



## **ASCEND CAPITAL, LLC**

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## **FORM ADV PART 2**

February 26, 2013

**This brochure provides information about the qualifications and business practices of Ascend Capital, LLC and Ascend Capital Limited Partnership. If you have any questions about the contents of this brochure, please contact us at (415) 217-8300. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.**

**Additional information about Ascend Capital, LLC also is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

## **Item 2. Material Changes**

Since the last update of this brochure on October 1, 2012, Ascend Capital, LLC has updated this brochure to disclose a new performance hurdle that has been established with respect to certain private investment funds and separately managed accounts managed by Ascend Capital, LLC and its affiliates, commencing with the 2013 fiscal year.

Because this Item 2 discusses only those changes to this brochure that have been made since October 1, 2012, this brochure should be reviewed in its entirety.

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## **Item 4. Advisory Business**

### **Structure; History and Ownership**

Ascend Capital, LLC is an investment advisory firm with its principal place of business in Orinda, California. It is the general partner of, and partly operates through, Ascend Capital Limited Partnership. This brochure also provides information about Ascend Capital Limited Partnership. Ascend Capital, LLC and Ascend Capital Limited Partnership will be referred to together in this brochure as “we” or “the firm.”

Ascend Capital, LLC is organized as a Delaware limited liability company and Ascend Capital Limited Partnership is organized as a Delaware limited partnership.

We commenced business in April 1999. Ascend Capital, LLC has been registered as an investment adviser with the Securities and Exchange Commission (“SEC”) since January 2006. We have 34 employees.

Ascend Capital, LLC is wholly owned by Malcolm P. Fairbairn. Certain employees of Ascend Capital, LLC are limited partners of Ascend Capital Limited Partnership.

### **Types of Advisory Services**

We provide investment advisory services to a number of private investment funds (referred to in this brochure as the “funds”) as general partner or investment adviser. We also provide investment advisory services to separately managed accounts (referred to in this brochure as the “separate accounts”). The separate accounts may take the form of pooled or single-investor investment vehicles. The funds and the separate accounts to which we provide investment advisory services are sometimes referred to together in this brochure as the “accounts.”

We offer an opportunistic U.S.-focused long/short equity strategy. Our investment objective is to generate superior risk-adjusted returns over a broad range of market environments, through the long and short sales of securities. Each fund and separate account invests in companies we identify through a disciplined process involving thorough bottom-up fundamental research.

The funds to which we currently provide investment advisory services are as follows:

- Ascend Partners Fund I LP, a Delaware limited partnership (“Ascend Partners I LP”);
- Ascend Partners Fund II LP, a Delaware limited partnership (“Ascend Partners II LP”);
- Ascend Partners Fund I Ltd., a Cayman Islands exempted company (“Ascend Partners I Ltd.”);
- Ascend Partners Fund II, Ltd. a Cayman Islands exempted company (“Ascend Partners II Ltd.”); and
- Ascend Partners Fund II BPO, Ltd., a Cayman Islands exempted company (“Ascend Partners II BPO Ltd.”).

At times we will refer to the three Cayman Islands-domiciled funds as the “offshore funds.”

The funds do not offer their interests to the public. Fund interests are offered only in private placements to qualified investors. The detailed terms applicable to investors in the funds are detailed in the funds’

organizational documents and described in each fund's offering memorandum or explanatory memorandum.

Prior to April 1, 2011, although all of the funds employed substantially the same investment strategy, Ascend Partners I LP and Ascend Partners I Ltd. used less leverage than Ascend Partners II LP, Ascend Partners II Ltd. and Ascend Partners II BPO Ltd. Since April 1, 2011, the funds have all offered the same strategy, including as to the amount of leverage.

