (v) arrests of vessels by maritime claimants in order to enforce liens against the vessel for unsatisfied debts, claims or damages, that could cause delays or require such Client to pay large sums of money to have the arrest lifted, which could have a negative impact on such Client's returns; (vi) labor interruptions or unrest among crews working on the vessels directly or indirectly owned by such Client; (vii) delays in delivery of new-build vessels or delivery of new-build vessels with significant defects which could delay or lead to the termination of related charter agreements and also cause cost overruns or cancellation of the new-build contracts; (viii) increased operational and maintenance costs over the life of a shipping vessel; and (ix) drydocking costs for periodic maintenance and repairs that are difficult to predict with certainty and can be substantial.

**Investments in Retail Companies.** Certain Clients elect to invest in the assets, securities or other instruments of retail companies. The performance of these investments may rely on consumer spending. Many factors impact the level of consumer spending in the retail market, including: (i) general business conditions; (ii) interest rates; (iii) the availability of consumer credit; (iv) taxation; and (v) consumer confidence in future economic conditions. An economic downturn may adversely affect consumer spending, which could hurt sale and profitability of the companies underlying any such investment of such Client. Furthermore, consumer purchases of discretionary items tend to decline during recessionary periods, when disposable income is lower. Adverse trends in general economic conditions, including retail shopping patterns and consumer confidence, may affect the demand of retail company products and negatively impact the ability of these companies to generate revenue or attract additional financing for their business needs. Performance of retail companies are also subject to increased costs due to excess inventories if they misjudge the demand for their products.

**Material, Nonpublic Information.** Employees, Consultants and/or Affiliates of the Advisers may serve as directors of, or in a similar capacity with, issuers of financial instruments held by the Clients. In certain situations where material nonpublic information is obtained with respect to such issuers, Clients could be prohibited by law or otherwise from purchasing or selling such financial instruments of such issuers for a period of time, and such prohibitions may have an adverse effect on the Clients.

**Reliance on the Advisers and the Management and Investment Team.** The success of the Advisers' investing will, to a large degree, be dependent upon the Advisers' personnel, who make the investing decisions with respect to Clients' investments. Competition in the financial services industry for experienced and capable employees, such as the Advisers' personnel, is intense. The loss of the services of any of such personnel could adversely affect a Client's portfolio. Investors in Clients will have no right or power to participate in the management, operation or control of the business of the Clients and thus must depend solely upon the ability of the Advisers (including the various investment committees that have been established by the Advisers).

**Retention and Motivation of Key Employees.** The Clients' performance will largely be dependent on the talents and efforts of highly skilled individuals. Competition in the financial services industry for qualified employees is intense. The Clients' continued ability to effectively manage its portfolio will depend on the Advisers' ability to attract new employees and to retain and motivate its existing employees.

**Absence of Regulatory Oversight.** Clients are not registered as investment companies under the Investment Company Act, in reliance upon an exclusion available to privately offered investment companies and, accordingly, the provisions of the Investment Company Act (which, among other things, require investment companies to have a majority of disinterested directors, provide limitations on leverage, limit transactions between investment companies and their affiliates, and regulate the relationship between the adviser and the investment company) are not applicable to the Clients.

**Misconduct of Employees and of Third-Party Service Providers.** The Advisers' reputation is critical to maintaining and developing relationships with prospective investors, as well as with the numerous third parties with which the Advisers and Clients do business. In recent years, there have been a number of highly publicized cases involving fraud, conflicts of interest or other misconduct by individuals in the financial services industry, and there is a risk that an employee of or contractor to the Advisers could engage in misconduct that adversely affects the investment strategies implemented by Clients. It is not always possible to deter such misconduct, and the precautions that the Advisers take to detect and prevent such misconduct may not be effective in all cases. Misconduct by an employee of or contractor to the Advisers, or unsubstantiated allegations of such misconduct, could result in direct financial harm to the Advisers and Clients, as well as harm to the Advisers' and Clients' reputations, which would have a material adverse effect on Clients.

**ITEM 9**  
**DISCIPLINARY INFORMATION**

There are no legal or disciplinary events that are material to any Client's (or investor's) or a prospective Client's (or prospective investor's) evaluation of the Adviser's advisory business or the integrity of the Adviser's management.

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

**A. Broker-Dealer Registration Status.**

The Adviser and its management persons are not registered as broker-dealers and do not have any application pending to register with the SEC as a broker-dealer or registered representative of a broker-dealer.

**B. Futures Commission Merchant, Commodity Pool Operator or Commodity Trading Advisor Registration Status.**

The Adviser is not registered as, and does not have any application to register as, a FCM, Commodity Pool Operator (“CPO”), Commodity Trading Advisor or an associated person of the foregoing entities, but the CPO Managers (defined below) have registered as CPOs with the CFTC and have become members of the National Futures Association (“NFA”). Certain management persons of the Adviser are registered as principals and/or associated persons of the CPO Managers. Other Affiliates rely upon the exemption from registration provided pursuant to CFTC Rule 4.13(a)(3).

Four affiliates of the Adviser, Partridge Hill Overseas Management, LLC (“Partridge Hill”), Cerberus Capital Management II, L.P. (“CCM II”), Cerberus Institutional Management II, LLC (“CIM II”) and Cerberus Real Estate Capital Management, LLC (“CRECM” and, collectively with Partridge Hill, CCM II and CIM II, the “CPO Managers”), have registered as CPOs with the CFTC and have become members of the NFA.

Each of the CPO Managers plans to avail itself of an exemption from certain heightened disclosure and recordkeeping requirements provided by CFTC Regulation 4.7. The CPO Managers’ activities as CPOs enable them to use commodity products as part of their investment strategies and do not conflict with their investment advisory business.

**C. Material Relationships or Arrangements with Industry Participants and Affiliated Advisers.**

For a complete list of Affiliates that serve as the general partner or managing member of a Private Fund, see Section 7.A. of Schedule D to the Adviser’s Form ADV Part 1.

Cerberus Business Finance, LLC, a relying adviser (and together with other Affiliates including certain Clients involved in the Adviser’s direct lending business, (“CBF”)), was formed to, among other things, act as a loan asset agent on behalf of one or more of the Clients in connection with the issuance of CLOs. In March 2017, CBF was converted into a series limited liability company in order to serve as the sponsor of certain CLOs, and raise the necessary risk retention capital from qualified employees of the Advisers, in satisfaction of the requirements of the credit risk retention rules, promulgated as part of the Dodd-Frank Act, relevant to CBF-issued CLOs through January 2023. CLOs issued after January 2023 are sponsored by the applicable Client issuing such CLO.

Certain Clients involved in the direct lending business originate secured debt obligations and invest in secured debt obligations (including loans, participations in loans and other debt instruments or obligations) that have been originated by CBF or unaffiliated third parties and/or that are traded on the secondary market. CBF's lending activities include the origination, acquisition, management, and servicing of secured loans. Such Clients are expected to provide secured financing primarily to leveraged middle-market companies in the form of secured loans (both asset-based and cash flow loans) for working capital, refinancing, acquisitions, bridge capital, restructuring, recapitalization, exit financings and DIP financing. Certain Clients are non-originating vehicles that purchase loans from the Clients that are originating vehicles or from unaffiliated third parties and/or are traded on the secondary market.

Several Affiliates currently serve as management companies to the Clients and provide certain administrative and managerial services to the Clients.

In addition to affiliated general partners, Advisers and management companies, the Adviser retains and provides compensation to several affiliated Advisers, including, but not limited to, the following:

- Cerberus Asia Pacific Advisors Limited, a Hong Kong-based affiliate;
- Cerberus Asia Pacific Advisors II Limited, a Hong Kong-based affiliate, which is licensed with the Securities and Futures Commission of Hong Kong;
- Cerberus Australia Advisors Pty Ltd, a Sydney-based affiliate;
- Cerberus Beijing Advisors Limited, a Beijing-based affiliate;
- Cerberus Capital Luxembourg S.à.r.l., a Luxembourg-based affiliate which is authorized by the Commission de Surveillance du Secteur Financier;
- Cerberus Capital Services Private Limited, a Mumbai-based affiliate;
- Cerberus Deutschland Beteiligungsberatung GmbH, a Frankfurt-based affiliate;
- Cerberus European Capital Advisors, LLP, a London-based affiliate which is authorized and regulated by the UK Financial Conduct Authority;
- Cerberus Global Investment Advisors, LLC, an affiliate with offices in New York and Baarn;
- Cerberus Gulf Management Company LLC, a Riyadh-based affiliate;
- Cerberus Iberia Advisors, S.L., a Madrid-based affiliate;
- Cerberus Japan K.K., a Tokyo-based affiliate;
- Cerberus Middle East Management Limited, a Dubai-based affiliate;

- Cerberus (Singapore) Pte Ltd, a Singapore-based affiliate which is registered with the Monetary Authority of Singapore;
- Schulze Global Ethiopia Advisors, Limited, an Addis Ababa-based affiliate;
- Schulze Global Mongolia LLC, an Ulaanbaatar-based affiliate; and
- SGI Georgia LLC, a Tbilisi-based affiliate.

Certain affiliated Advisers provide advice on Asian, European, African, South American, Australian and other non-U.S. investment opportunities.

Since 2000, the Adviser has maintained offices in the Netherlands, which have been integral to the Adviser's non-U.S. investment platform. The Dutch offices in Amsterdam and Baarn (collectively, the "Dutch Offices") currently have approximately 73 employees and personnel, which includes resident Dutch directors (the "Dutch Directors") who make investment and disposition decisions in conjunction with the Adviser's New York office with respect to a significant portion of the Clients' non-U.S. investments.

The Dutch Directors generally receive the same information provided to the Adviser's investment committee in New York, and their approval is required for acquisitions, dispositions and restructuring transactions for a significant portion of the Clients' non-U.S. investments. The Dutch Directors regularly conduct meetings and review background materials on potential investments, including descriptions of potential transactions and draft transaction documents. The Dutch Directors also approve annual business plans, significant contracts and financing and refinancing transactions relating to such non-U.S. investments. Further, the Dutch Directors regularly consult with the Adviser's advisory offices on the performance of and ongoing strategy with respect to a significant portion of the Clients' non-U.S. investments. In addition, with respect to certain European investments (including the origination of commercial real estate loans in Europe), the approval of the relevant Dutch Directors is generally required or will otherwise be made in close coordination with the Dutch Offices.

To the extent that Clients originate or acquire non-U.S. investments, they may be structured through the Dutch Companies, and it is expected that the Netherlands will be involved in the ownership of future investments, for legal, regulatory and tax reasons.

The costs and expenses of the Dutch Directors and the Dutch Companies generally are borne by the Clients utilizing them, and will not offset management fees. The costs and expenses related to the Dutch Directors and Dutch Companies (the "Dutch Company Expenses") that are borne by the Clients, include all costs and expenses associated with the formation, organization, structure, administration, operation, accounting and reporting with respect to the Dutch Companies and their investments, and include, among other things, the costs of all of the Advisers' employees and personnel working in the Netherlands who devote their time to the formation, organization, structure, administration, operation, accounting and reporting of the Dutch Companies and their investments including, for the avoidance of any doubt, and without limitation: (i) associated personnel costs such as salaries (which include performance-

or incentive-based compensation such as bonuses, profits interests or other arrangements), benefits, payroll taxes, holiday and vacation time, office meals and customary office social events, training and continuing education, recruitment expenses, and all other associated compensation and personnel costs; (ii) associated overhead, including, without limitation, all occupancy costs such as rent, property taxes, insurance, IT infrastructure, utilities, HVAC, water, cleaning, security, routine office maintenance, office supplies, computer equipment, furniture and hardware, and all other occupancy and administrative expenses incurred in connection with the services provided by the Dutch Company employees and personnel; (iii) travel and related costs (including, without limitation, the cost of using private aircraft or other private air travel (at a cost not to exceed the cost of business-class commercial airfare for such route), other air travel, car or ride sharing services, other modes of transportation, relocation, commuting, meals, accommodations (including hotels and extended stay lodging), events and entertainment); and (iv) all out of pocket costs incurred by the Dutch Companies or Dutch Offices in connection with the provision of such services by the Dutch Company personnel, including, without limitation professional fees, software, subscriptions, and bank and/or other administrative charges.

The legal, regulatory and tax landscape continues to evolve in Europe and throughout the world, and it is likely that one or more additional offices in non-U.S. jurisdictions will be established for similar purposes as the Dutch Offices or for other legal, tax or regulatory purposes and similar personnel will be retained in other jurisdictions, including but not limited to, Ireland and Luxembourg (collectively, “Additional Non-U.S. Offices”), for the benefit of the Clients. For example, as a result of changes to applicable regulations in Ireland, the Adviser organized Promontoria Servicing Ireland Limited as an Additional Non U.S. Office with substance and operations in Ireland to manage and oversee certain Irish NPLs. In addition, the Adviser has organized Cerberus Capital Luxembourg S.à.r.l. as an Additional Non-U.S. Office that has been authorized by the Luxembourg Commission de Surveillance du Secteur Financier to act as the AIFM within the meaning of the AIFM Directive for certain Clients.

The Additional Non-U.S. Offices are expected to provide functions that are similar to those currently provided at the Dutch Office by the Dutch Directors. The costs and expenses of any Additional Non-U.S. Office and its personnel, similar to and consistent with the foregoing treatment of costs and expenses with respect to the Dutch Company Expenses (“Additional Non-U.S. Office Expenses” and, together with the Dutch Company Expenses, the “Dutch and Other Expenses”) would also be borne by the Clients similar to and consistent with the foregoing treatment of Dutch Company Expenses with respect to the Dutch Offices and will not offset management fees.

In November 2018, the Adviser acquired SGI Frontier Capital, a private equity firm focused on frontier markets in Asia, the Middle East, and Africa, which now operates as Cerberus Frontier. Cerberus Frontier, headquartered in Singapore and Dubai, has three additional locations and a team of dedicated professionals focused on direct investment in frontier markets, including, but not limited to, Ethiopia, Georgia and Mongolia. Cerberus Frontier works closely with the Adviser’s investment and operating platforms to evaluate opportunities and bring industry knowledge and operating resources to investments.



In March 2024, an Affiliate of the Adviser, [Cerberus Kingston Infrastructure Partners Management Investments LLC (“CKIP”)] agreed to invest in Kingston Infrastructure Partners LLC, a new investment manager that will focus on infrastructure investments (“Kingston”). Under the terms of the arrangement, [CKIP] has agreed to provide certain working capital to Kingston as well as, directly or indirectly (which may include through one or more other Affiliates or related parties), make certain commitments to future funds managed by Kingston, in exchange for a large minority interest in Kingston and one or more Kingston-related general partner (or similar) entities. While Kingston is an “affiliate” of the Advisers due to [CKIP’s] ownership interest and rights therein, Kingston is not included within the defined term “Affiliates” for purposes of this Brochure and maintains its own offices, employees and compliance policies separate and apart from those of the Advisers and is expected to have largely independent day-to-day operations. Kingston is not yet providing advisory services but expects to become a registered investment adviser in the future with its own SEC registration. Neither the Adviser nor any of its Affiliates has any obligation to source or share any investment opportunities with Kingston, and Kingston clients will not be included in allocations of investment opportunities by the Advisers pursuant to the Investment Allocation Policy. As of the date of this filing, Kingston does not have any clients. No Clients of the Adviser or its Affiliates are invested in Kingston, nor are any currently expected to be invested therein or in any future clients of Kingston, though investment opportunities sourced by Kingston could in the future be offered to the Advisers and/or the Clients. The activities associated with the investment in Kingston are not anticipated to require a significant amount of time or resources of the Advisers’ personnel or to otherwise limit or interfere with their obligations to the Adviser in any significant way. To the extent that there are any conflicts of interests, the Adviser will seek to resolve such conflicts of interest in a fair and equitable manner.

With respect to U.S. investment opportunities, the Adviser retains the following affiliated Advisers: (i) Cerberus California, LLC, an affiliate with offices in Los Angeles, Palo Alto and San Francisco; (ii) Cerberus Capital Florida LLC, a Florida-based affiliate; and (iii) Cerberus Capital Chicago LLC, a Chicago-based affiliate.

For a complete list of all related advisers of the Adviser, see Section 7.A. of Schedule D to the Advisers’ Form ADV Part 1. For a complete list of all relying advisers of the Adviser, see Schedule R to the Advisers’ Form ADV Part 1 (note that not all of the Affiliates discussed herein are relying advisers).

### **Cerberus Operations and Advisory Companies**

The Adviser has established: Cerberus Operations and Advisory Company, LLC, a New York- and Chicago-based affiliate (“Cerberus U.S. Operations”). Cerberus U.S. Operations has several affiliated entities that employ personnel globally (together with Cerberus U.S. Operations, “Cerberus Operations” or “COAC”). Cerberus Operations employs a team of operating executives, advisors, lawyers and consultants for the purpose of providing services to the Clients as well as their portfolio companies.

Cerberus Operations includes operating executives directly as employees of Cerberus Operations or through an operating executive’s employment at a portfolio company, and other

personnel (operative executives and other personnel together, the “Cerberus Operations Team”) to: (i) support the Advisers and the Clients with respect to, among other things, sourcing investments (including participating in meetings with target companies, industry networking and market evaluation), performing pre-acquisition due diligence (including evaluating prospective investments from a business and/or legal, compliance, risk and regulatory perspective); (ii) execute, structure, arrange financing, document and plan transitioning for portfolio investments and related transactions; and (iii) support the Clients’ portfolio investments with respect to all aspects of their operations, including developing turnaround plans, strategic and operational planning, implementing operational initiatives, providing transition support, performing project management, monitoring portfolio investments, and advising on legal and regulatory issues (e.g. merger and acquisition and financing activity, anti-money laundering, anti-bribery and sanctions issues, management incentive plans, reputational issues, and environment, social and governance issues). The Clients and/or their portfolio investments reimburse Cerberus Operations (or any other Affiliate) for the cost of providing such services as described below, and such amounts will not offset management fees. The entities comprising Cerberus Operations are not intended to operate as profit centers, but instead are operated substantially as pass-through companies on an at-cost or near-cost basis, or where minimum profits are required by tax laws or the laws or regulations of particular jurisdictions, are operated with the intention of generating solely such minimum profits. For the avoidance of any doubt, the cost of providing the services attributable to Cerberus Operations team members include, without limitation: (i) associated personnel costs such as salaries (which include performance or incentive-based compensation such as bonuses, profits interests or other arrangements), benefits, payroll taxes, consulting fees, holiday and vacation time, sick leave and all other associated compensation and personnel costs; (ii) associated overhead, including, without limitation, all occupancy costs such as office rent, utilities, HVAC, water, cleaning and all other occupancy and administrative expenses incurred in connection with the services provided by Cerberus Operations; (iii) the cost of accounting, software and other systems used to record and allocate the time and expenses associated with such services provided by Cerberus Operations; (iv) travel and related costs (including, without limitation, the cost of using private aircraft or other private air travel at a cost not to exceed the cost of commercial airfare (business or economy class, as applicable pursuant to the Advisers’ expense policy) for such route, other air travel, car or ride sharing services, other modes of transportation, meals, accommodations (including hotels and extended stay lodging), events and entertainment; and (v) all out of pocket costs incurred by Cerberus Operations in connection with the provision of such services by the Cerberus Operations Team (all of the foregoing, collectively, the “COAC Expenses”).

To the extent that a team member of Cerberus Operations is: (i) primarily involved in due diligence for a proposed investment or transaction, including with respect to the provision of legal and regulatory advice related to the acquisition; (ii) actively working at or with one or more of the Clients’ portfolio companies as an operating executive or consultant; (iii) providing material assistance to the management of one or more of the portfolio companies (including as a board member and with respect to the provision of legal or regulatory advice); or (iv) providing material assistance to the Clients in connection with the surveillance and monitoring of one or more investments, the COAC Expenses associated with such person are generally borne by the Clients invested in the relevant investment or transaction (or, in the case of an investment that is not consummated, by the Clients that would have been allocated the

proposed investment or transaction, where applicable) or directly by the relevant portfolio company. To the extent that a Cerberus Operations team member performs both services payable by the Clients (and/or one or more portfolio companies) and services payable by the Advisers, the COAC Expenses associated with such person will be allocated among the Clients (and/or the relevant portfolio companies) and the Advisers in proportion to the percentage of time spent by the Cerberus Operations team member with respect to such services. To the extent that COAC Expenses are allocated to a portfolio company as described above, the relevant Clients may pay such expenses directly and it is possible that such expenses will not be subsequently reimbursed by the applicable portfolio company. In addition, it is possible that such COAC Expenses will be paid initially by the Clients on an estimated basis and then reconciled against actual expenses.

The fees paid to Cerberus Operations in respect of services provided to the Clients and its portfolio investments will be borne by the Clients and will not offset management fees.

From time to time, certain members of the Cerberus Operations Team that are actively working at or with one or more of the Clients' portfolio companies as an operating executive or consultant may participate in such portfolio companies' management equity programs, if any. Such compensation received by the Cerberus Operations Team is subject to a management fee offset; *see* disclosure titled *Management Fee Offsets*.

Certain employees of the Adviser and members of the Cerberus Operations team serve as directors and/or officers of portfolio companies of one or more Clients. Accordingly, such employees and members may have a conflict where their fiduciary duty to the portfolio company conflicts with their fiduciary duty to one or more Clients. In such circumstances, any such employee or member will act in accordance with his or her fiduciary duty to the portfolio company rather than any fiduciary duty such person may have to one or more Clients.

In addition, certain directors, officers or employees of portfolio companies (i) are Co-Investors with a Client, (ii) have affiliations with third parties who provide professional or other services to a Client's other portfolio companies, that Client, portfolio companies of other Clients or other Clients or (iii) have other business relationships or affiliations with the Advisers. In instances where the Advisers, on behalf of the Clients, appoint or retain (or influence the appointment or retention of) such directors, officers or employees, the Advisers will make determinations with respect to the qualifications and appropriateness of such persons in their sole discretion.

### **Engagement of Consultants and Other Service Providers**

The Advisers often retain a variety of third-parties to provide consulting, advisory, regulatory, legal, transactional, financial operational, tax, underwriting, investment banking, deal or investor sourcing and a wide variety of other services to or for the benefit of the Clients, including to then-current or prospective portfolio companies and/or other investments in which certain Clients invest or may invest (all such retained parties, including the Advisers' network of third-party advisors, the "Consultants"). It is anticipated that, among many other things, the Consultants will provide services in sourcing investment and transaction opportunities, facilitating and structuring transactions, performing due diligence, negotiating, documenting

and consummating transactions, supporting ongoing operations, assisting with portfolio company exit transactions, and providing such other services that may from time to time be requested by the Advisers, the Clients and/or their portfolio companies (“Consultant Services”). Consultant Services may be provided on a short-term or long-term basis.

All such Consultants will be engaged based on a variety of factors including, but not limited to, the perceived quality of service, expertise, reputation and the ability to provide current and future services to the Clients and their portfolio companies and other investments. Such future services may from time to time benefit certain Clients, while not being of any value to other Clients.

Consultants may be engaged by any of the Advisers or affiliated service provider (including, without limitation, Cerberus Operations, Cerberus Technology Solutions, Cerberus Global Investment Advisors, LLC, and/or any other Advisers). The nature of the relationship with each Consultant and the time and devotion requirements (if any) of each Consultant likely will vary significantly. The retention of Consultants and the terms thereof generally are negotiated by the Adviser (or the relevant portfolio company) separately with each Consultant and may be memorialized in one or more formal written agreements with such Consultant, or may be informal, depending upon a variety of factors, including, but not limited to, the anticipated Consultant Services to be provided by each such Consultant. Although the Advisers generally seek appropriate rates for services, they reserve the right to prioritize prior usage, perceived industry, sector and/or functional competence or expertise, familiarity, onboarding speed, anticipated complexity and level of effort, the availability of other resources or other factors in retaining or recommending Consultants.

All Consultants are engaged for the benefit of the applicable Client and/or their portfolio companies or other investments, and all compensation, fees, expenses and other remuneration paid to the Consultants are and at all times will be paid (or reimbursed to the Adviser) by the Clients and/or their portfolio companies or other investments for which the Consultant has been engaged. Such compensation, fees, expenses and other remuneration that Consultants have in the past received, and likely in the future will receive, include but are not limited to retainers, cash consulting fees, performance or other bonuses, expense reimbursements (including reimbursements for travel, entertainment and other costs in connection with their services), profits or equity interests in a portfolio company or other investment, options granted by a portfolio company or other investment, a share of proceeds upon the sale of a portfolio company or other investment and/or a variety of other types of cash and non-cash compensation (including, for the avoidance of doubt, equity, debt or other interests in a portfolio company) (collectively, “Consultant Compensation”).

To the extent Consultants receive common equity in a portfolio company or other investment, or receive cash compensation in connection with a transaction, the costs, amounts and dilution resulting therefrom will be borne by the investors invested in such portfolio company or other investment, including, as applicable, the Clients. Consultants also may be provided opportunities to invest in portfolio companies or other investments with respect to which they are engaged.

Consultant Compensation (including for the avoidance of doubt, equity, debt or other interests in a portfolio investment) will not be part of the Fee Offset Amounts, and will not reduce any management fees, incentive fees, incentive allocations or performance distributions to be received by the Advisers from any Clients.

Consultants are resources available to Clients; however, they are not employees of the Advisers or its affiliated entities and generally do not work exclusively for, and are not committed to the Clients (including their portfolio companies and/or other investments), although in certain cases and from time to time work relating to the Clients (including their portfolio companies and/or other investments) may comprise all or a majority of the working time of such Consultants (and for protective and commercial purposes, the applicable documentation may include exclusivity provisions in favor of the Clients (including their portfolio companies and/or other investments)). In addition, the Consultants, in the ordinary course of their business, may provide services to third parties which may require them to devote substantial amounts of time to such affairs. This could limit their ability to devote time to the Client's affairs which may have a negative impact on the Client. The retention of Consultants will, in some cases, give rise to conflicts of interest resulting from a number of situations, including, but not limited to, conflicts resulting from affiliations with or engagements by entities unaffiliated with the Clients. The retention of Consultants on behalf of Clients, and one or more portfolio companies will subject the Adviser to conflicts of interest, because although the Adviser selects Consultants that it believes are aligned with its operational strategies and will enhance portfolio company performance and, relatedly, returns of Clients, the Adviser will have an incentive to recommend certain Consultants (who could, in certain cases, also be investors in Clients) because of the financial or other business interests of the Adviser. Where the Adviser is aware of such conflicts, it will use reasonable efforts to ensure that such conflicts are addressed in an appropriate manner to the extent practicable in its good faith discretion.

Certain existing and former employees of the Adviser, Cerberus Operations, Cerberus Technology Solutions and/or its other affiliated service providers have in the past, and may in the future, cease their employment with the Adviser and subsequently be engaged as a Consultant for a variety of reasons. To the extent any such former employee is subsequently engaged as a Consultant, any Consultant Compensation paid to or received by such person with respect to Consultant Services rendered on or after the commencement of such engagement would be borne by the applicable Clients and/or portfolio companies or other investments and would not be part of the Fee Offset Amounts and will not reduce any management fees, incentive fees, incentive allocations or performance distributions to be received by the Advisers from any Clients. In addition, certain Consultants who may or may not have formerly been employees of the Adviser or its affiliated service providers may in the future become employees of the Adviser, Cerberus Operations, Cerberus Technology Solutions and/or other affiliated service providers, and the fact that such individuals become employees will not require the application of the management fee offset provisions to any Consultant Compensation they received in connection with their Consultant Services prior to becoming an employee of the Adviser.

To the extent any conflicts arise between the interests of any Clients (and/or their portfolio companies or other investments) with respect to the retention and use of Consultants, the Adviser will use all reasonable efforts to resolve such conflicts reasonably, fairly and equitably.

## Affiliated Service Providers

Certain Clients engage Cerberus European Servicing, Ltd. (“Cerberus European Servicing”), a UK-based company owned by the Adviser’s Affiliates and its related entities with offices in London, Amsterdam, Dublin Barcelona, Madrid, Lisbon and Frankfurt, to oversee and provide certain asset management and property management services, as well as loan and asset servicing and settlement activities and related loan administration services and due diligence services in respect of a Client’s European assets, and to provide the Affiliates with information to form assumptions for pricing transactions, insight for appropriate exit strategies and advice on extracting value from assets under management. In connection with a Client’s European real estate holdings, Cerberus European Servicing will also oversee and provide certain asset management and property management services, as well as loan and asset servicing and settlement activities and related loan administration services and due diligence services in respect of the Adviser’s European assets. The Adviser established Cerberus US Servicing, LLC (“Cerberus U.S. Servicing”), an affiliate in the U.S. and other regions, to provide similar services with respect to assets of certain Clients located in North America, and Promontoria Servicing Ireland Ltd. (“Promontoria Servicing”) to provide similar services with respect to assets of certain Clients located in Ireland and other regions. The Adviser may open additional affiliated offices to provide such services in respect of the assets of certain Clients in the future (such affiliated offices, together with Cerberus European Servicing, Cerberus U.S. Servicing, and Promontoria Servicing, “Cerberus Servicing”). Cerberus Servicing will oversee other third-party servicers, asset managers and property managers that will be servicing certain Clients’ North American and European assets, and other affiliated entities may provide such services and/or oversee such services with respect to assets located in other regions.

The Clients bear Cerberus Servicing’s fees at rates (including with respect to terms and compensation) that are competitive (*i.e.*, at rates that fall within a range reflective of rates in the applicable market and certain similar markets, which in certain circumstances is expected to be at the top of the range) with the compensation paid to third parties for comparable services that could reasonably be made available to the Clients, or as applicable, a portfolio company (“Market Rates”), which may include a profit for Cerberus Servicing. Such profit in certain circumstances will be material and is expected to be retained by Cerberus Servicing for the benefit of (and distribution as incentive compensation to) employees of Cerberus Servicing, with the remainder accruing to the benefit of the Advisers. No management fee offset is applied with respect to the fees paid by Clients to Cerberus Servicing.

The Adviser has established Cerberus Technology Solutions, LLC and Cerberus Technology Solutions UK Limited (together with their affiliates, “Cerberus Technology Solutions”), which are subsidiaries of the Adviser with expertise in technology, data and advanced analytics. Cerberus Technology Solutions has a team of professionals that provides technological consulting services to Clients, their portfolio investments and other third parties. Cerberus Technology Solutions focuses on trying to drive efficiencies at such portfolio companies by applying technology solutions, realizing new sources of revenue and value creation, and accelerating technological transformation and differentiation.

Prior to the establishment of Cerberus Technology Solutions, certain Cerberus Technology Solutions personnel worked as employees of, or consultants to, Cerberus Operations with

respect to technology-related services provided to Clients and their respective investments. Because the mandate for, and operating model of, Cerberus Technology Solutions is distinct from that of Cerberus Operations, including, without limitation, Cerberus Technology Solutions' offering of services to certain third-party clients, Cerberus Technology Solutions operates separate and apart from Cerberus Operations.

Cerberus Technology Solutions provides services to Clients, their portfolio companies and third parties targeted at improving systems and generating value from data, with a focus on domains that include, but are not limited to: digital and e-commerce; cloud enablement and infrastructure optimization; pattern design, architecture and engineering; agile development and application refactoring; data operations, including data as an asset and data monetization; advanced analytics, including artificial intelligence and machine learning; and cyber security. Cerberus Technology Solutions also provides sourcing and due diligence services in connection with investments made by the Clients, as well as seeks to identify and staff key talent to build or transform technology departments of portfolio companies and third parties.

The Clients and/or their portfolio companies reimburse Cerberus Technology Solutions (or any other Adviser affiliate) for the cost of providing such services as described below, and such amounts will not offset management fees. Cerberus Technology Solutions is engaged by the Clients and/or their portfolio companies on an at-cost or near-cost basis, or where minimum profits are required by tax laws or the laws or regulations of particular jurisdictions, with the intention of generating solely such minimum profits from such Clients or their portfolio companies, as applicable. When providing such services to third parties, Cerberus Technology Solutions (which in such engagements operates as Spark 92, LLC) is engaged at market values, and may generate profits. For the avoidance of doubt, the cost of providing the services attributable to Cerberus Technology Solutions team members include, without limitation (i) associated personnel costs, such as salaries (which include performance- or incentive-based compensation such as bonuses, profits interests or other arrangements), benefits, payroll taxes, consulting fees, holiday and vacation time and all other associated compensation and personnel costs, (ii) associated overhead, including, without limitation, all occupancy costs such as rent, utilities, HVAC, water, cleaning and all other occupancy and administrative expenses incurred in connection with the services provided by Cerberus Technology Solutions, (iii) the cost of accounting, software and other systems used to record and allocate the time and expenses associated with such services provided by Cerberus Technology Solutions, (iv) travel and related costs (including, without limitation, the cost of using private aircraft or other private air travel at a cost not to exceed the cost of business-class commercial airfare for such route, other air travel, car or ride sharing services, other modes of transportation, meals, accommodations (including hotel and extended stay lodging), events and entertainment), and (v) all out-of-pocket costs incurred by Cerberus Technology Solutions in connection with the provision of such services by Cerberus Technology Solutions team members (all of the foregoing, collectively, the "CTS Expenses").

To the extent that any Cerberus Technology Solutions personnel perform services on behalf of Clients (and/or their portfolio companies or other investments), the costs and expenses associated with such personnel are generally borne by the Clients invested in the relevant investment or transaction (or, in the case of an investment that is not consummated, by the Clients that would have been allocated the proposed investment or transaction, where

applicable) or directly by the relevant portfolio company and therefore indirectly by the Clients that own such portfolio companies.

To the extent that any Cerberus Technology Solutions personnel perform services on behalf of multiple Clients (and/or their portfolio companies or other investments), the Adviser and/or third parties, the cost of such personnel will be allocated among such Clients (and/or their portfolio companies or other investments), the Adviser and/or such third parties in proportion to the percentage of time spent by such Cerberus Technology Solutions team member with respect to such services. For the avoidance of doubt, (i) the Adviser will retain its share of any profits generated by Cerberus Technology Solutions from third parties and from portfolio companies that directly engage Cerberus Technology Solutions (as further described below) and (ii) the Adviser will retain the value of its equity interests in Cerberus Technology Solutions in connection with any sale of all or part of Cerberus Technology Solutions and/or the sale, license or other disposition of any information or other assets owned by Cerberus Technology Solutions.

Subject to the limitations set forth in the governing documents of the Clients, the fees, compensation and expenses of Cerberus Technology Solutions personnel who are employed by, and provide services to, Cerberus Technology Solutions in respect of the Clients and/or their investments will be borne by the Clients or their portfolio companies, and will not offset a management fee payable by a Client. For the avoidance of doubt, to the extent (a) Cerberus Technology Solutions is engaged to provide services directly by a portfolio company and (b) the Adviser or its affiliates do not, directly or indirectly, have the power to direct or cause the direction of the management and policies of such portfolio company, whether through the ownership of voting securities, by contract or otherwise, as determined in the Adviser's reasonable discretion, any services provided by Cerberus Technology Solutions may be provided at Market Rates and, any fees, payments or other compensation paid to Cerberus Technology Solutions in connection with such services will not offset the management fees.

Whenever a portfolio company of a Client or other third party retains Cerberus Technology Solutions, Cerberus Technology Solutions is often provided with and may otherwise collect and analyze data and information about that portfolio company and/or other third party. Subject to any agreements with such portfolio company and/or other third party, Cerberus Technology Solutions may (i) use such data and information (including any derivatives thereof) in providing services to the Clients, other portfolio companies and/or other third parties and/or (ii) sell, license or otherwise provide such data and information (including any derivatives thereof) to other portfolio companies and/or other third parties; *provided* that in the case of portfolio companies, such activities do not impose a material adverse effect on such portfolio companies. Cerberus Technology Solutions expects to generate a profit through such use, sale, licensing or other provision of such data and information (including any derivatives thereof), including, but not limited to, through the creation and sale and/or licensing of products and/or services containing, or capitalizing on the use of, such data and information, and the Adviser may recommend or encourage that the Partnership's portfolio companies (and/or those of the other Clients), and/or third parties with whom such portfolio companies conduct business, purchase and/or license such products and/or services, whether directly from Cerberus Technology Solutions or from unrelated third parties with whom Cerberus Technology Solutions conducts business and receives fees for the sale and/or license of products and



services. In the event that a Client or its portfolio companies purchases or licenses a product or service directly from Cerberus Technology Solutions or from a third party that has a business relationship with Cerberus Technology Solutions pursuant to which such third party pays a portion of the sales or licensing fees it receives (including from a Client or its portfolio companies) to Cerberus Technology Solutions, Cerberus Technology Solutions will receive such sales or licensing fees as additional compensation, whether directly from a Client or its portfolio companies or indirectly through payments made by a Client or its portfolio companies to such third parties.