The funds differ in the types of investors to whom they are offered. Interests in Ascend Partners II LP, Ascend Partners II Ltd. and Ascend Partners II BPO Ltd. are only offered to investors that are "qualified purchasers," as defined in Section 2(a)(51) of the Investment Company Act of 1940, as amended. Shares of the offshore funds are only offered to non-U.S. investors and U.S. tax-exempt investors, and shares of Ascend Partners II BPO Ltd. are offered primarily to benefit plan investors. Interests in Ascend Partners I LP and Ascend Partners I Ltd. are offered to investors who are "accredited investors," within the meaning of Regulation D under the Securities Act of 1933, as amended, and "qualified clients", as that term is defined in Rule 205-3 under the Investment Advisers Act of 1940, as amended.

In addition to the funds, we also offer our investment advisory services to certain institutional investors on a separately managed account basis, typically by way of special purpose entities formed by the separate account investors. Such arrangements are governed by the investment advisory agreement between us and each separate account client.

The investment strategy we employ on behalf of the funds and the separate accounts is described in greater detail below at Item 8 and in the offering documents of the funds. In general, we do not tailor the strategy to the needs of individual fund investors or separate account clients. However, in certain limited circumstances, we may agree to particular investment guidelines or investment restrictions with particular fund investors or separate account clients (for instance, that they will not participate in certain investments made by the fund in which they are invested or that would otherwise be purchased for their account pursuant to the strategy).

## **Assets Under Management**

As of January 30, 2012 we managed \$3,163,851,063 of client assets, all of which we manage on a discretionary basis. This amount is determined on a net assets basis.

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

### **Fees**

We are generally entitled to two types of fees from each of the funds and separate accounts: (i) an asset-based management fee; and (ii) an incentive allocation or fee based upon the performance of the fund or separate account. Our incentive compensation from the funds that are organized as limited partnerships takes the form of a partnership allocation from the limited partners to the general partner. Our incentive compensation from the offshore funds and separate account clients usually takes the form of a fee payment.

The management fee is typically 1.5% per year of the fund or separate account's net assets. However, except as otherwise agreed, the management fee applicable to investors that invest in a fund through an alternative investment platform or that are introduced by a placement agent may be 2.0% per year. The management fee for the funds is determined and payable monthly in advance. The management fee for the separate accounts is determined and payable quarterly or monthly in arrears.

The incentive allocation or incentive fee is typically 20% of the net profits of the fund or separate account for the relevant period (in the case of a fund, attributable to each investor's limited partnership interest or shares in the fund). The incentive allocation or incentive fee is typically determined and allocated/paid on an annual basis, but will be determined and allocated/paid for shorter periods under certain circumstances (such as with respect to amounts withdrawn/redeemed from a fund). The incentive allocation or incentive fee is subject to a loss carry forward or high water mark provision that requires that any losses suffered by a fund or separate account (adjusted to reflect withdrawals/redemptions) be offset by subsequent net profits before we are entitled to subsequent incentive allocations or incentive fees from the fund or separate account.

With respect to certain funds and separate accounts, commencing with the 2013 fiscal year, notwithstanding the fee terms described above, if for any fiscal year (or shorter period in connection with investor contributions/subscriptions or withdrawals/redemptions during a fiscal year), the fund or account does not achieve an Investment Return (as defined herein) of at least 4.25% (or a *pro rata* portion thereof for partial fiscal years), with respect to an investor's investment in the fund or account, then:

- (i) the investor will not be charged an incentive allocation or incentive fee with respect to such period; and
- (ii) for investors whose investment in the fund or account is charged a management fee rate of 1.5% *per annum* or 2.0% *per annum*, the investor will be entitled to receive a partial rebate of the aggregate management fees paid to the general partner or investment adviser of the fund or account with respect to such investor's investment in the fund or account with respect to the period, in an amount equal to the difference between the management fee amount that was paid with respect to such investor's investment, with respect to the period, and the management fee amount that would have been paid with respect to the period had the applicable annual management fee rate been 1.25% *per annum* or 1.75% *per annum*, respectively.