The sharing and use of data and information presents potential conflicts of interest. The receipt of compensation may incentivize the Adviser to pursue investments (or make investments on terms less favorable than it would have otherwise) that have data or information that can be utilized in a manner that benefits the Adviser, its Clients, or portfolio companies; however, such Clients and/or portfolio companies may have contributed data in a proportion greater than the benefits received.

In addition, the Adviser has retained Nexpe Participações S.A. (FKA Brasil Brokers), Gescobro Collection Services, S.L.U., Capital Home Loans Limited, Landmark Mortgages Limited, Bluestone Group Pty Ltd, Divarian Propiedad, S.A. and Promontoria MACC Residencial, S.L. (each of which are portfolio companies of several of the Clients) and/or other servicers and similar companies, whether now existing or hereafter created, in Europe, Asia Pacific and other geographic regions that may be acquired or established in the future by the Clients to facilitate the Clients' investment program (collectively, the "Portfolio Company Servicers"). To the extent the Clients retain any of the Portfolio Company Servicers, such company will provide local market knowledge and some or all of the following services in respect of such Client's assets and loan portfolios: servicing, diligence, reporting brokerage, administration, asset management, property management, rental management, due diligence, back office (e.g., accounting, legal and other similar services) and related services. Any arrangements between the Clients and each of the Cerberus Portfolio Company Servicers will generally contain terms at least as favorable to the Clients as are generally obtainable on an arm's-length basis from unrelated third parties and any arrangement will provide for overall compensation to each of the Cerberus Portfolio Company Servicers that is competitive with Market Rates. Any fees paid to each of the Cerberus Portfolio Company Servicers in respect of services provided to the Clients and their portfolio investments will be borne by the Clients and will not offset management fees. Certain Clients hold an interest in certain Cerberus Portfolio Company Servicers.

The Advisers have retained (i) FirstKey Mortgage, LLC and/or one or more other related entities (all such related entities, collectively "FirstKey Mortgage"), (ii) FirstKey Homes, LLC and/or one or more other related entities (all such related entities, collectively "FirstKey Homes") and (iii) Spring EQ, LLC and/or one or more related entities (all such related entities, collectively, "Spring EQ") to provide a variety of services to the Clients with respect to their mortgage businesses and assets in the U.S. and, to the extent applicable, outside of the U.S.

FirstKey Mortgage specifically, is a multi-faceted operating platform owned by several Clients and is a licensed mortgage residential lender and servicer in multiple states in the U.S. FirstKey Mortgage provides, or may provide, asset management services and servicing oversight for

various residential, chattel, HELOCs, consumer and credit card debt, student loans, motor vehicle financing, structured product industries and other consumer assets held by Clients and accounts managed by Affiliates. In February 2016, FirstKey Mortgage added a Global Structured Finance Group and expanded its role to serve as securitization sponsor and asset manager for U.S. securitization activities, and structuring agent and “co-sponsor” for certain securitization activities. FirstKey Mortgage may acquire servicing rights to Fannie Mae, Ginnie Mae and Freddie Mac conforming loans and Federal Housing Administration-insured and U.S. Department of Veterans Affairs-guaranteed loans.

As part of its services, FirstKey Mortgage may provide sourcing, capital markets and transaction management services to the Clients to identify U.S. and non-U.S. mortgage-related, other commercial and residential, consumer and other structured assets and facilitate the acquisition and sale of such assets through: (i) conducting due diligence with respect to the target assets that certain Clients are seeking to purchase or sell; (ii) negotiating the terms of purchase or sale with a Client’s counterparties; and (iii) closing the purchase or sale. FirstKey Mortgage may provide certain asset management and/or data analysis services in respect of a Client’s U.S. and non-U.S. mortgage-related, other commercial and residential, consumer and structured products businesses and assets and oversees other third-party servicers that service such assets. FirstKey Mortgage may sell to Clients residential mortgage loans or other consumer products that FirstKey Mortgage originates or acquires through its investor mortgage loan conduit. In addition, FirstKey Mortgage may be retained to perform both U.S. and non-U.S. securitization activities with respect to a Client’s mortgage-related, consumer and other structured product assets. One or more of FirstKey Mortgage’s affiliates is expected to serve as a securitization conduit for the mortgage or consumer assets of one or more of the Clients, and FirstKey Mortgage often serves as the “sponsor” (as defined in the Dodd-Frank Act) or a “co-sponsor” for U.S. securitizations of mortgage loans, consumer debt and other structured products. In connection therewith and in order to comply with the credit risk retention rules of the Dodd-Frank Act, when FirstKey Mortgage is the sponsor and, in certain instances, when FirstKey Mortgage is a co-sponsor, FirstKey Mortgage, or a majority-owned affiliate thereof, holds a portion of the securities issued in the securitizations in accordance with the Dodd-Frank Act. FirstKey Mortgage is also a designated “co-sponsor” and structuring agent for certain non-U.S. securitizations. In addition, from time-to-time FirstKey Mortgage acts as a co-sponsor for third party securitizations whereby FirstKey Mortgage retains the risk retention (directly or through a majority-owned affiliate thereof) and may serve as asset manager for the related securitization. FirstKey Mortgage is wholly owned, through one or more intermediate entities, by several Clients.

Additionally, given the specialized knowledge and expertise of certain FirstKey Mortgage personnel, the Advisers will have the flexibility to utilize such personnel in a targeted capacity as the situation requires with respect to a Client’s residential mortgage investments, structured assets and other investments. For example, and without limitation, FirstKey Mortgage personnel have specialized expertise in asset acquisitions, structured finance and securitization transactions and are expected to be utilized to provide legal support to the Clients or portfolio companies as needed on various asset-related matters. In addition, certain specialized FirstKey Mortgage personnel may be engaged to develop systems, software programs and other technologies that aggregate, analyze or report certain material data points or metrics with respect to a portfolio of assets on behalf of certain Clients (all services being provided by such

FirstKey Mortgage personnel in this paragraph being referred to collectively as, “Bespoke FKM Advisory Services”).

FirstKey Homes provides a variety of property and asset management services, including, among others, leasing, rental collection, credit screening, quality control, property repairs and maintenance and construction and renovation oversight services, and acquisition services with respect to the Clients’ SFR assets. FirstKey Homes was created by the Adviser in 2015 and currently has hundreds of employees and manages homes in numerous regional markets in the U.S. FirstKey Homes is wholly owned through one or more intermediate entities by several Clients. The Advisers, its affiliates and/or its employees may seek to directly own a portion of FirstKey Homes in the future.

Spring EQ was acquired indirectly by certain Clients in December 2023. Spring EQ is a mortgage lender that primarily originates owner-occupied and non-owner-occupied residential mortgage loans, with an emphasis on closed-end home equity loans and open-end home equity lines of credit, though Spring EQ may expand its lines of business from time to time. Spring EQ sells loans that it originates to certain Clients as well as to third parties. Spring EQ may provide from time-to-time certain due diligence services with respect to mortgage loans originated by third parties and acquired by the certain Clients and may provide additional services to certain Clients, and/or any of their portfolio investments, and third parties.

The Adviser will seek to ensure that that transactions and arrangements between a Client, on the one hand, and Cerberus Servicing, a Portfolio Company Servicer, FirstKey Homes, Spring EQ, or FirstKey Mortgage (including, without limitation, Bespoke FKM Advisory Services), on the other, will generally contain terms at least as favorable to a Client as are generally obtainable on an arm’s-length basis from unrelated third parties and provides for overall compensation to Cerberus Servicing, such Portfolio Company Servicer, FirstKey Homes, Spring EQ, or FirstKey Mortgage, as applicable, that is competitive with Market Rates. The fees paid to Cerberus Servicing, a Portfolio Company Servicer, FirstKey Homes, Spring EQ, or FirstKey Mortgage, as applicable, in respect of services provided to a Client and its portfolio investments, which may include a profit for Cerberus Servicing, a Portfolio Company Servicer, FirstKey Homes, Spring EQ, or FirstKey Mortgage, as applicable, will be borne by a Client and will not offset management fees. Such profit in certain circumstances will be material and is expected to be retained by such affiliated service providers for the benefit of (and distribution as incentive compensation to) employees of such affiliated service providers, with the remainder accruing to the benefit of the Adviser.

The Adviser expects that Spring EQ will initially focus primarily on originating and underwriting second-lien mortgages and may provide from time-to-time certain due diligence services with respect to second-lien mortgages originated by third parties and acquired by certain Clients. Spring EQ will also likely continue to originate loans that are sold to third parties, as it has done historically. Additionally, in the future, Cerberus Capital Management expects that Spring EQ will continue to originate other types of mortgage products, such as first-lien mortgages, and/or expand its lines of business and provide additional services to one or more of Cerberus RM Funds, and/or any of their portfolio investments, and third parties.

The Adviser expects Spring EQ to provide services from time to time with respect to the acquisition of certain loans acquired on behalf of the Clients from third parties, which may include, without limitation, pre-acquisition management support services such as data analysis on loan data files, due diligence services, engaging and overseeing third party vendors, negotiation of legal documentation, other asset bidding support services and coordination of servicing transfers. In addition, Spring EQ may be retained from time to time to provide interim loan servicing and related services to the Clients with respect to their portfolio investments.

FirstKey Homes, FirstKey Mortgage, Spring EQ and the Portfolio Company Servicers are owned by one or more of the Clients. Effective as of January 1, 2021, the ownership of FirstKey Mortgage was restructured among certain Clients *pro rata* based on such Clients' gross exposure (based on gross market value) to the U.S. mortgages, bonds and other assets with respect to which FirstKey Mortgage provides services (and receives fees). The Clients' ownership of FirstKey Mortgage will continue to be adjusted on an ongoing annual basis as of January 1 of each calendar year (which began in 2022) based on the above methodology. Additional information with regard to this restructuring is available in the applicable Clients' Governing Documents. The fact that FirstKey Homes, FirstKey Mortgage, Spring EQ and the Portfolio Company Servicers are owned by one or more of the Clients and provide services to one or more of the Clients that do not own FirstKey Homes, FirstKey Mortgage, Spring EQ or one or more of the Portfolio Company Servicers, creates a variety of potential and actual conflict situations. Such conflicts have been evaluated to ensure that proper procedures are implemented so that the transactions between FirstKey Homes, FirstKey Mortgage, Spring EQ or one or more of the Portfolio Company Servicers, on the one hand, and one or more of the Clients, on the other are fair and appropriate to, and in the best interests of, each of the parties thereto; however, there can be no assurances that similar services cannot be procured at a lower cost from other market participants.

The Adviser, the Clients and their portfolio companies expect to engage and transact with certain affiliated services providers as contemplated herein. The Adviser, the Clients and their portfolio companies are expected to also engage in similar arrangements with other affiliated entities (whether now existing or hereafter created) in order to facilitate loan and asset servicing and settlement activities, related loan administration services, technology services, administration, management, asset and property management, due diligence and related businesses in one or more geographic areas, or for one or more other purposes or services, to the extent applicable, subject to the restrictions in the Clients' governing documents.

In addition, certain other affiliates of the Adviser (whether now existing or hereafter created) may be engaged by, or on behalf of, the investments of the Clients, as a consultant, agent or in a similar role and receive fees, or are reimbursed for such expenses, in connection with such services (e.g., an affiliated servicer, broker-dealer, finance company, Cerberus Operations or Cerberus Technology Solutions). Except with respect to the COAC Expenses, the CTS Expenses and the Dutch and Other Expenses, which are paid on an at-cost or near-cost basis, these affiliate engagements likely will be based on a variety of factors, including perceived quality of service, expertise and reputation, and will provide for compensation to such affiliates of the Adviser that is competitive with Market Rates. Subject to the terms of the governing documents of the Clients, fees and other expenses received or reimbursed by such other affiliates of the Adviser in connection with their services may be substantial and may in some

instances exceed the fees paid by the Clients for investment advisory services in one or more quarters. The Clients will bear such compensation paid to affiliates of the Advisers, which may include a profit for such affiliates. Such profit in certain circumstances will be material and is expected to be retained by such Adviser affiliates for the benefit of (and distribution as incentive compensation to) employees of such Adviser affiliates, with the remainder accruing to the benefit of the Adviser. No management fee offset will be applied with respect to the compensation paid by Clients to such affiliates of the Advisers for such services.

Retention of affiliated service providers subjects the Adviser to conflicts of interest, because although the Adviser selects service providers that it believes are aligned with its operational strategies and will enhance portfolio company performance and, relatedly, returns of the Clients, the Adviser will have an incentive to recommend affiliated service providers because of the financial or other business interests of the Adviser. While the COAC Expenses and the Dutch and Other Expenses are on an at-cost or near-cost basis, and any other such affiliate engagements will provide for compensation to such affiliates of the Adviser that is competitive with Market Rates, there can be no guarantee that a portfolio company would retain a service provider or resource of similar quality and/or cost. In addition, the Adviser may be required to exercise its own discretion as to the appropriate cost of services where there is not a third-party product or service that is directly or readily comparable to the products or services from affiliated service providers, and there is no guarantee that every or any third-party would agree with the fees and other costs for engagements with affiliated service providers being what a third-party provider would charge.

### **Third-Party Advisory Network**

In addition to the Advisers' full-time teams of operating and technology executives, certain Clients intend to work with certain third-party advisors comprising the Advisers' "Advisory Network". Such persons include third-party advisors, portfolio company executives and board members who are not employees of the Advisers, Cerberus Operations, Cerberus Technology Solutions or any of their affiliates and are not committed to the Clients but instead are engaged as Consultants (though such members of the Advisory Network may be investors in one or more Clients). Such persons will be compensated differently from the Advisers, Cerberus Operations and Cerberus Technology Solutions personnel to the extent such persons are working on a Client investment or at a portfolio company. Such person's compensation will be borne by the Clients or the portfolio investments in accordance with the engagements with such persons. Such compensation can include director's fees, consultant fees, retainer fees, success fees and other fees, salary, cash bonuses, promotes, profit sharing, a percentage of the value of the relevant portfolio company, incentive equity, a profits or equity interest in a Client or Affiliate, stock options, stock awards, co-investment rights and other non-cash compensation, benefits and incentives and reimbursement of expenses. Any such compensation to a member of the Advisory Network will not reduce a Client's management fee or carried interest, and compensation in the form of a profits or equity interest in a portfolio company or intermediate holding company of a Client generally has a dilutive impact on Client's investment. The Adviser reserves the right in its sole discretion to elect to share a portion of a Client's management fee or carried interest with one or more members of the Advisory Network.

## **Allocation of Resources**

Allocation of Adviser resources, including the Adviser's personnel and employees and Consultants and similar resources, among Clients will be made in the sole discretion of the Adviser. As discussed above, many members of the Cerberus Operations team work exclusively for the Adviser, but some members, especially Consultants, may not be exclusively engaged by the Adviser. Members of the Cerberus Operations team and the Cerberus Technology Solutions team may be subject to conflicts of interest resulting from a number of situations, including conflicts resulting from affiliations with entities unaffiliated with the Adviser, familial relationships, multiple assignments within the Adviser and ownership of interests in portfolio companies and other issuers, including, potentially, borrowers.

Further, it is anticipated that Cerberus Technology Solutions, in the ordinary course of business, may provide products and/or services to third parties, and the resources devoted to such efforts may be material.

The Adviser is not always aware of conflicts arising in connection with members or employees of Cerberus Operations or Cerberus Technology Solutions, as well as Consultants retained by these and other Affiliates. Whenever the Adviser becomes aware of conflicts arising in connection with members or employees of Cerberus Operations or Cerberus Technology Solutions, it will use reasonable efforts to ensure that such conflicts are minimized or mitigated in an appropriate manner to the extent practicable in its discretion.

Furthermore, certain personnel of the Advisers devote a portion of their time and attention, which may be a substantial portion, to their own outside investment and business activities and the outside investment activities of the Private Feinberg Entities, as well as to philanthropic, charitable, civic, educational, political and similar endeavors.

## **Additional Investment Rights Obtained in Connection with Clients' Investments and Benefits Resulting from Follow-On Investments, Portfolio Company Information and/or Other Investments**

In certain circumstances, the Adviser seeks to obtain future investment rights (including co-investment rights, rights of first offer, rights of first refusal, participation rights or similar rights) in connection with investments made by the Clients to provide further investment opportunities. The Adviser generally intends to allocate these opportunities in a fair and equitable manner (and has adopted an Investment Allocation Policy to that effect), as opposed to allocating such opportunities in proportion to the amount invested in the investment that generated such investment rights. Accordingly, an investment that one or more Clients make may produce future investment rights for a number of different Clients, including Clients that may not have participated in the original investment. A Client may participate in an investment that produces investment rights that do not benefit such Client (*e.g.*, if an investment opportunity is not appropriate for such Client) or that may not benefit such Client in proportion to the amount invested in the investment that provided such investment rights. Conversely, a Client may benefit from investment rights provided by investments made by the other Clients

in which such Client does not participate.

As described in Item 8, certain Client investments could, in certain circumstances (including, without limitation, in connection with a bankruptcy or a workout), require additional capital. In addition, a Client may be called upon to provide follow-on funding for its investments or have the opportunity to increase its investment in such investments. Where a Client participates in an investment alongside other Clients, there can be no assurance that each of the Clients will be permitted to make follow-on investments or that each will have sufficient funds to do so. For example, a Client may not have sufficient capital to participate in all (or a portion) of a follow-on investment opportunity, may no longer be in their investment period (or post-investment period, as applicable), or may be prohibited from participating in all (or a portion) of a follow-on investment opportunity due to applicable investment limitations, or for portfolio construction and/or concentration limits. In such circumstances, (x) a Client could participate in such follow-on opportunity in lieu of or alongside such other Clients (in whole or in part) or (y) another Client could participate in such follow-on opportunity in lieu of or alongside such Client (in whole or in part), in each case, in accordance with the Advisers' Investment Allocation Policy. A Client may not be able to fully protect or enhance its existing investment if such other Clients do not participate in all or a portion of a follow-on investment opportunity alongside such Client, and such Client's participation in a follow-on investment may not benefit such Client relative to other Clients in proportion to the amount invested in the investment. Further, a Client may receive greater exposure to an investment relative to the other applicable Clients to the extent such other Clients do not participate in all or a portion of such follow-on opportunity (including after giving effect to a dilutive funding, an allocation adjustment or cross trade). Conflicts of interests could arise in the Advisers' approach taken for the valuation, dilution of interests and/or tracking of the existing investments compared to the follow-on investments, which could have the effect of disproportionately benefitting another Client relative to such Client, or vice versa.

From time to time, one or more of the Clients will acquire portfolio companies, make investments or otherwise enter into transactions that provide information, knowledge and insight to the Adviser that may benefit the Clients participating therein and may, in the future, provide certain benefits to other Clients that have not participated in the acquisition, investment or transaction. For example, certain Clients may acquire an operating business that provides the Adviser with industry, sector or other information, knowledge and/or insight that the Adviser believes would be beneficial and/or accretive to an existing portfolio investment of the Clients and/or may be used in connection with future investment activities on behalf of the Clients, including on behalf of Clients that do not have any interest in the acquired operating business that is the source of such information. Additionally, Clients will bear the costs of pursuing potential investment opportunities or transactions that are never consummated, but that provide information, knowledge and insight to the Adviser that may in the future provide certain benefits to other Clients that did not share in the costs of the failed transaction, either in part or in whole.

### **Continuation Funds**

In certain situations, the Adviser may determine that it would be in the best interests of a Client to provide an opportunity for underlying investors to obtain liquidity for all or a portion of their

interests or their interests in particular investments while other Clients own, and the Adviser continues to manage, such investments. In such situations, the Adviser may seek to raise capital from third parties (including underlying investors) who wish to directly or indirectly acquire interests in one or more portfolio companies from a Client, including through the creation of a new investment fund or similar continuation vehicle that would be advised by the Adviser (each, a “Continuation Fund”) and from which the Adviser may receive asset-based and performance-based compensation, as determined by the Adviser. When making such determination, the Adviser may take the view that a particular investment: (i) has the potential for additional value that may require a longer holding period or additional fundings of capital than is appropriate or permitted for the Clients that then-own such investment and/or that the optimal exit from such investment is likely to be achieved as of such later date or (ii) that due to a variety of circumstances (*e.g.*, prevailing market conditions, a changed risk-return for the asset, the life-cycle of the Client, etc.), the relevant investment is no longer suitable for the Clients that own it at such time.

The Adviser may, but will not be obligated to, offer the selling underlying investors the ability to reinvest in the relevant investment through the applicable Continuation Fund via roll-over equity. The Adviser may seek to require the purchasers to make commitments to a successor fund and/or its parallel funds advised by the Adviser or accept the terms of disposition offered by the new investors for the portfolio company interests which may or may not accurately reflect fair market value of such interests in circumstances where it has the right to receive such ongoing economics.

Subject to applicable legal, tax, regulatory, accounting, political, national security or similar reasons, to the extent that the Adviser does offer the selling underlying investors the ability to reinvest in the relevant investment through the applicable Continuation Fund, the Adviser expect to extend such offer *pro rata* based on their investment percentages with respect to the asset(s) being sold (or otherwise transferred or contributed) to such Continuation Fund. Additionally, it is possible that new investors will be subscribing for interests in a Continuation Fund (“New Funding Investors”) alongside underlying investors that will be rolling their interests in the underlying investments (“Rolling Investors”) and that such New Funding Investors may participate in any such Continuation Fund on terms that are more or less favorable than the terms offered to Rolling Investors, resulting in additional conflicts of interest between the interests of such New Funding Investors and such Rolling Investors. In addition, such New Funding Investors in a Continuation Fund may participate on terms that could result in dilution of Rolling Investors’ indirect interests in the relevant underlying investments and could adversely affect returns to such Rolling Investors. Also, as a consequence of the potential for New Funding Investors to be offered preferred economics in the Continuation Fund, the amount and timing of returns to a Rolling Investor from a Continuation Fund may not be the same as those for the New Funding Investor, which may be paid in priority to returns to the Rolling Investors. Similarly, the terms applicable to any underlying investor’s retained interest may be less favorable than the terms applicable to other interests in the relevant underlying investment that are sold by the Client.

Because the Adviser will have the opportunity to earn additional asset-based and performance-based compensation and other economic benefits in respect of such transactions, and because each purchaser’s commitment to acquire interests in a successor fund and/or its parallel funds



could be conditioned upon completion of the transaction, the Adviser will have potential conflicts of interest with respect to any such transaction, including in determining the terms and participants in connection with such transaction.

In the circumstances outlined above, the Adviser may determine that it is in the interests of the relevant Clients to enter into a cross trade with another Client or Clients, it being understood that such cross trade would be completed in accordance with the Adviser's policies and procedures with respect to cross trades.

### **Receipt of Certain Fees**

The Adviser, its employees and affiliates will, in certain circumstances, receive transaction fees, break-up fees, termination fees, commitment fees, underwriting fees, amendment fees, waiver fees, modification fees, monitoring or management fees, directors' fees, consulting fees, advisory fees, closing fees and similar fees, payments or compensation (whether in the form of cash, options, warrants, stock or otherwise) from portfolio companies or third parties in connection with one or more Client investments. Subject to certain exclusions (as described in "Management Fee Offsets" below), such amounts received and retained by the Adviser, its employees or its affiliates (or a pro rata portion thereof, as applicable) will reduce future management fees otherwise payable to the Adviser. The amounts provided for by such exclusions could be substantial and could have the potential to reduce or eliminate any amount of transaction and other fees that would otherwise offset management fees. Certain other Clients may have different expense reimbursement terms, including with respect to applicable management fee offsets, which may result in the Client bearing different levels of expenses with respect to the same investment. However, if such fees are greater than the aggregate amount of future management fees that would otherwise be payable to the Adviser, the Adviser may receive more income than it otherwise would have received from such Client.

From time to time and under such circumstances, one or more portfolio companies, issuers or borrowers may pay a management, monitoring and/or similar fee to the Adviser that is accelerated upon the occurrence of certain events (such as, for example, the sale of substantially all of the assets or securities of such portfolio company to a third party, the merger or consolidation of such portfolio company with or into a third party, the public offering of securities of such portfolio company and/or one or more similar transactions). As described herein and in the Governing Documents of such Client, generally such fees (including accelerated fees) will reduce future management fees otherwise payable to the Adviser by the Client. With respect to Client investments in which there are Co-Investors, the portion of such fees, including any accelerated fees, that relate to the investments by such Co-Investors may be paid to such Co-Investor or retained by the Adviser (as agreed-upon compensation payable to the Advisers in respect of such Co-Investors' investment) in such amounts and on such terms that generally are negotiated with and agreed to between the Adviser and such Co-Investors on a transaction-by-transaction basis. Any fees, including accelerated fees, received by the Adviser, its affiliates or their respective employees and attributable to any third-party investors in any portfolio company, issuer or borrower will be retained by the Adviser, such affiliates or such employees, as applicable, and will not reduce future management fees otherwise payable to the Adviser (directly or indirectly) by the Client.

## Ancillary Fees; Management Fee Offsets

The management fee payable by a Client generally will be reduced, but not below zero, dollar-for-dollar by such Client's *pro rata* share, and on a fully diluted basis of (x) the net amount (or, if other Clients, Co-Investors and/or other third parties have invested or, in the case of a break-up fee, proposed to invest, in the relevant portfolio investment, such Client's *pro rata* share of the net amount allocated to the Client based on the Client's actual ownership of the portfolio investment, or, in the case of a break-up fee, the Client's actual ownership of the portfolio investment, relative to the actual or anticipated ownership, as applicable, of any other Clients, Co-Investors and/or other third parties), of transaction fees, break-up fees, termination fees, commitment fees, underwriting fees, amendment fees, waiver fees, modification fees, monitoring or management fees, directors' fees, consulting fees, advisory fees, closing fees and similar fees, payments or compensation (whether in the form of cash, options, warrants, stock or otherwise) ("Transaction Fees"), if any, received and retained by the Advisers from any third parties or portfolio investments (other than any other Client, Co-Investors and/or third-party investors) in connection with portfolio investments (or anticipated portfolio investments in the case of a break-up fee) in which such investor participated (or would have participated at the initial time of investment in the case of a break-up fee) (such amounts, the "Fee Offset Amounts"); provided, however, that there will be no reduction to a Client's management fees in respect of any of the following, which will not be deemed to be Fee Offset Amounts: (i) any management fees or other asset-based or commitment-based compensation, incentive or performance allocations or distributions or fees or other performance-based compensation, or Transaction Fees or similar fees, paid by or received in respect of any other Client, any Co-Investor and/or any other third party; (ii) any fees, compensation and expenses of affiliates of the Advisers engaged to provide services by or on behalf of a Client as described or permitted in the governing documents of a Client, including, without limitation, (a) the COAC Expenses, (b) the CTS Expenses, (c) the Dutch and Other Expenses and (d) the costs, fees, compensation and expenses of other affiliates (whether now existing or hereafter created), including, without limitation, affiliated service providers such as Cerberus Servicing, FirstKey Mortgage, FirstKey Homes and Spring EQ that are engaged to provide services by or on behalf of the Clients or its portfolio investments; (iii) any fees or compensation paid to third parties, including, without limitation, third-party advisors, consultants (including, without limitation, any such third-party consultants engaged indirectly including by or through Cerberus Operations, Cerberus Global Investment Advisors, LLC, and any other Affiliate), operating partners, asset managers, directors, officers or employees of portfolio companies and similar third parties (including, for the avoidance of doubt, any fees and/or compensation paid or awarded to the Advisers' network of third-party advisors) and any third parties who subsequently become an Affiliate, provided that at the time of payment (in the case of fees or compensation) or grant (in the case of equity) such person is not otherwise an Affiliate irrespective of whether such person was or was not an Affiliate prior to such time, or (iv) any fees, payments or other compensation paid to Cerberus Technology Solutions to the extent (x) Cerberus Technology Solutions is engaged to provide services directly by a portfolio company of a Client (including, without limitation, any engagements at Market Rates) and (y) the Adviser or its affiliates do not, directly or indirectly, have the power to direct or cause the direction of the management and policies of such portfolio company, whether through the ownership of voting securities, by contract or otherwise, as determined in the Adviser's reasonable discretion.

For the avoidance of any doubt, (i) the Advisers shall retain their share of any profits generated by Cerberus Technology Solutions from third parties and from portfolio companies that directly engage Cerberus Technology Services (as described above), and (ii) the Advisers shall retain the value of its equity interests in Cerberus Technology Solutions in connection with any sale of all or part of Cerberus Technology Solutions and/or the sale, license or other disposition of any information or other assets owned by Cerberus Technology Solutions.

The amounts provided for by such exclusions to the Fee Offset Amounts could be substantial and could have the potential to reduce or eliminate any amount of transaction and other fees that would otherwise offset fees. Other Cerberus Funds may have different expense reimbursement terms, including with respect to applicable Fee Offset Amounts, which may result in a Client bearing different levels of expenses with respect to the same investment.

Fee Offset Amounts received in any calendar quarter will reduce the applicable management fees for the following quarter as set forth above. In the event that Fee Offset Amounts received and retained by the Advisers that reduce the management fee exceed the management fees for a given quarter (the “Excess Transaction Fees”), such Excess Transaction Fees will be carried forward to one or more subsequent quarterly periods and applied to reduce the future payments of the management fee to the Advisers in such future quarters until such Excess Transaction Fees have been fully offset. In no event will any Fee Offset Amounts be applied to reduce any previously paid management fee amounts.

In the event the Advisers receive any of the Fee Offset Amounts in the form of an option, stock in a corporation, a warrant or other equity interest (collectively, “Equity”), for purposes of determining and applying any management fee offset, the net proceeds received by the Advisers upon the disposition of the Equity will be the amount used to offset the management fee or, if no disposition has taken place prior to the dissolution of such Client, then such Equity will be valued as of such time and the offset will be applied at that time. For the avoidance of doubt, (i) no Management Fee offset will be made in respect of such Equity until on or after the date on which such Equity is sold or valued in accordance with the previous sentence and (ii) no Management Fee offset will apply to Equity or any other compensation that is paid or granted to a person that is not an Adviser at the time of grant or payment, irrespective of whether such person was an Affiliate prior or subsequent to such time.

For the avoidance of any doubt, an investor will not receive the benefit of Fee Offset Amounts that relate to portfolio investments in which such investor did not participate.

From time to time and in certain circumstances, one or more portfolio companies, issuers or borrowers pay a management, monitoring and/or similar fee to the Advisers that is accelerated upon the occurrence of certain events (such as, for example, the sale of substantially all of the assets or securities of such portfolio company to a third party, the merger or consolidation of such portfolio company with or into a third party, the public offering of securities of such portfolio company and/or one or more similar transactions). As noted above and, as applicable, a Client’s governing documents, generally such fees (including accelerated fees) will reduce future management fees otherwise payable to the Advisers by the Clients. With respect to investments of the Clients in which there are Co-Investors, the portion of such fees, including any accelerated fees, that relate to the investments by such Co-Investors may be paid to such

Co-Investors or retained by the Advisers (as agreed-upon compensation payable to the Advisers in respect of such Co-Investors' investment) in such amounts and on such terms that generally are negotiated with and agreed to between the Advisers and such Co-Investors on a transaction-by-transaction basis. Any fees, including accelerated fees, received by the Adviser, its affiliates or their respective employees and attributable to any third-party investors in any portfolio company, issuer or borrower will be retained by the Adviser, such affiliates or such employees, as applicable, and will not reduce future management fees otherwise payable to the Adviser.

For purposes of calculating the Fee Offset Amount, any compensation received in a form other than cash will be deemed earned and paid, and will be valued in good faith by the Advisers, at one of the following dates, as set forth in the relevant Client's Governing Documents: (i) the date of the disposition of such non-cash compensation, in which case the value of such non-cash fees will be equal to the net proceeds received by the Advisers in connection with such disposition; (ii) the date of the disposition of the underlying investment in connection with which such non-cash compensation was received; (iii) the date of dissolution of a Client or termination of an account; or (iv) a specified anniversary date of the receipt of such non-cash compensation.

### **Fees Received from Co-Investors and Third Parties**

Management fees, incentive fees, incentive fees and/or other performance based compensation received by the Advisers from Co-Investors, as well as any transaction fees or other fees received in connection with such Co-Investors or their respective co-investments or investments by third parties, are not shared by the Advisers with any of the Clients, will not be part of the Fee Offset Amounts, and will not reduce any management fees, incentive fees or other performance based compensation to be received by the Advisers from any of the Clients. As a result, the Fee Offset Amounts will be calculated solely based upon the respective economic interest (or, in the case of a break-up fee, anticipated economic interest) of the Clients in a relevant investment as a percentage of the amount invested (or, in the case of a break-up fee, anticipated to be invested) in such investment by such Clients, all other Clients, all Co-Investors and all third-party investors in the aggregate. Accordingly, the Fee Offset Amounts with respect to a Client will be lower than they otherwise would be if the calculation of the Fee Offset Amounts did not include in the denominator thereof the investments made by Co-Investors and third-party investors.

### **Receipt of Other Benefits**

The Advisers and their personnel are expected from time to time to receive certain tangible and intangible benefits and/or perquisites in connection with or resulting from their activities on behalf of Clients which are not shared with Clients, their investors and/or their investments and are not included in the Fee Offset Amounts. These benefits and/or perquisites generally are *de minimis* in value and generally include, among other things, reward program points, reward program credits, miles program credits, reward loyalty or status programs, "points," "cash back," rebates, discounts and other similar benefits generally included as part of airline, hotel, credit card, other similar loyalty, affinity or status programs, and discounts at portfolio companies. Such terms are expected to vary from time to time and any value associated with

such reward program points, credits, miles, portfolio company discounts and other similar items inure to the benefit of the Advisers and/or their personnel, and not to the benefit of any Clients, their investors and/or their investments, notwithstanding that the cost of the services which resulted in such points, credits, miles, portfolio company discounts and/or other benefits and/or perquisites may have been borne by the Clients and/or one or more of their investments. For the avoidance of doubt, the benefits and/or perquisites discussed herein are not Fee Offset Amounts that reduce management fees.

### **Management of Multiple Clients**

As indicated above, the Advisers manage and may in the future manage, sponsor or establish a number of Clients, some of which have, or are expected to have, active investment programs that are identical, substantially identical or similar to and/or overlap, and will therefore participate in the same investments. The Governing Documents of Clients generally do not restrict the Advisers' ability to create successor funds to the Advisers' other existing platforms, as well as separate accounts or other investment funds or vehicles relating or complementary to the Advisers' existing platforms or new investment strategies and platforms. In addition, the Advisers expect to establish, sponsor and/or otherwise become affiliated with other pooled investment vehicles, single-investor vehicles, companies, investors and accounts (including managed accounts) that have investment programs that are identical, substantially identical or similar to and/or overlap with the investment programs of its current Clients or that will engage in the same or similar business as such current Clients using the same or similar investment and/or business strategies. For example, an Adviser could establish a fund that focuses on investing in a single industry or geographic region or of a certain investment type, such as European NPLs or MBS, control equity investments, supply chain investments, minority equity investments, structured equity and structured debt investments, asset purchases and platform investments, which could invest side-by-side with an existing Client in deals in that industry or geographic region or of that investment type. The Adviser anticipates that new pooled investment vehicles (or additional classes or series of interests in its current Clients), single-investor funds and/or managed accounts, each with investment programs that are identical, substantially identical or similar to and/or overlap with the investment programs of current Clients, will be created in the future. The investment allocations and performance results of all other Clients may differ from the investment allocations and performance results of a Client as a result of, among other things, differing tax, regulatory, legal, leverage and other considerations.

Each of the Advisers will devote so much of its time, and the Advisers will allocate so much of the time and resources of the members of Cerberus Operations and Cerberus Technology Solutions, to the affairs of each Client (including to the extent employees of the Advisers and its affiliates serve on the management team or board of directors of a portfolio investment), as in their judgement the management, operation, control or conduct of each Client's business reasonably requires, and none of the Advisers will be obligated to do or perform any act or thing in connection with the business of any Client not expressly set forth in such Client's governing documents. Generally, the Advisers exercise investment responsibility on behalf of, or directly or indirectly purchase, sell, hold or otherwise deal with, any portfolio investment for the account of multiple Clients and multiple businesses. In addition, as described herein,

Mr. Feinberg and other personnel of the Advisers devote time and effort to the investment and other activities of the Private Feinberg Entities.