Investors in such funds or separate accounts who are charged a management fee rate of less than 1.5% *per annum* are not eligible for any management fee rebate.

"Investment Return," for purposes of the performance hurdle, means, with respect to a fiscal year (or shorter period in connection with contributions/subscriptions or withdrawals/redemptions during a fiscal year), the excess, if any, of investment gains over the following investment expenses with respect to such period: brokerage commissions, expenses relating to short sales, clearing and settlement charges, interest on loans and debit balances, broker service fees and other clearing and custodial expenses.

With respect to those funds that are subject to the performance hurdle, for an investor that makes its initial investment in the fund on or after January 1, 2013, the benefits of the performance-related incentive allocation/incentive fee or management fee adjustments will not be retained by the investor with respect to any portion of the investor's investment in the fund that is withdrawn or redeemed prior to the third anniversary of the investor's initial investment in the fund, except as determined by the fund's general partner or investment adviser (as applicable) in its sole discretion.

The details of how the fees are calculated for the funds can be found in the offering documents of the funds, which are provided to potential investors. The details of how the fees are calculated for the separate accounts are included in the investment advisory agreement for each separate account.

The fees described above are our typical fee rates. However, each fund has the right to enter into agreements with one or more of its investors providing for the waiver or modification of certain terms of the offering of fund interests, or certain rights and obligations of fund investors, including fees, otherwise

applicable to such interest(s), in each case without notice to the other fund investors. Under certain circumstances we may agree to different fee terms from those described above for particular separate account clients.

The fees payable by the funds are deducted from the assets of the funds and paid to us or, in the case of incentive allocations, are reallocated from the capital accounts of fund investors and into our capital account. Our fees for the separate accounts are typically billed to the client and paid from the assets of the account.

Separate account clients, by whom management fees are payable monthly or quarterly in arrears, will typically be subject to a *pro rated* management fee with respect to partial-period investments based upon the portion of the relevant period for which the assets were invested.

## Expenses

Each fund pays, or reimburses us or the fund's administrator for, all operating expenses and other costs of the fund that we are not required to bear including, but not limited to:

- accounting and auditing fees, including
  - tax return preparation costs, relating to the fund's accountants,
  - fees of bookkeepers and
  - related services;
- legal fees and expenses;
- insurance and bonding costs;
- fees (including legal fees) or assessments in connection with any regulatory registrations, qualifications or approvals of the fund or us that we deem appropriate in connection with the activities of the fund;
- the cost of preparation and distribution of reports and statements to investors;
- all trading expenses and transaction costs, including brokerage commissions and expenses relating to short sales, clearing and settlement charges, interest on loans and debit balances, margin interest, broker service fees and other clearing and custodial expenses;
- such research and portfolio management expenses as we deem appropriate, which may include, but are not limited to, costs of research reports, data feeds and databases, news wires and quotation services, periodical subscription fees, and fees of outside consultants and experts, and
- the management fee.

We bore the organizational expenses of the funds.

Investors in the offshore funds are subject to a redemption fee, payable to the relevant fund, if they redeem fund shares prior to one year from the date of their initial purchase of shares in the fund.

Separate account clients will generally be responsible for all custodial fees, brokerage commissions, clearing fees, interest and withholding or transfer taxes incurred in connection with trading for the separate account, and our fees as described above.

As we consider appropriate, we may invest a portion of an account's assets in one or more money market funds, mutual funds or exchange-traded funds. When any such investments are made, the account will be paying, in addition to the compensation payable to us, the account's proportionate share of any management fees charged by the manager of such money market fund, mutual fund or exchange-traded fund.

A description of the brokerage and other transaction costs that will be borne by the funds and separate accounts are described in more detail in Item 12 (Brokerage Practices) in this brochure.

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

As described in Item 5 above, we receive part of our compensation from the funds and separate accounts in the form of performance-based allocations and fees.