No Client will and no investor will, solely by reason of being an investor in a Client, have any right to participate in any manner in any profits or income earned or derived by or accruing to the Advisers from the management, operation, control or conduct of any business (including the business and investment activities of the Private Feinberg Entities and other personnel of the Advisers) other than the business of such Client or from any transaction in investments effected by the Advisers for any account other than that of such Client.

As a result of the foregoing, the Advisers and their personnel may have conflicts of interest in allocating their time and resources among Clients, in allocating investments among Clients and other entities, and in effecting transactions among Clients and other entities, including ones in which the Advisers or their personnel may have a financial interest. Accordingly, each of the Advisers will devote so much of their time and will allocate the time and resources of their operations team to their Clients as in their judgment the conduct of each Client's account reasonably requires.

#### **Additional Conflicts Relating to Investments by the Private Feinberg Entities and Other Cerberus Personnel**

Mr. Feinberg, individually, on behalf of members of his family, and/or through or on behalf of trusts, partnerships, companies and other entities formed by or for the benefit of himself and members of his family, and/or other persons or entities (collectively, along with Mr. Feinberg, Mr. Feinberg's family, and such trusts, partnerships and other entities, the "Private Feinberg Entities") have in the past, and expect to continue to, make, hold and dispose of investments outside of, and separate and apart from, their interests in the Advisers and the Clients, some of which investments may overlap with one or more Clients. In particular, the Private Feinberg Entities may make investments or continue to fund investments that include, without limitation, control and non-control equity and other investments in public and private companies, some of which investments may overlap with those of one or more Clients. Except as otherwise described herein, the investments made by the Private Feinberg Entities are limited to investments that, at the time of investment, are determined by the Advisers as being either (i) not approved for investment by any Client and, therefore, not in conflict with or contrary to the interests of any Client, or (ii) are limited to excess availability of certain strategy specific investment opportunities after priority allocations are made to Clients participating in such strategy specific investment opportunities in accordance with the Advisers' Investment Allocation Policy and without regard to any interest of the Private Feinberg Entities.

In making the foregoing determinations regarding appropriateness and availability, the Advisers consider a wide variety of factors, including, without limitation: (i) the investment strategies of the Clients, the return parameters of the Clients; (ii) the size, industry, geography, asset class, projected holding period, exit strategy and counterparty; (iii) the business plan, historical and projected financial and operating performance, market dynamics and competitiveness, and other characteristics of the proposed investment target; (iv) risk factors and/or reputational considerations applicable to the Clients; and (v) other fiduciary and contractual obligations of the Advisers to the Clients and the investors therein. However, there

are potential conflicts of interest that could arise from the activities of the Private Feinberg Entities (and the private investments of other personnel of the Advisers) separate and apart from the activities of the Advisers, as described below.

To the extent the Private Feinberg Entities are permitted to and thereafter pursue one or more investment opportunities in accordance with the limitations described herein, the Advisers will make available to the Private Feinberg Entities all such resources required by the Private Feinberg Entities with respect to such investment held by the Feinberg entities and other opportunities. Such resources will include the provision of the Advisers' personnel, including investment professionals, to evaluate and consummate each such permissible investment transaction, (ii) the ongoing oversight and monitoring of those investments once consummated, and (iii) eventual investment monetization and/or disposition of such investments. In addition, the Advisers' affiliated services providers, including members of Cerberus Operations, Cerberus Technology Solutions, and Cerberus U.S. Servicing, are expected in certain circumstances to provide services to the Private Feinberg Entities and to investments held by the Private Feinberg Entities. The Advisers anticipate that the provision of personnel, resources and services to the Private Feinberg Entities and their investments will be material; provided, however, in no event will the Advisers permit the provision of any such personnel, resources or services to have a material impact on Clients or otherwise adversely affect the ability of the Advisers to provide ongoing advisory services to Clients in accordance with the Advisers' fiduciary duties.

In addition, certain conflicts of interest could arise in connection with the management and operation of the Private Feinberg Entities. Although the Advisers endeavor to consider any such potential conflicts prior to granting their approval to the Private Feinberg Entities for an investment, no assurances can be made that all conflicts will be identifiable or fully considered at the time such approval, if any, is granted. For example, although the Private Feinberg Entities will be prohibited from investing in an entity that at the time of investment is, or reasonably could be expected to become, directly competitive with Clients and/or any of their portfolio companies, it is possible that a permitted investment could be made in an entity that subsequently becomes competitive with a Client after the time of the original investment. However, while Mr. Feinberg and other personnel of the Advisers may take actions in respect of the Private Feinberg Entities that they consider to be in the best interests of the Private Feinberg Entities, the Advisers' policies require that no action will be permitted to be taken unless such persons believe in good faith that such action is not in conflict with or contrary to the interests of the Clients. Notwithstanding the foregoing, there can be no assurance that conflicts between the interests of the Private Feinberg Entities and the Clients will not arise. In the event of such conflict, the Advisers will seek to resolve such conflict in a fair and equitable manner consistent with its duties to the Clients and consistent with the Advisers' policies and procedures addressing the prevention and/or mitigation of any actual or potential conflicts of interest.

Further, certain partners, members, directors, officers and employees of and consultants to the Private Feinberg Entities and/or their portfolio companies have received salary, performance or other bonuses, profits or equity and/or a variety of other types of cash and non-cash compensation in connection with their services to the Private Feinberg Entities and/or their portfolio companies. Such persons have formerly been employees of the Advisers or its

affiliated service providers and/or can in the future become employees of the Advisers, Cerberus Operations, Cerberus Technology Solutions and/or other affiliated service providers. For the avoidance of doubt, there will be no reduction to the management fees in respect of any fees or compensation (including equity) paid or awarded to any person in their capacity as a partner, member, director, officer or employee (or other similar role) of the Private Feinberg Entities and/or its portfolio companies, which fees and compensation will not be deemed to be Fee Offset Amounts.

### **Compensation to Affiliates of the Adviser and Related Conflicts**

The Clients' Governing Documents provide the Adviser with wide-ranging authority to make determinations, including those related to investment purchases and dispositions (and their timing), valuation and other matters that have the potential to affect the compensation of the Adviser and its affiliates. In making such determinations, the Adviser is subject to potential conflicts of interest. Although the Adviser and its affiliates intend to operate in accordance with the Clients' Governing Documents, as well as the Adviser's valuation and other policies, practices and procedures in order to mitigate the potential for conflicts, the Adviser nevertheless expects to be subject to the incentive to cause the Adviser to make, hold and value investments (and to delay or forego a determination that investments with an impaired value should be permanently written down in the manner described in the Clients' Governing Documents (such investments, "Impaired Value Investments")) in order to potentially generate earlier and/or larger carried interest distributions than would otherwise be the case if such investments had not been made, held or assigned a certain value (or if such determination had not been made), including because of the possibility that the investments' values will appreciate in the future.

Where the Clients' Governing Documents do not require management fees to be reduced in connection with investment reorganizations, restructurings, extraordinary dividends or similar transactions, the Adviser expects to be incentivized to pursue such transactions.

Additionally, the amount of carried interest owed to the Adviser is dependent in part on the amount and timing of investment dispositions, as well as in certain instances the valuation of investments, and the Adviser expects to be subject to related conflicts of interest in determining whether and when to dispose of investments, make distributions and/or determine that an investment is an Impaired Value Investment, in each case, within the requirements of the Clients' Governing Documents. The Clients' Governing Documents provide the Adviser with wide-ranging authority on the determination of Impaired Value Investments, and the criteria used by the Adviser or its affiliates in valuing an investment, or determining whether an investment is an Impaired Value Investment, have the potential to be subjective, to be influenced by market information and other factors, and to vary over time. There can be no assurance that a third party or investor would agree with the substance or timing of the Adviser's determination that an investment is an Impaired Value Investment, and, except as set forth in the Clients' Governing Documents, neither the Adviser nor its affiliates is obligated to follow any third-party methodology in making its determination on whether an investment meets the relevant standards or whether value can be recovered or retained during the applicable Client's holding period. The Adviser is entitled to make its own determination taking into account all facts and circumstances it deems relevant, subject to the provisions of



the Clients' Governing Documents. As a general matter, the standards for determining Impaired Value Investments are intended to be high and are not intended to apply to investments experiencing partial or temporary declines in value. Because the amount of compensation to the Adviser and its affiliates is dependent in part on an investment's status as an Impaired Value Investment, the Adviser faces potential conflicts of interest in determining whether an investment meets, or continues to meet, the relevant criteria. Although the Adviser and its affiliates intend to operate in accordance with the Clients' Governing Documents, as well as the Adviser's valuation policy, in order to mitigate the potential for subjectivity in making such determinations, there can be no assurance that such policy will address all of the necessary factors to do so, or completely eliminate all potential conflicts of interest in such determinations.

### **Acquisitions by Portfolio Companies**

Certain investment opportunities may be suitable acquisitions by Clients and by the portfolio companies of such Clients. If the Adviser believes, in its discretion, that an investment opportunity is better suited for acquisition by a portfolio company, or the issuer or borrower of a portfolio investment of Clients than by Clients, the Adviser may offer such investment opportunity to such portfolio company. As a result, a Client may not participate in such opportunity if such portfolio company is not a portfolio investment of such Client, or may be indirectly participating in such opportunity in a different percentage than if such investment opportunity had been acquired by such Client and/or other Clients directly. The Adviser generally seeks to have portfolio companies invest in investment opportunities that provide synergies to their existing businesses and assist in the overall profitability of such portfolio companies.

### **Co-Investment Opportunities and Syndication Opportunities**

The Advisers will, from time to time, offer certain investors in the Clients the right or opportunity to co-invest with a Client and other Clients in certain portfolio investments. Such co-investment opportunities (should any exist) are expected to differ based upon the facts and circumstances of the underlying investment opportunity or perceived investment opportunity (including, but not limited to, timing, industry, size, geography, asset class, projected holding period, exit strategy and counterparty) and are expected to be structured in a variety of manners, including being structured in the form of a participation interest in one or more portfolio investments. Additionally, the Advisers expect to, from time to time, syndicate a portion of such portfolio investments to one or more third parties or investors in one or more Clients. In connection with any such syndication, the Advisers will not be managing the portion of any investment made directly by any third parties or investors (and not through any Adviser managed vehicle).

The Advisers are not obligated to arrange co-investment or syndication opportunities for any investor, and no investor will be entitled or have any right to participate in such an opportunity by reason of being an investor in a Client. The decision to offer (or not offer) co-investment opportunities to any investor will be made by the Advisers in their sole discretion, and the Advisers may allocate co-investment opportunities instead to investors in other Clients or to third parties, at the exclusion of an investor in a Client. An investor may be offered fewer co-

investment or syndication opportunities than others with the same, larger or smaller capital commitments in the Clients, and some investors may receive no such offers while other investors with capital commitments of the same, higher or lower amount may receive a substantial number of offers for such opportunities. The Advisers will at times receive fees and/or allocations from Co-Investors (other than in connection with syndications), which may differ as among Co-Investors and also may differ from the fees and/or allocations borne by the Clients. An investor who participates in a co-investment would, to the extent that such investor pays reduced (or no) economics in respect of its investment made outside a Client, have a higher overall return with respect to the relevant investment than an investor who participates in such investment only through such Client. The Advisers may agree to give particular investors priority access to co-investment opportunities. The existence of such priority co-investment rights could affect the Advisers' decision to offer certain opportunities for co-investment and could limit the ability of other investors to be offered certain co-investment opportunities. In addition, the Advisers may be incentivized to offer certain investors in Clients the opportunity to co-invest because the amount of carried interest and/or management fee to which the Advisers are entitled under arrangements made with such investors may depend on, among other things, the extent to which such investors participate, or are offered the opportunity to participate, in co-investments. Such priority co-investment rights or incentives will from time to time give rise to conflicts of interest, and there can be no assurance that any co-investment opportunities will be made available to any investor.

The Advisers will offer such co-investment opportunities in instances in which the amount available for investment in an investment opportunity or perceived investment opportunity exceeds the amount the Advisers believe should be invested by the Clients. The Advisers also expect to offer co-investment opportunities to other persons (including the Clients' portfolio companies or third parties) based on a number of factors, including, but not limited to: (i) the extent by which the size of the transaction exceeds the amount the Advisers believe should be invested by the Clients; (ii) the ability of such persons to generate future investment opportunities or provide other benefits to the Clients; (iii) the ability of such persons to provide analytical business, technical and market advice or other expertise that may be valuable to the Clients; (iv) the likelihood that an investor may invest in a future Client; (v) an investor being willing to pay higher or any management fees or carried interest in respect of such opportunity; (vi) the size of investor commitments to the Clients; (vii) expressed interest in co-investment opportunities; (viii) expertise of the prospective Co-Investor in the industry to which the investment opportunity relates; (ix) perceived ability to quickly execute on transactions; (x) tax, regulatory, accounting, securities laws and/or other legal considerations (e.g., qualified purchaser or qualified institutional buyer status); (xi) perceived ease of process in coordinating or completing the investment with the prospective Co-Investor or Co-Investors similar thereto; (xii) the Advisers' perception of whether the investment opportunity may subject the prospective Co-Investor to legal, regulatory, reporting, accounting or other burdens that make it less likely that the prospective Co-Investor would act upon the investment opportunity if offered or would impair the Advisers' ability to execute the relevant transaction in the desired time or on desired terms; (xiii) size of the investment allocation and practicality of dividing it up among multiple co-investors; (xiv) lender requirements; and (xv) other factors that the Advisers consider important in connection with the specific transaction or investment. Co-investment or syndication opportunities are also generally anticipated to be offered only to a limited subset of investors who have experience, internal capabilities and available capital to

commit to single deals on expedited time frames even if the deal at issue does not necessarily require the foregoing.

The Advisers may also allocate certain co-investment opportunities to certain investors in the Clients, subject to certain eligibility restrictions based on aggregate commitment amounts to the Clients or such other factors as the Advisers consider to be appropriate (a “Co-Investment Offer”). Any such Co-Investment Offer may include reductions to the carried interest distributions (or other performance-based compensation) or management fees in respect of such investors who are not offered a requisite threshold of co-investment opportunities. Co-investment and syndication opportunities present inherent conflicts as described herein, and any Co-Investment Offer may present certain additional conflicts, such as: (i) the potential incentive for the Advisers to allocate a portion of deals to Co-Investors even when the Clients have capacity to make them; (ii) the incentive for the Advisers to consider larger deals that offer co-investment capacity over smaller deals that do not; (iii) the risk that those larger deals will fail to close, causing larger broken deal costs; and (iv) in the event of a failed syndication, an increased concentration of certain investment holdings by the Clients. Moreover, while the Clients’ investments are limited by the limitations described in Clients’ governing documents, the Advisers expect that portfolio investments of the Clients will remain below such limitations due to a number of considerations, including, without limitation, expected returns, portfolio diversification and the risk profile of the investment. Accordingly, the Advisers may make Co-Investment Offers even if a Client is below such limitations for a particular co-investment opportunity. The Advisers will seek to address any conflicts by allocating co-investment opportunities pursuant to the Investment Allocation Policy described herein.

The Advisers, in their sole discretion, are permitted to cause a Client to acquire an investment with the intention of selling down a portion of such investment to one or more Co-Investors; subject to any limitations in such Client’s governing documents. An investment will generally be sold down to Co-Investors at a price equal to no less than the sum of (i) the Client’s acquisition cost for the transferred portion of such co-investment, including any allocable expenses relating thereto and (ii) an amount representing the cost of capital, as determined by the Advisers. Such cost of capital charge will be determined in accordance with the Adviser’s Investment Allocation Policy. However, to the extent such amounts are not so charged or reimbursed, they generally will be borne by the Client. Such a transaction would entail a conflict of interest because the Adviser or an affiliate thereof may act for both the Client and the Co-Investor and may have incentive to improve the performance of one party over another. The Adviser is under no obligation to make adjustments to the price of the investment (or portion thereof) being sold-down in order to reflect its actual fair value. As a consequence, any increase of fair value before the sell-down will be detrimental to the Client. Additionally, the Advisers will, from time to time, permit members of Cerberus Operations, Cerberus Technology Solutions and Consultants to co-invest in an investment involving their assistance. The Advisers may also, in their sole discretion, offer co-investment opportunities to other persons (including the Clients’ portfolio companies).

### **Financing with Other Affiliated Funds**

Due to applicable tax and regulatory considerations, the Adviser may sometimes structure certain investments in a manner such that a Client (or an entity through which a Client makes

an investment) obtains debt financing from (or enters into a similar transaction with) other Clients or other entities affiliated with such Client. In such cases, the equity interest of such Client will be subordinate to such loans and, accordingly, there may be circumstances in which the loans made by the other Clients are repaid in full while such Client is not able to recoup its equity investment or earn an adequate return. The Adviser seeks to structure such transactions so that the projected return to the equity investment of such Client, after taking into account such borrowings, if obtained, would exceed the return to the other Clients with respect to their loans; however, the ability to structure a transaction in this manner is dependent upon the underlying facts and circumstances with respect to the transaction and consequently there is no guarantee that any such financing would result in the equity investment of a Client exceeding the return to other Clients with respect to their loans. To the extent practicable in light of their duties to multiple Clients, the Advisers will seek to act in the best interests of all Clients in determining the amount of each such investment opportunity to structure as debt, the amount to structure as equity and the terms of any debt instruments. Such loans generally do not require the approval of a Client's advisory board.

The equity holders and debt holders of a particular investment will, in certain instances, have conflicting interests during the term of such an investment, especially if the investment is underperforming. In such circumstances, the Advisers will seek to ensure that appropriate procedures are implemented so that the interests of each Client are adequately protected to the extent reasonably practicable and that all such transactions are structured in a manner that the Adviser believes is fair and equitable to the parties thereto as a whole in light of such conflicts.

#### **Joint Financing with Other Affiliated Funds and Investors**

In certain circumstances, certain Clients, together with non-Adviser controlled parties including co-investors and joint venture partners, may obtain financing from (or enter into similar transactions with) a counterparty on a combined basis (or through a commonly owned SPV or other subsidiary), where such Clients and non-Adviser controlled parties are subject to joint and/or several liability (either (x) as an indirect owner of the borrowing entity, (y) directly to the lender as a guarantor or (z) pursuant to a contribution and indemnity agreement) in respect of the relevant financing that is being obtained. To the extent that the financing is obtained through a commonly owned SPV, (A) such SPV may hold multiple assets that are owned (i) by the same Clients and non-Adviser controlled parties, but in different respective percentages, including differing percentages on an asset-by-asset basis, and/or (ii) by different Clients and non-Adviser controlled parties, so that certain Clients may own some, but not all of the underlying assets, which may act (or be available) as collateral for the financing that is being obtained and/or (B) the Clients and non-Adviser controlled parties may guarantee certain liabilities directly to the lender of such financing.

These financing arrangements will, in certain circumstances, result in the cross-collateralization of the assets held by certain such Clients and non-Adviser controlled parties, and all of the assets in a collateral pool may be subject to foreclosure (or other enforcement of remedies by the applicable lender) or may result in a Client providing a guarantee in respect of the obligations of one or more other Clients and non-Adviser controlled parties and vice versa. Accordingly, a Client will be subject to the credit risk of other participating Clients (and the underlying investors of such other Clients) and non-Adviser controlled parties (and the

underlying investors of such non-Adviser controlled parties) and vice versa. Further, a Client could be required to contribute amounts in excess of its *pro rata* share of the indebtedness, including additional capital to make up for any shortfall if the other joint and several obligors (which could include, for the avoidance of doubt, non-Adviser controlled parties) are unable to repay their *pro rata* share of such indebtedness, which could result in a Client bearing a disproportionate share of the indebtedness than if non-Adviser controlled parties did not participate in the financing arrangement. For the avoidance of doubt, a Client's obligations under such cross-collateralization arrangements are expected to apply to investments in which a Client has not participated. Further, a Client could lose its interest in performing investments in the event that such investments are cross-collateralized with poorly performing or non-performing investments held by other Clients and/or non-Adviser controlled parties (or where such other Clients and/or non-Adviser controlled parties are in default of obligations owed under the relevant financing arrangement), and such Client (or other Clients) could incur losses that are greater than those that it would otherwise be exposed to had each such investment been separately financed, or had non-Adviser controlled parties not participated in a common financing structure with joint and/or several liability in respect of the relevant financing. A Client could also be required to fund capital contributions to cover other Clients and/or non-Adviser controlled parties' obligations under such a default.

The Advisers generally seek to mitigate such risk in a number of ways, which (depending on the particular facts and circumstances) could include, without limitation: (i) requiring each Client with an interest in a particular investment held by any shared SPV (or a joint financing) to enter into a contribution and indemnification agreement to appropriately allocate any potential liability or loss related to a specific investment or financing to the relevant Clients with an interest therein; (ii) seeking to ensure that the relevant Clients that have entered into such a contribution and indemnification agreement have sufficient assets and/or reserves to satisfy such losses and liabilities, or have otherwise entered into negotiated arrangements with joint financing parties relating to allocations of liability or loss (including a requirement that a principal of the joint financing party be personally liable to Clients for certain events that could, in certain circumstances, be triggered by such joint financing party); and/or (iii) when possible, and other than with respect to certain guaranteed obligations, structuring the financing in a manner such that a claim by a counterparty with respect to such financing is limited solely to the certain assets held by the SPV. If a potential loss and/or liability exceeds the assets and/or reserves held in an SPV, the Advisers will seek to allocate such loss and/or liability equitably among the relevant Clients to the extent possible.

Use of a joint financing arrangement could, in certain circumstances, result in increased costs relative to the costs that would have otherwise been incurred had such Clients established independent financing arrangements or had joint financing arrangements not included non-Adviser controlled parties, where applicable. Such costs may be significant and will reduce a Client's returns.

Joint financing arrangements also give rise to potential conflicts of interest. The Clients and non-Adviser controlled parties that are a party to the relevant financing may have conflicted interests with respect to the assets that are serving as collateral for a joint financing arrangement. For instance, there may be circumstances where a Client that holds an underperforming asset is required to take actions (or may elect to take actions) with respect to

that asset that it would not otherwise take if the joint financing arrangement did not exist to ensure that a lender does not foreclose on the entire collateral pool. The Clients and non-Adviser controlled parties may also have divergent interests based on where they are in their lifecycle (or based on the relative percentage of the asset owned). In circumstances where Clients and non-Adviser controlled parties participating in the joint financing arrangement have divergent interests, actions taken by such Clients and/or non-Adviser controlled parties with respect to one or more assets in a shared collateral pool (or in respect of any obligations owed in respect of a joint financing arrangement) may have a material adverse impact on all of the assets held by such Clients and/or and non-Adviser controlled parties that are part of the collateral pool and may have an adverse impact on the performance of such Clients taken as a whole. In the event of conflicts such as the foregoing, the Advisers will seek to ensure that procedures that are necessary and proper, in its reasonable discretion, are implemented to protect the interests of each Client to seek to ensure that any such financings are fair and appropriate, and such procedures may require that a Client holding assets in a shared collateral pool take actions (including the funding of capital) to cure defaults in circumstances where, under nonrecourse financing without shared collateral, not curing such default may be a preferred approach.

### **Transactions Among Portfolio Companies**

Client investments may include controlling interests in portfolio companies. To seek to enhance the value of any portfolio company, issuer or borrower that a Client may, in limited circumstances, end up owning or controlling (such as, as a result of the pursuit of remedies upon a default by such portfolio company or in connection with a bankruptcy or restructuring), the Advisers may seek to cause a portfolio company to: (i) do business with another portfolio company owned by Clients (an “Affiliate Company”); (ii) lend or borrow from an Affiliate Company; (iii) enter into joint ventures with an Affiliate Company; (iv) buy or sell an interest (including a controlling interest) in, or to, an Affiliate Company; or (v) buy or sell an asset of an Affiliate Company. A Client may have no interest in the Affiliate Company with which its portfolio company is doing business or engaging in any of the transactions described above. Alternatively, a Client may have divergent interests with respect to various portfolio companies doing business or engaging in any of the transactions described above. The Advisers will seek to enter into transactions among portfolio companies owned by Clients where they believe that such transactions enhance the value of all such portfolio companies to the benefit of Clients and their investors. However, there can be no assurance that such transactions will benefit a Client’s portfolio companies, and such transactions may result in benefits solely to a portfolio company in which a Client has no interest (e.g., to the extent consistent with the investment program of a Client, purchasing securities or other assets from, selling securities or other assets to, or entering into servicing, administration, back-office, financing or other transactions with, such portfolio companies (both on an agency and principal basis)).

Additionally, the Advisers may seek to cause one or more Clients’ portfolio companies to enter into transactions with one or more portfolio companies of the Private Feinberg Entities (including, without limitation, entering into joint ventures and/or otherwise transacting with such portfolio companies), provided, in each case, the terms of such transactions are negotiated on an arm’s-length basis consistent with prevailing market terms. There can be no assurance, however, that more favorable terms could not be achieved from other market participants.

## **Transactions with Portfolio Companies**

A Client may retain portfolio companies of Clients, including portfolio companies that are held by such Client and portfolio companies that are not held by such Client, to perform certain services for such Client. In addition, other Clients may retain a portfolio company held by such Client to perform certain services for such other Clients. A Client also may enter into other transactions with portfolio companies of Clients in which such Client may or may not have an interest (*e.g.*, to the extent consistent with the investment program of such Client, purchasing securities or other assets from, selling securities or other assets to, or entering into servicing, administration, back-office, financing or other transactions with, such portfolio companies (both on an agency and principal basis)), subject to any limitations contained in, or approvals required by, a Client's Governing Documents.

To the extent that Clients utilize the services of a portfolio company or participate in any such transactions in a percentage that is different than their ownership of the portfolio company (if any), other Clients may receive a larger or smaller proportional benefit with respect to the revenue generated by the portfolio company from such transactions.

The Advisers will seek to ensure that any such transactions are effected at market prices, the terms of the transactions and arrangements will contain terms at least as favorable to Clients as are generally obtainable on an arm's-length basis from unrelated third parties and will provide for compensation that is competitive with Market Rates. The Advisers may from time to time seek approval from the advisory board of such Client for any such transaction or service arrangement, but are not required to do so.

## **Transactions with Investors and their Affiliates**

Investors and their affiliates engage in a broad range of activities in addition to their investments in a Client. Investors, or their affiliates, may enter into transactions or have other relationships with the Advisers, the Clients and investments of the Clients (such an investor, a "Counterparty Investor"), including acting as a buyer or seller of portfolio investments, being an investor of such Client and appointing a representative to such Clients' advisory boards, making investments, entering into financing transactions with a Client and its portfolio companies, serving as a funding source for a buyer or seller of portfolio investments of a Client, purchasing structured debt issued by a Client and its portfolio companies and entering into other business arrangements with or related to the Advisers and Clients.

The terms of such transactions are negotiated on what is intended to be an arm's-length basis. However, the Adviser will be subject to a conflict of interest when determining such terms due to the benefit received from negotiating and maintaining a Counterparty Investor's investment in a Client and/or the benefits received by the Adviser in its other business dealings with a Counterparty Investor. In addition, these relationships may influence the negotiation of side letters and terms of investments in a Client with a Counterparty Investor and the allocation of co-investment opportunities to a Counterparty Investor.

A Counterparty Investor will have access to information that other investors do not have and will be entitled to receive information regarding the Advisers, Clients and their activities by

virtue of the transactions it enters into with the Advisers and Clients. While the Adviser may request that a Counterparty Investor implement and maintain certain policies and procedures (e.g., information walls) to seek to ensure that the information that a Counterparty Investor receives by virtue of its business relationships with the Adviser and Clients does not flow through such Counterparty Investor's organization in a manner that could enable such information to be used in respect of such Counterparty Investor's investment in the Clients, the Adviser may not be able to obtain these assurances, and accordingly, this information could be used by a Counterparty Investor in making investment decisions with respect to a Client.

In addition, Counterparty Investors do not have fiduciary duties to a Client and are under no obligation to resolve any conflicts in favor of a Client. There may be situations where a Client and a Counterparty Investor have interests that diverge, including where a Client and a Counterparty Investor make separate investments in the same asset or issuer, or when a Counterparty Investor acts as a financing source for a Client. In the event a Counterparty Investor holds a security senior to that held by a Client or provides financing to a Client, the interest held by such Client will be subordinate to and may be in conflict with that of the Counterparty Investor in the event a Client or its portfolio companies have financial difficulties or default on their obligations or if the proceeds generated by an underlying investment must be distributed to the Counterparty Investor on a priority basis relative to the Client. Additionally, as part of the financing or other structured transaction, the Counterparty Investor may be granted certain voting or control rights with respect to the underlying assets or the entity subject to such financing arrangements and may exercise such rights in conflict with and to the detriment of the interests of a Client or portfolio investment subject to such transactions.

While the existence of a conflict of interest will not necessarily have an adverse impact on a Client, and a Counterparty Investor may have an incentive to see a Client succeed, the management or resolution of any conflict of interest involving a Counterparty Investor could have a material adverse effect on a Client and its investors.

### **Conflicts Among Clients Relating to Different Investments in the Capital Structure of Portfolio Companies, Issuers and Borrowers**

Clients will at times invest in different layers of the capital structure of a portfolio company, issuer or borrower. For example, a Client: (i) may own debt of (or otherwise lend to) a portfolio company, issuer or borrower while another Client owns equity in the same portfolio company, issuer or borrower; (ii) may own debt of (or otherwise lend to) a portfolio company, issuer or borrower while another Client owns a different tranche or other class or issue of debt of the same portfolio company, issuer or borrower, including a tranche, class or issue senior to the tranche, class or issue in which the Client invests; and/or (iii) may, in certain circumstances, own equity of a portfolio company, issuer or borrower while another Client owns a different equity security of or the debt of (or otherwise has lent to) the same portfolio company, issuer or borrower. Furthermore, a Client may participate in debt originated to finance the acquisition by other Clients of an equity or other interest in a portfolio company, issuer or borrower. In particular, it is anticipated that certain Client's debt investments may sometimes be offered as part of a multi-tranche financing provided to borrowers. Such multi-tranche financings may include first or second lien loans or senior, junior or unsecured debt, and one or more other Clients, including certain Clients managed by the Advisers, may be invested in such other loans



or tranches. Any prices set or other decisions made by, or involving, the Advisers with respect to any such multi-tranche financings may adversely impact and/or benefit one or more such other Clients. In addition to Clients investing in different layers of the capital structure of a portfolio company, issuer or borrower, Clients and/or the Advisers and their affiliates could directly or indirectly hold the debt of (or otherwise finance through lending, leasing or other financing transactions) a client or customer of a portfolio company that is partially or wholly owned by the same or different Clients. In such a scenario, a conflict could arise, especially in the event that such a financing transaction includes possible recourse against a client or customer of a portfolio company that results in, among other things, the ownership of such client or customer of a portfolio company by such Client, different Clients and/or the Advisers or their affiliates.

The Adviser is subject to conflicts of interest when determining whether Clients should invest in different layers of the capital structure of a portfolio company, issuer or borrower, and is also subject to conflicts when negotiating the terms of such investments.

In addition, if a portfolio company, issuer or borrower breaches its credit agreement or indenture, defaults on its obligations, seeks protection from creditors in bankruptcy, engages in an out-of-court restructuring or reorganizations or undergoes another major corporate event, conflicts of interest will arise for the Adviser in its decision-making process in the event that different Clients hold investments in different layers of the capital structure of such portfolio company, issuer or borrower. In these circumstances, decisions about what action should be taken, including, for example, whether or not to enforce claims, whether or not to advocate or initiate a restructuring or liquidation inside or outside of bankruptcy, and the terms of any work-out or restructuring, raise conflicts of interest. For instance, it may be in the best interest of the holders of more senior debt of a portfolio company, issuer or borrower to foreclose on their loans so they are repaid in full while the holder of more junior debt of a portfolio company, issuer or borrower may prefer to waive the default or renegotiate the terms of their investment. Similarly, it may be in the best interest of holders of senior debt of an issuer to support a plan of reorganization that favors such senior debt holders at the expense of holders of junior debt of such issuer. Accordingly, the Adviser may be in a position where it would seek to protect the interest of one Client to the potential detriment of another Client to the extent two Clients have invested in different layers of the capital structure of the same portfolio company, issuer or borrower.

The Adviser will seek to resolve such conflicts of interest in a fair and equitable manner, including causing the Clients to take certain actions that, in the absence of such conflict, it would not take. The Adviser may, among other things: (i) determine to protect or otherwise favor the interests of holders of investments at one or more levels of an issuer's or borrower's capital structure if prioritizing that investment or those investments could, in the Adviser's reasonable discretion, yield the fairest results to the holders of all of the various investments; (ii) request the limited partner advisory committee's or board of directors' of a Client review and consent to the Adviser's proposed approach to resolve such conflict; (iii) recuse itself from voting on any matter relating to an investment when that investment is also held by one or more third parties; (iv) refer the relevant determination to be made with respect to one or more Clients to a separate conflicts committee comprised of independent members for its consideration and determination (while the Adviser may itself continue to act on behalf of the

Clients in a different tranche); (v) invest in or participate in the allocation of the same or similar classes of securities as the other Clients in order to align their interests; (vi) divest investments; or (vii) take another action that the Adviser determines in its reasonable discretion is appropriate under the circumstances. Taking any of the foregoing actions could have the effect of benefiting one or more Clients (or the Advisers) and could have an adverse effect on one or more other Clients, and the action taken may be different than the action that would have been taken if a single Client was the only Client that invested in such portfolio investment and/or if Clients had invested in the same or similar classes of securities (and/or in the same level of the capital structure). A similar standard generally will apply if any other Client makes an investment in a portfolio company or asset in which a Client holds an investment in a different class of such company's debt or equity securities or asset. Conflict resolution could result in Clients receiving more or less consideration than they otherwise would have received in the absence of such conflict. A Client may also invest in portfolio companies or other assets in which other Clients already have an investment or exposure. In these circumstances, it may be necessary for the Client who holds the pre-existing investment to participate in the follow-on investment in order to avoid having its pre-existing investment diluted or subordinated by the follow-on investment. A Client may provide follow-on funding for a portfolio company, which may benefit both such Client and other Clients. Such Client will not make such an investment unless the Advisers believe the investment fits within such Client's investment program. Additionally, another Client may invest in a portfolio company or other assets in which a Client has a pre-existing investment or exposure. There can be no assurance that a Client will wish to make such investment or have available capital to do so, and the inability to make such follow-on investment may result in dilution or subordination of such Client's investment in the portfolio company.

To address these potential conflicts of interests in its material relationships, the Adviser has adopted policies and procedures, including a Code of Ethics and Business Conduct and the Investment Allocation Policy. For a more detailed discussion of the Adviser's Code of Ethics and Business Conduct and its allocations and conflicts of interest policies, please see Item 11, "Code of Ethics, Participation or Interest in Client Transactions and Personal Trading," below.

#### **Use of Portfolio Company and Third-Party Information by Cerberus Technology Solutions; Receipt of Additional Compensation**

It is anticipated that, whenever a portfolio company, the issuer or borrower of a portfolio investment of a Client or other third party retains Cerberus Technology Solutions, Cerberus Technology Solutions will be provided with and will otherwise collect and analyze data and information about that portfolio company, issuer or borrower and/or other third party. Subject to any agreements between the parties with respect to any such engagement, Cerberus Technology Solutions is permitted to: (i) use such data and information in providing services to a Client, other portfolio companies, issuers or borrowers and/or other third parties and/or (ii) sell, license or otherwise provide such data and information to other portfolio companies, issuers, borrowers and/or other third parties; provided that in the case of portfolio companies, such activities do not adversely affect such portfolio companies and such issuers or borrowers of a portfolio investment. Cerberus Technology Solutions may generate a profit through such use, sale, licensing or other provision of such data and information. It is not expected that a Client or its portfolio companies will be compensated for any data or information provided to

Cerberus Technology Solutions and any profit, compensation or other benefit derived from the use of such data or information will be retained by Cerberus Technology Solutions and will not reduce the management fee paid by such Client.

In addition, it is anticipated that Cerberus Technology Solutions may create, sell and/or license products and/or services containing, or capitalizing on the use of, such data and information, and the Advisers may recommend or encourage that a Client's portfolio companies (and/or those of the other Clients), and/or third parties with whom such portfolio companies conduct business, purchase and/or license such products and/or services, whether directly from Cerberus Technology Solutions or from unrelated third parties with whom Cerberus Technology Solutions conducts business and receives fees for the sale and/or license of products and services. In the event that a Client or a portfolio company purchases or licenses a product or service directly from Cerberus Technology Solutions or from a third party that has a business relationship with Cerberus Technology Solutions pursuant to which such third party pays a portion of the sales or licensing fees it receives (including from a Client or its portfolio companies) to Cerberus Technology Solutions, Cerberus Technology Solutions will receive such sales or licensing fees as additional compensation, whether directly from a Client or its portfolio companies or indirectly through payments made by a Client or its portfolio companies to such third parties. Any profit, compensation or other benefit that Cerberus Technology Solutions derives from these arrangements will be retained by Cerberus Technology Solutions and will not reduce any management fees, incentive fees, incentive allocations or performance distributions to be received by the Advisers from any of the Clients.