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

We generally provide investment advice to private investment funds and institutional separate accounts. The types of investors in the funds we advise include the following: pension and profit sharing plans; trusts, estates and charitable organizations; funds of hedge funds (whether organized as partnerships, corporations or other entity types), high net worth individuals and family offices. Our separate account clients are typically funds of funds, pension and profit sharing plans, or other institutional investors.

The minimum size for a separate account that we will advise is generally \$100 million. Ascend Partners I LP and Ascend Partners I Ltd. each have a minimum initial investment amount of \$1 million and Ascend Partners II LP, Ascend Partners II BPO Ltd. and Ascend Partners II Ltd. each have a minimum initial investment amount of \$10 million. Additional investments to any of the funds must be in increments of \$100,000. These minimums may be reduced or waived by the general partner or boards of directors of the funds, subject to any applicable statutory minimums.

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

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

#### **Investment Strategy**

We employ a variation of the "Jones Model" investing strategy with the intention of achieving capital appreciation in a broad range of market environments. The net market exposure of each account may vary significantly depending on our assessment of shifting economic and market conditions as well as particular long and short investing opportunities; consequently, our strategy has neither a long nor short bias. Although our strategy focuses on equity and equity-related securities that are publicly traded, we may pursue a highly diverse range of investments and trading strategies.

We may cause the accounts to invest a significant portion of their assets in one or more of the following: illiquid securities, including privately placed equity (of public and private companies), defaulted debt, bank debt and trade claims, bonds (convertible and non-convertible), other fixed income investments, and senior and subordinated tranches of asset-backed pools.

Our strategy includes short selling.

We expect the funds to utilize leverage on a moderate to extensive basis, as we consider appropriate, with respect to their investment activities. The separate accounts utilize leverage in accordance with the investment guidelines for each account.

We may cause the accounts to buy or sell (write) options, publicly traded and over-the-counter, covered and uncovered, on securities and securities indices, as well as options and forward contracts on currencies. We may also cause the accounts to engage in a variety of investment techniques involving arbitrage. We may cause the accounts to engage in futures and other derivative transactions, typically for hedging of existing long and short positions, but also, in our discretion, as independent profit opportunities.

With respect to long positions, we employ “bottom-up” fundamental analysis to identify companies that may display some or all of the following characteristics:

- Improving revenue and earnings growth;
- Strong cash flow and/or access to capital;
- Competitive advantage and/or dominant industry position;
- High barriers to entry exist with respect to the company’s existing business;
- New, innovative, or revolutionary products;
- Proven, strong management team;
- Short- or intermediate-term “catalysts” to propel market price of stock upwards;
- Undiscovered value/hidden assets on the company’s balance sheet;
- Business of the company is in out-of-favor industries resulting in low valuation;
- Favorable risk/reward ratio with high probability of success; and/or
- Not well covered by Wall Street analysts.

With respect to short positions, we employ “bottom-up” fundamental analysis to identify companies that may display some or all of the following characteristics:

- Deteriorating financial performance and/or condition;
- Balance sheet irregularities and/or questionable accounting practices;
- Decelerating earnings;
- Product cycle dislocations;
- Equity dilution;
- Weak or inept management team;
- Flawed business model;
- Misrepresentations and/or unrealistic projections by management;
- Increasing competition and/or market-share laggard; and/or
- A clear catalyst that is expected to cause the stock price to decline significantly.

Short positions will, in general, not be selected solely on an “over valuation” basis.

We believe that entrepreneurial companies that identify and capitalize on emerging trends present compelling opportunities in many different market conditions and can experience rapid and dramatic periods of growth. Such periods are often attributable to specific “catalysts” such as innovative or proprietary products and services, a shift in the competitive landscape, management changes, or redeployment of company assets.

We utilize numerous sources to identify these companies. An initial source is an extensive network of national and regional brokers, analysts, and investment bankers who maintain close contacts with company executives and local entrepreneurs. Additional sources include screening software (to identify companies producing positive or negative earnings reports and specific financial criteria as well as stocks experiencing sizeable price moves), industry publications, the financial press, news wires, buy-side contacts, and the internet.