### **Directors, Officers and Employees of Portfolio Companies**

Employees of the Adviser and members of the Cerberus Operations and Cerberus Technology Solutions teams and the Advisers' network of third-party advisors may serve as directors and/or officers of portfolio companies of a Client, including, for example, in the event a Client ends up owning or controlling a portfolio company (e.g., as a result of the enforcement of remedies upon a default by such portfolio company or in connection with a bankruptcy or proceeding). Accordingly, such employees, consultants and COAC/CTS team members may have a conflict where their fiduciary duty to the portfolio company may conflict with their fiduciary duty to a Client. In such circumstances, any such employee or team member will act in accordance with his or her fiduciary duty to the portfolio company rather than any fiduciary duty such person may have to a Client. This may result in a conflict between the relevant person's obligations to the portfolio company and its various stakeholders, on the one hand, and the interests of a Client, on the other hand. Such conflicts may be resolved in a manner that is detrimental to the interests of such Client.

In addition, certain directors, officers or employees of portfolio companies: (i) are Co-Investors with a Client; (ii) have affiliations with third parties who provide professional or other services to a Client's other portfolio companies, or a Client; or (iii) have other business relationships or affiliations with the Adviser. In instances where the Adviser, on behalf of a Client, appoints or retains (or influences the appointment or retention of) such directors, officers or employees, the Adviser will make determinations with respect to the qualifications and appropriateness of such persons in its sole discretion.

Further, the Advisers and its affiliates (including Cerberus Operations and Cerberus Technology Solutions) may have representatives that serve on the boards of directors (or equivalent governance bodies) or as officers of an actual or potential portfolio investment. As a result, such individuals will be subject to fiduciary and other obligations to make decisions that they believe to be in the best interests of the applicable portfolio investment, which may not be in the best interests of Clients. This may result in a conflict between the relevant person's obligations to the portfolio investment and its various stakeholders, on the one hand, and the interests of the Client, on the other hand. Such conflict may be resolved in a manner that is detrimental to the interests of the Clients.

To the extent that any portfolio investment adopts a management equity incentive program, the grants and/or awards of equity made to participants in the program will reduce the percentage ownership held by existing investors in such portfolio investment by the amount of equity granted or awarded to participants in the program. However, the Advisers believe that such grants or awards by portfolio investments pursuant to a management equity incentive program, if any, would only be made by portfolio investments that determine that doing so is desirable and in the best interests of the portfolio investment and its owners at such time, and is consistent with the fiduciary duties of the board of directors (or a committee thereof established for such purpose) that make such equity grants or awards for such portfolio companies pursuant to its management equity incentive program.

Further, certain existing and former employees of the Advisers, Cerberus Operations, Cerberus Technology Solutions and/or its other affiliated service providers have in the past ceased, and may in the future cease, their employment with the Advisers and subsequently become an employee, director or officer of a portfolio company. To the extent any such former employee is subsequently employed by a portfolio company, the salary, performance or other bonuses, expense reimbursements (including reimbursements for travel and other costs in connection with their services), profits or equity interests in a portfolio company or other investment, options granted by a portfolio company or other investment, a share of proceeds upon the sale of a portfolio company or other investment and/or a variety of other types of cash and non-cash compensation paid or received after the commencement of such employment would be borne by the relevant portfolio company and would not be part of the Fee Offset Amounts and will not reduce any management fees, incentive fees, incentive allocations or performance distributions to be received by the Advisers from any of the Clients. In addition, certain portfolio company employees (including any officers or directors) who may or may not have formerly been employees of the Advisers or their affiliated service providers may in the future become employees of the Advisers, Cerberus Operations, Cerberus Technology Solutions and/or other affiliated service providers, and the fact that such individuals become employees will not impact the application of the management fee offset provisions with respect to any compensation or equity these individuals received in connection with their employment by a portfolio company (including in a capacity as an officer or director) prior to becoming an employee of an Adviser entity.

### **Investments by Cerberus Employees in Clients**

Subject to applicable regulatory restrictions, certain employees of the Adviser that otherwise meet a Client's suitability requirements and are deemed by the Adviser to qualify as

“knowledgeable employees” under Rule 3c-5 of the Investment Company Act are permitted to invest directly or indirectly in certain Clients. Such investors may be in possession of information relating to such Clients that is not available to other investors. It is expected that, if such investments are made, the size and nature of these investments will change over time without notice to the investors. Investments by senior management and key employees in certain Clients could incentivize such employees to increase or decrease the risk profile of such Client. Employees of the Adviser that invest in a Client generally do not bear management fees or carried interest, but do generally bear Client and other expenses associated with an investment in a Client.

**D. Material Conflicts of Interest Relating to Other Investment Advisers.**

The Advisers do not anticipate recommending or selecting other investment advisers for Clients, and do not have other business relationships with any such advisers that create a material conflict of interest.

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

**A. Code of Ethics.**

The Advisers have implemented a personal securities trading policy, which is incorporated by reference to the Advisers' Code of Ethics and Business Conduct (the "Code of Ethics"), that prohibits employees and certain other persons who provide services to the Advisers from engaging in transactions with respect to the securities of any issuer, public or private, subject to certain limited exceptions. One of the exceptions to the prohibition on personal trading is the trading of certain types of securities (generally, governmental securities, money market instruments, money market funds, open-end mutual funds, exchange-traded funds and unit investment trusts) where employees and other personnel do not have any opportunity to benefit from any of the private, proprietary or confidential information of the Advisers or the Clients. In addition, employees and other personnel as well as the Private Feinberg Entities may transact in exchange-traded funds and participate in private investments and make certain other investments upon advance written notice to and written approval from, the Adviser's Compliance Department ("Compliance").

Consistent with the foregoing policies, it is possible that, in a limited number of circumstances, employees of the Advisers and other personnel who provide services to the Advisers will purchase or sell securities or other instruments of the type or kind of securities or other instruments also purchased and sold for Clients (or issued by borrowers to whom the Clients have extended credit) and/or which the Clients may otherwise hold from time to time.

The Advisers are committed to the highest standards of ethical conduct. In furtherance thereof, the Advisers' Code of Ethics designates a Conflicts and Regulatory Management Committee charged with, among other things, oversight of the administration of the Code of Ethics. The Code of Ethics specifies and prohibits certain types of transactions deemed to create actual conflicts of interest, the potential for conflicts or the appearance of conflicts, and establishes general guidelines for the conduct of the Advisers' personnel as well as clearance and/or reporting requirements and enforcement procedures.

In recognition of the trust and confidence placed in the Advisers by the investors in the Clients, and to give effect to the Advisers' belief that their operations should be directed to the benefit of the Clients, the Advisers have adopted the following general principles to guide the actions of their employees:

- (i) The interests of the Clients are paramount. All employees must conduct themselves and their operations to give maximum effect to this tenet by assiduously placing the interests of the Clients before their own.
- (ii) All permitted personal transactions in securities by employees must be accomplished so as to avoid the appearance of a conflict of interest on the part of such personnel with the interests of the Clients.

- (iii) All employees must avoid actions or activities that allow a person to profit or benefit from his or her position with respect to the Clients or that otherwise improperly bring into question the person's independence or judgment.
- (iv) All employees must report any violation(s) of the Code of Ethics or inappropriate conduct to Compliance.
- (v) All employees must comply with all applicable laws, rules and regulations, including U.S. federal securities law.

The Advisers require that all Adviser personnel avoid any relationship or activity that might impair, or even appear to impair, such individual's ability to make objective and fair decisions when performing job functions. The Code of Ethics prohibits Adviser personnel from using Adviser property or information for personal gain or personally taking for themselves any opportunity that is discovered through their Adviser position without the express written consent of Compliance. The Code of Ethics further requires that employees disclose any situation, including situations pertaining to the employee's family members, which reasonably could be expected to give rise to a conflict of interest. The Code of Ethics also contains general prohibitions against fraud, deceit and manipulation, as well as additional restrictions and requirements regarding gifts, entertainment and outside activities.

The Advisers have adopted a Securities Compliance Policy. The Securities Compliance Policy sets forth, among other things, policies and procedures regarding material nonpublic information and proprietary Adviser information, and employee accounts and trading. The policies and procedures contained in the Securities Compliance Policy are designed to: (i) provide for the proper handling of both material nonpublic information about companies or other issuers and proprietary information of the Advisers; (ii) prevent violations of laws and regulations prohibiting the misuse of material nonpublic information about companies or other issuers and/or proprietary information of the Advisers; and (iii) avoid situations that might create an appearance that material nonpublic information about companies or other issuers or proprietary information of the Advisers has been misused. In furtherance thereof, the Securities Compliance Policy prohibits employees from misusing material nonpublic information and/or nonpublic proprietary information, and sets forth general and specific procedures to restrict the flow of material nonpublic information from employees performing investment, transactional, lending, finance, private research and/or private analysis activities of the Advisers to employees responsible for or involved in the securities trading activities of the Advisers.

Notwithstanding the internal screening procedures set forth in the Securities Compliance Policy, there may be certain instances where the Advisers, its employees (or their family members) receive material nonpublic information due to their various activities on behalf of the Clients, or otherwise, and are restricted from purchasing or selling securities or other instruments for the Clients. The Advisers seek to minimize those cases whenever possible, consistent with applicable law and the Securities Compliance Policy, but there can be no assurance that such efforts will be successful and that such restrictions will not occur.

The Securities Compliance Policy is incorporated by reference in the Code of Ethics. The Adviser will provide a copy of the Code of Ethics to any Client or investor in a Private Fund or prospective client or investor in a Private Fund upon request.

Adviser personnel are required to certify to their compliance with the Code of Ethics, including the Securities Compliance Policy, on an annual basis.

**B. Securities That the Adviser or a Related Person Has a Material Financial Interest.**

A Client may make a loan to, purchase a security or other instrument or asset (including participations in loans or other investments) from, sell a security, instrument or other asset (including participations in loans or other investments) to, or otherwise engage in cross trades with, another Client or enter into other transactions and arrangements with the Advisers affiliates that may be viewed as a related-party or principal transaction. The Adviser may be required to, or may from time to time, in its sole discretion, seek an approval or waiver from such Client's advisory board, with respect to any principal transactions or related-party transactions or matters that the Adviser believes may present a conflict of interest. In connection with any approval or waiver sought of a Client's advisory board for any such transactions, the approval or waiver may occur prior to or contemporaneous with, or by means of ratification subsequent to, the consummation of such transaction. Any such decision by a Client's advisory board will be binding on all investors in such Client.

Notwithstanding the foregoing, and subject to a Client's Governing Documents, which may contain additional requirements, limitations and restrictions, such advisory board approval is generally not required with respect to any loan to, purchase of a security or other instrument or asset from, or sale of a security or other instrument or asset to an Affiliate or another Client if such transaction: (a) (i) is between a Client and any parallel fund, SPV, securitization vehicle, pooled investment vehicle or other alternative investment vehicle or (ii) with respect to any balancing transaction with a parallel fund (provided, in each case, that the Adviser believes in good faith that such transaction does not present a conflict of interest); (b) is an allocation adjustment effected at cost plus a use of funds charge made in accordance with the Investment Allocation Policy (including, for example, a final allocation of an investment made within 45 days of the date of origination or acquisition); (c) is made for tax or regulatory purposes; (d) is a sale of a portion of a portfolio investment that is part of a syndication to, and/or co-investment by, a Client or a Co-Investor in a portfolio investment (which co-investment may be structured in the form of a participation), which sale occurs within 90 days of the date the Client made such portfolio investment; (e) any balancing transaction between Clients of the Adviser with respect to portfolio investments jointly owned by such Clients as set forth in the applicable Governing Documents or (f) is a transaction whereby the Client sells a portfolio investment to, or acquires a portfolio investment from, another Client (each such transfer, a "Cross Trade"); *provided that*, in respect of any Cross Trade, the Advisers have determined that the Cross Trade is in the best interests of the Clients involved and take steps to ensure that the Cross Trade is consistent with the Advisers' duty to seek best execution for each of those Clients and is otherwise effected in accordance with the Advisers' policies and procedures and any requirements, limitations and restrictions as may be set forth in a Client's Governing Documents. For the avoidance of doubt, any transaction with a portfolio investment of a Client and/or one or more other Clients that is effected in compliance with law, at market prices and



on terms at least as favorable to the Client as are generally obtainable on an arm's-length basis from unrelated third parties for transactions of such nature will not be deemed a transaction with another Client that requires the approval from such Client's advisory board, subject to such Clients' Governing Documents. In addition, for the avoidance of doubt, notwithstanding anything to the contrary in the foregoing, any transaction whereby a Client (or a subsidiary thereof) contributes (x) assets directly or indirectly to a securitization vehicle together with similar assets contributed by other Clients, in each case at fair market value, in exchange for securities issued from such securitization vehicle (including, without limitation, the subordinate tranches of such securitization vehicle) or (y) capital and/or other assets to a pooled investment vehicle, in exchange for equity in such pooled investment vehicle (issued at then-current net asset value of such pooled investment vehicle, by reference to the amount of capital and/or the fair market value of the other assets contributed, as applicable and in accordance with the Adviser's valuation policies), which equity interest gives the Client a pro rata interest in the assets of the pooled investment vehicle (including assets held by the pooled investment vehicle prior to the Client investing therein), in each case, will not be a transaction that requires approval of such Client's advisory board, subject to such Clients' Governing Documents.

The Adviser has implemented policies and procedures intended to ensure that the foregoing transactions described in this Item 11(B) are, in the reasonable determination of the Adviser, fair and equitable to each Client participating therein. Such transactions will be executed at market price (or fair value), measured in accordance with the Adviser's valuation policies and procedures, and the Adviser will seek to comply with all applicable fiduciary requirements and any legal or other requirements established by the Adviser for the benefit of each of the Clients which participate in such transaction. The Adviser will receive no transaction-based compensation in connection with such transactions (other than the management fees and incentive allocations/fees otherwise payable by the Clients participating in such transactions).

In no event will any cross trade, principal transaction or other transaction described in this Item 11(B) be entered into unless it complies with applicable law.

## **Valuation**

Clients' assets and liabilities are valued in accordance with the Adviser's valuation policy and procedures. In making valuation determinations, the Advisers may be deemed subject to a conflict of interest, especially with respect to illiquid assets and securities, as the valuation of such assets and liabilities may affect the compensation of certain employees of the Advisers. There is no guarantee that the value determined with respect to a particular asset or liability by the Advisers will represent the value that will be realized by a Client on the eventual disposition of the related investment or that would, in fact, be realized upon an immediate disposition of the investment. Additionally, a Client's portfolio of investments will, at any given time, include securities or other financial instruments or obligations that are very thinly traded or for which no market exists or which are restricted as to their transferability under applicable securities laws. These investments may be extremely difficult to value accurately.

**C. Investing in Securities That the Adviser or a Related Person Recommends to Clients.**

See Item 11.A.

**D. Conflicts of Interest Created by Contemporaneous Trading.**

The Advisers continuously examine and modify their policies and procedures, including, without limitation, those governing investment allocations and other policies and procedures described in the Adviser's Brochure, to best achieve the Adviser's goal of fair and equitable treatment of all Clients (and investors therein) in light of the Advisers' then current operations and market environment.

The Adviser manages investments on behalf of a number of Clients. Certain Clients have investment programs that are similar to or overlap with each other, and, therefore, such Clients may participate with each other in investments.

**Investment Allocation Policies**

The Adviser manages investments on behalf of a number of Clients. Certain Clients (including predecessor and successor funds) have, or are expected to have, investment programs that are the same as, similar to or which otherwise overlap with the investment program of certain other Clients (including, without limitation, certain Clients that are evergreen or currently eligible for investments), and may, therefore, participate with the Clients in investments or otherwise be invested in the same portfolio investments, issuer or borrower. All investment decisions and allocations among Clients will be made in a manner that the Adviser believes is fair and equitable, in accordance with the Advisers' Investment Allocation Policy. The Advisers' Investment Allocation Policy and the allocation process is overseen by the Advisers' "Allocation Committee". The following is a summary overview of the Investment Allocation Policy.

While the Adviser seeks to allocate investment opportunities in a manner that, over time, is deemed to be fair and equitable, as described below, the allocation of investment opportunities presents certain risks and potential conflicts of interests, which may result in disparate treatment among Clients. The Adviser will modify or make exceptions to the Investment Allocation Policy from time to time. In addition to the Investment Allocation Policy, investors in a Client should also refer to such Client's Governing Documents, which provide more detail regarding the types of investments that will be suitable for a Client's investment strategy.

If an investment is appropriate for one or more of the Clients, the investment generally is allocated among such Clients on a *pro rata* basis. When allocating *pro rata*, there are various metrics (e.g., fund size, available capital, distance to target) that the Advisers employ; metrics differ by strategy and by Client. Additionally, when allocating *pro rata* by available capital, there are different ways the Advisers calculate available capital; factors that may be considered include funding mechanics (e.g., capital commitments and/or one-time subscriptions); liquidity; use of leverage; currency denomination of commitments or subscriptions; and other such factors as determined by the Advisers.

However, each allocation decision is based on facts and circumstances specific to each investment and each Client mandate; as such, investment allocations have been made, and will be made in the future, by the Adviser, in its sole discretion, in a manner other than *pro rata* basis. Such an allocation may be based on a wide variety of factors including, among other things:

- (i) tax, operational, regulatory or other related considerations;
- (ii) fund legal considerations or eligibility to invest based on Governing Documents;
- (iii) investment demand and portfolio construction reasons, including target portfolio composition, desire to limit exposure to a certain risk or asset class, or similar portfolio construction considerations;
- (iv) conflicts of interest, and the desire to manage any actual or potential conflicts;
- (v) co-investments, whether an opportunity is appropriate for co-investment for tax, regulatory, strategic reasons or because the amount of an investment exceeds the capacity of what Clients are willing or able to invest;
- (vi) co-investments by affiliates and whether certain Clients have declined an investment opportunity before offering it to affiliated co-investors, as required by the Investment Allocation Policy;
- (vii) existing investments of a Client when restructuring, refinancing or allocating follow-on investments;
- (viii) available capital and liquidity, capacity constraints, or concentration limits of a Client;
- (ix) capital expenditures and liquidity needs of the investments;
- (x) avoiding *de minimis* or odd lot allocations;
- (xi) availability of leverage; and
- (xii) any other considerations deemed in good faith to be relevant.

The Adviser allocates investments in a manner that it deems to be consistent with the Investment Allocation Policy, the relevant facts and circumstances of the investment and of each Client's mandate, and equitable principles. When investments are allocated on an other than *pro rata* basis, the Advisers will, as deemed appropriate, seek to document the rationale for such allocation. In particular, with respect to any Client that has as part of its primary investment objective and/or primary investment activity the origination of loans or the investment in loans originated by one or more other Clients or Advisers (a "Lending Fund"), available investment capital generally is the sum of the available cash plus the undrawn capital commitments of each of such Lending Funds. In addition, for the purposes of determining the

amount of an investment to be allocated to the Lending Funds, such Lending Funds' available investment capital generally includes the financing available to such Lending Funds pursuant to financing arrangements in place with respect to their investment strategy (such as a line of credit or other financing facility) but excludes any subscription facilities related to investor commitments to such Lending Funds. In addition, certain other specific procedures apply with respect to the allocation and purchase of loans by certain "Non-Originating Funds" (i.e., Clients that do not originate loans as part of their primary investment objective and/or primary investment activity) from "Originating Funds" (i.e., Clients that originate loans as part of their primary investment objective and/or investment activity) and the allocation of certain secondary investments to Non-Originating Funds, as such additional procedures are contemplated in the Advisers' Investment Allocation Policy. These additional procedures may result in certain loans originated by Originating Funds not being transferred (or being transferred in smaller amounts) to Non-Originating Funds and/or in Non-Originating Funds holding greater amounts of secondary investments than the Originating Funds.

Because the characteristics of Clients may change over time, subsequent investments in an existing position or asset class may result in different allocations among Clients. Hedging transactions, follow-on investments, re-securitization transactions and similar investments will typically be allocated *pro rata* in accordance with the holdings of each Client of the underlying investment to which such hedge, follow-on investment or re-securitization transaction relates, subject to certain exceptions.

The initial allocation of any investment among the Clients in certain instances will be subject to subsequent adjustment within the 45-day period immediately following such investment to reflect certain adjustments in the Clients during such period (such as the launch of one or more new Clients) that would normally be taken into consideration at the time of such investment allocation. Any Client that did not participate in the initial allocation of an investment that is subsequently allocated a portion of such investment will be charged an amount representing the cost of the capital, as determined by the Adviser, invested by the Clients that received the initial allocation of such investment, and such amount will be paid to each of the Clients that received the initial allocation of the investment and from which a portion of the investment is reallocated. The reallocation and cost-of-capital charge will be based on the cost of the original investment regardless of whether the value of the investment increases or decreases after its purchase, which consequently could result in a Client acquiring the investment at a greater cost than its current carrying value for other Clients that received the initial allocation. The cost-of-capital charge will be calculated from the date of the initial deployment of capital with respect to such investment by the Clients that received the initial allocation of such investment through the date of payment for such deployed capital by the respective Clients that received the subsequent reallocation. Consequently, the reallocation and cost-of-funds charge may result in an investment being reallocated to another Client at less than the then-current fair market value of such investment.

Although sales of investments held by multiple Clients generally are expected to be sold by the Clients on a *pari passu* basis, the Adviser, in its sole discretion may sell investments from various Clients on a non-*pro rata* basis based on a wide variety of factors including those described above in respect of allocations of investment opportunities. It is possible that one

Client may be selling an investment, while another Client is retaining or investing more capital in the same investment.

Furthermore, a Client could be disadvantaged by the investment activities of other Clients and by redemption or withdrawal requests by investors in other Clients that offer their investor redemption or withdrawal rights. For example, the sale of an investment by a Client could increase the concentration of certain investment holdings of another Client and could possibly lead to situations where a Client either has to, or conversely, cannot, enter into a transaction or capitalize on an investment opportunity. In the event that a Client participates with another Client in an investment, if such Client experiences a substantive level of redemptions, the need to satisfy such redemption requests may result in the sale of such investment. Additionally, where multiple Clients have participated in the same investment, there may be follow-on investments that are suitable for some, but not all of the participating Clients, for reasons including but not limited to, the expiration of an investment or follow-on period, liquidity, portfolio construction, or exposure limits. In such circumstances, the allocation of additional capital to the investment from some, but not all participating Clients presents a conflict given that the non-participating Clients may receive the benefit of the additional capital contributed by those Clients for which the follow-on investment is suitable, without risking additional capital. This type of allocation also presents a conflict for the non-participating Clients, whose interest in such investments may be diluted. Such dilution could adversely impact the performance of a Client. In addition, the calculation of such dilution presents a conflict between Clients that are and are not participating in the follow-on investment. The dilution methodology and calculations undertaken will be determined by the Advisers in their sole discretion using their internal valuation policies and procedures.

Because the Adviser may make non-*pro rata* allocations, other Clients with the same, similar or overlapping investment programs may produce results that are materially different from those experienced by a Client with the same, similar or overlapping investment programs. Additionally, other Clients may have different investment programs from a Client and make investments that are different as a result of such differing investment programs, which may also produce results that are materially different from those experienced by such Clients.

### **Investment Allocation Conflicts**

If at any time, more than one Client (including both a successor fund and its predecessor fund) is eligible to participate in a new portfolio investment, the allocation of those investment opportunities by the Adviser will result in inherent conflicts of interest. When making allocation decisions, the Adviser will be incentivized to allocate investments in a manner that results in better economics for the Adviser due to the performance compensation payable and allocable to the Adviser (e.g., carried interest distributions). For instance, the Adviser may be incentivized to allocate more of an investment opportunity to a new fund than to a Client because of different preferred return considerations (i.e., to not increase the amount on which the preferred return is calculated), catch-up distribution requirements or carried interest percentages. The Adviser may also be incentivized to allocate more of an investment opportunity to a fund in an effort to build such fund's investment portfolio and/or build its track record to attract prospective investors during such fund's fundraising period, which may be favorable to the Adviser for, among other reasons, its impact to the asset-based fees that the

Adviser receives. In addition, because one or more of the Clients participating in a portfolio investment may have different investment periods and liquidation periods (including predecessor and/or successor funds of a Client), conflicts may arise in the management of jointly held portfolio investments (*i.e.*, the Adviser may be in a position where it needs to consider disposing of a portfolio investment for a Client that is at the end of its liquidation period, while another Client that holds the same investment still has significant time left in its term). The Adviser addresses such conflicts through its Investment Allocation Policy.

## ITEM 12 BROKERAGE PRACTICES

### A. **Factors Considered in Selecting or Recommending Broker-Dealers for Client Transactions.**

The Adviser or one or more of its Affiliates has complete discretion, without obtaining specific client consent, to: (i) buy or sell securities; (ii) determine the amount of the securities to be bought or sold; (iii) select the broker or dealer to be used in such purchase or sale; and (iv) agree to the commission rates paid in connection with such purchase or sale.

The Advisers generally effect transactions with brokers that (with respect to U.S. securities) are registered with the SEC and are members of the Financial Industry Regulatory Authority. The Advisers select brokers on the basis of their ability to provide best execution. The determinative factor is not always the lowest possible per security price or commission, but whether the transaction represents the best qualitative and quantitative execution for the Client. The Advisers consider the full range of a broker's services in assessing best execution and could not pay the lowest commission rates available. When selecting brokers, the Advisers take into consideration several factors, including (without limitation): commission rates, reliability, financial responsibility, strength of the broker-dealer and the ability of the broker to efficiently execute transactions, the broker's facilities, and the broker's provision or payment of the costs of research and other services or property that are of benefit to the Adviser.

Investors in the Clients may include investors affiliated with brokers or, possibly, brokerage firms themselves. The fact that any such investor has invested in a Client will not be taken into consideration in selecting brokers (including prime brokers).

#### 1. Research and Other Soft Dollar Benefits.

The Advisers generally do not enter into formal soft dollar arrangements with broker-dealers. The Advisers in the ordinary course could receive unsolicited research products and brokerage services from full-service broker-dealers as part of their full range of services. Such unsolicited materials could benefit Clients and therefore could be considered as soft dollars. In the event that the Advisers enter into any formal soft dollar arrangements, they will do so within the "safe harbor" of Section 28(e) of the Securities Exchange Act of 1934.

The provision by a broker of research and/or other services to the Adviser can create an incentive for the Advisers to select such broker since the Advisers would not have to pay for such research and/or other services as opposed to solely seeking the most favorable execution for a Client. Any research and/or services provided by a broker may benefit a Client, but such benefits may not be proportionate to commission dollars related to the provision of such research and/or services.

#### 2. Brokerage for Client Referrals.

As discussed above, subject to best execution, the Advisers may consider, among other things, capital introduction, marketing assistance, information technology services, operations and

operating equipment and other services or items in selecting broker-dealers for Client transactions. The Advisers do not receive Client or investor referrals in exchange for brokerage business.

3. Directed Brokerage.

The Adviser do not recommend, request or require that a Client direct the Adviser to execute transactions through a specified broker-dealer. Clients are not permitted to direct brokerage activities.

B. **Aggregated Orders for Various Client Accounts.**

If the Adviser determines that the purchase or sale of the same security is appropriate for more than one Client, the Adviser could, but is not obligated to, aggregate orders in order to reduce transaction costs to the extent permitted by applicable law. When an aggregated order is filled through multiple trades at different prices on the same day, each participating Client will receive the average price with transaction costs allocated *pro rata* based on the size of each Client's participation in the order as determined by the Adviser. In the event of a partial fill, allocations generally will be made on a *pro rata* basis on the initial order but may be modified on a basis the Adviser deems appropriate, including for example, in order to avoid odd lots or *de minimis* allocations. This could result in allocations of certain investments on an other than *pro rata* basis.

C. **Trade Errors.**

The Adviser has adopted a trade error policy and related trade error procedures to facilitate the prompt and appropriate resolution of trade errors. Trade errors may occur as a result of mistakes made on the part of an executing broker, or mistakes on the part of Adviser personnel, including, but not limited to, portfolio managers, traders and/or operations staff. Trade errors may include, for example, keystroke errors that occur when entering transactions into electronic trading systems, failures of oral or other communications between and among the Advisers' investment staff, trading staff and operations staff, or between the Advisers' personnel and the third parties, such as executing brokers, with whom the Adviser conducts trading activities, or typographical, calculation or drafting errors related to purchase contracts or similar agreements.

The Adviser strives to correct all trade errors prior to the settlement of any transaction, and to minimize gains and losses resulting from trade errors. Trade errors caused by third parties, such as executing brokers, are the responsibility of the third party and the Adviser endeavors to have the affected Clients reimbursed for such trade errors by such third parties. Such reimbursements generally are in accordance with the agreements in effect from time to time between the Adviser and such third parties, such third parties' customer policies and procedures and governing law. The Adviser does not absorb and is not otherwise responsible for losses resulting from trade errors caused by third parties and the Adviser does not utilize soft dollar arrangements in resolving trade errors.

To the extent that a trade error may occur on the part of the Advisers' personnel, it almost always would occur as part of the business of the Advisers in effecting transactions for Clients



in the ordinary course of their businesses. Thus, to the extent of any trade errors with respect to a Client, (i) all gains in such Client's account resulting from such trade errors will remain in such Client's account for the benefit of such Client and (ii) in accordance with the exculpation and indemnification provisions between such Client and the Advisers, all losses resulting from such trade errors (that are not reimbursed by third parties, such as executing brokers) will be borne by such Client, and not the Advisers, unless (a) such trade error was caused by the Advisers or their personnel acting (or failing to act) in violation of the standards of care applicable to the exculpation and indemnification protections afforded to the Advisers in any applicable governing documents or agreements with respect to Clients or (b) reimbursement by the Advisers to such Client is otherwise required by applicable law.

The Adviser generally will not notify investors in any Client that a trade error has occurred unless a determination has been made that the trade error has or will have a material adverse impact on the investors and/or a Client.

The Adviser maintains a record of trade errors which includes, among other things, the date that the trade error occurred, a description of the persons and entities involved in and the circumstances surrounding the trade error, and the means by which the trade error was addressed and/or resolved. Such record is maintained in accordance with the Adviser's recordkeeping policies.

#### **D. Allocation Errors.**

The Advisers seek to confirm that proper allocations are made across the Clients for all investment opportunities. However, should an error be made with respect to the allocation of a particular investment opportunity, the Advisers will seek to correct such error as promptly as reasonably practical and in a manner that the Adviser determines is most fair and equitable to the affected Clients, and consistent with the Adviser's policies and procedures.

## **ITEM 13**

### **REVIEW OF ACCOUNTS**

#### **A. Frequency and Nature of Review of Client Accounts or Financial Plans.**

The Adviser performs various daily, monthly, quarterly and other periodic reviews of the Clients' portfolios. Daily reviews include account liquidity monitoring by the Adviser's Operations Personnel, as well as trade reviews by Operations and Compliance personnel. Monthly reviews include portfolio valuation, price validations and account concentration monitoring by the Adviser's Operations personnel. Quarterly reviews include portfolio valuation reviews by the Adviser's Valuation Committee.

#### **B. Factors Prompting Review of Client Accounts Other Than a Periodic Review.**

A review of a Client account may be triggered by any suspicious or unusual activity or special circumstances.

#### **C. Content and Frequency of Account Reports to Clients.**

Investors in the Private Funds and managed account Clients receive from the Advisers, typically in an electronic format, unaudited quarterly reports providing summary financial and other information on their Private Fund or account. The Advisers may provide certain investors with information on a more frequent and detailed basis if agreed to by the Advisers. In addition, the Advisers provide to investors of the Private Funds, typically in an electronic format, audited financial statements concerning their respective Private Fund and tax information necessary for the completion of such investor's return within 120 days after the end of the Private Fund's fiscal year.

Investors are also provided with performance and other detailed information so that each investor can monitor its investment in the Clients. The Advisers welcome inquiries from investors in the event any investor desires information not contained in the Advisers' Form ADV Part 1, Form ADV Part 2 or other relevant offering material or Client reports. The Advisers will endeavor to answer all reasonable and appropriate questions in a timely fashion, while maintaining the confidentiality of sensitive nonpublic and proprietary information related to the operations and investments of the Advisers and the Clients. The Advisers do not publish investor questions and answers and generally do not otherwise disseminate such answers to all investors of the relevant Client.

In addition, with respect to certain Clients, the Advisers will hold an annual or semi-annual meeting for their respective investors.

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

**A. Economic Benefits for Providing Services to Clients.**

Other than described herein, including the receipt of potential fees for services CTS provides to third parties (as discussed under “Affiliated Services Providers” and “Ancillary Fees; Management Fee Offsets” in Item 10), the Adviser does not receive economic benefits from non-Clients for providing investment advice and other advisory services.

**B. Compensation to Non-Supervised Persons for Client Referrals.**

Neither the Adviser nor any related person directly or indirectly compensates any person for Client referrals. The Adviser has engaged placement agents to solicit certain types of prospective investors for investments in the Private Funds. The Adviser may in the future enter into additional arrangements with third party placement agents, distributors or others to solicit investors in the Private Funds and such arrangements will generally provide for the compensation of such persons for their services at the Adviser’s expense.

## **ITEM 15 CUSTODY**

The Adviser is deemed to have “custody” (within the meaning of Advisers Act Rule 206(4)-2 (the “Custody Rule”)) of the underlying funds or securities held in the name of certain of the Clients.

In addition to holding Client funds and securities with an unaffiliated, qualified, third-party custodian, subject to certain exceptions set forth in the Custody Rule and related guidance, these Clients’ assets are generally subject to a year-end audit by an independent public accounting firm that is registered with and subject to regular inspection by, the Public Company Accounting Oversight Board. These annual audited financial statements are then distributed to investors in these Clients no later than 120 days after a Client’s fiscal year-end. Investors should review these audited financial statements carefully. Cerberus Business Finance (“CBF”) is the loan origination platform of the Adviser. Loans originated by CBF are funded by certain Clients and occasionally, non-affiliated, third parties. CBF currently utilizes Cerberus Business Finance Agency, LLC (“CBFA”), an affiliate of the Adviser, to serve as loan agent. CBFA has established a bank account (the “Agency Account”) to facilitate the movement of cash to and from the loan syndicate participants and the borrowers. The Agency Account is held in CBFA’s name for the benefit of the loan syndicate participants. The funds received from or owing to the Client and non-affiliated third parties are comingled within the Agency Account. Given CBFA’s authority, in its capacity as loan agent, to direct the movement of cash out of the Agency Account for the purpose of distributing loan proceeds, the Adviser takes steps to ensure that the conditions of the applicable SEC staff no-action relief (dated December 12, 2018) from Rule 206(4)-2 are being satisfied with respect to the Client funds held in the Agency Account.

**ITEM 16**  
**INVESTMENT DISCRETION**

The Adviser or an Affiliate has been appointed as the adviser, management company, manager or general partner of the Clients with discretionary trading and investment authorization. The Adviser or an Affiliate has full discretionary authority with respect to investment decisions, and its advice with respect to the Clients is made in accordance with the investment objectives and guidelines as set forth in such Client's Governing Documents. The Adviser or an Affiliate assumes discretionary authority to manage the Clients through the execution of the Governing Documents.

**ITEM 17**  
**VOTING CLIENT SECURITIES**

Rule 206(4)-6 of the Advisers Act requires registered investment advisers that exercise voting authority over client securities to implement proxy voting policies. In compliance with such rules, the Advisers have adopted proxy voting policies and procedures that are designed to ensure that the Advisers vote proxies, or elect not to vote proxies, in the best interests of their Clients. Where an actual conflict has been identified, Legal and Compliance will take necessary and appropriate steps to ensure that the Advisers vote the proxy consistent with the best interests of the Clients and in a manner not affected by the conflict of interest.

A copy of the Advisers' proxy voting policy and/or information about how the Advisers voted client proxies is available upon written request.

**ITEM 18**  
**FINANCIAL INFORMATION**

The Adviser is not required to include a balance sheet for its most recent financial year, is not aware of any financial condition reasonably likely to impair its ability to meet its contractual commitments to Clients, and has not been the subject of a bankruptcy petition at any time during the past ten years.