After an idea has been generated, we perform an in-depth investigation and analysis. This process may include interviews with management, customers, suppliers, competitors, industry specialists and others. We believe that our idea generation system and extensive investment industry experience provide us with a strategic advantage in amassing vital information, dissecting financial statements, forecasting future operating performance and assessing market conditions to make insightful and effective market decisions.

After carefully selecting securities that have been filtered through a variety of analytic methods as well as through our evaluation process, we continue to monitor the impact of industry diversification as well as the potential effect of general macro-economic factors on each account’s performance. The risks and/or rewards of each industry group and economic sector are analyzed in order to avert hidden risks or limited return potential within the portfolio. The percentage of long versus short positions varies depending on opportunities that become available. Each account’s portfolio is designed to be flexible, maintaining a favorable risk/reward profile that strives to provide superior long-term investment performance while guarding against unforeseen events and potential risks.

We will generally close out a long or short position if one or more of the following characteristics are present:

- Security reaches target price or stop loss price;
- Investment thesis plays out;
- Events fail to confirm investment thesis; and/or
- Fundamentals either deteriorate (in the case of a long position) or improve (in the case of a short position), thus changing the risk-reward profile.

Although our emphasis is on individual equities traded in the U.S. markets, our strategy is not limited to any particular type of investment instrument or issuer, nor is our strategy or process limited to what is described above; we have wide latitude to invest or trade the assets of the accounts, and to pursue any particular strategy or tactic we deem advisable without further fund or client approval. There is no specific limit on the types of positions we may cause the accounts to take, the concentration of their investments (by country, sector, industry, capitalization, company, or asset class), the amount of leverage they may employ, or the number or extent of their short positions.

We may, from time to time, cause an account to hold all or a portion of its assets in cash or cash equivalents when opportunities are limited or in other circumstances we deem appropriate.

Our investment strategy inherently involves certain significant risks. There can be no assurance that our investment objective will be realized or that any account will be profitable in the future. See the section titled “Risks Associated with Our Investment Strategy” below.

## **Investments**

**General.** Capital of the accounts is invested primarily in publicly-traded equity securities. In the interest of both preserving capital and taking advantage of profit opportunities, we retain the flexibility to invest in a variety of situations and use a broad range of specialized investment techniques.

As a general principle, we select equities for investment on the basis of our investment methodology, and without any fixed requirements as to revenues, earnings or other specific fundamentals. Accordingly, an account could have positions in issuers of various capitalizations, in positions of limited liquidity or varying degrees of speculative quality. It is possible that certain of the portfolio securities may not be widely traded and that the accounts’ positions in such securities may be substantial in relation to the public market (“float”) for such securities.

**Concentration.** The core positions of each account’s investment portfolio may consist of a limited number of companies. Although we make investment decisions on the basis of our methodology, we do not seek to diversify the portfolio by industry area or group, company or otherwise. We believe that while diversification may reduce investment risk, it may also dilute investment return. Accordingly, there are no fixed limitations as to the amount of account assets which may be invested in a single industry or company. The accounts’ investment portfolios may therefore at times be significantly concentrated, both as to industries and possibly with respect to particular companies as well. In our view, such concentration offers a greater potential for capital appreciation as well as increased risk of loss. Such concentration may also increase the volatility of the accounts’ investment portfolios.

**Short Positions.** Short positions may comprise a significant portion of the accounts’ portfolios, provided that the accounts will not have a long, short or market neutral investment bias. In short selling, an account will sell securities it does not own by borrowing such securities from a third party, such as a broker-dealer. Short positions are held for both profit opportunities and for hedging purposes. We may engage in short sales in an approach known as “pairs trading”, where an account combines a long position in a particular security with a short position in a similar security in the same or related industry or sector. Pairs trading may be undertaken for speculative and/or hedging purposes and may be weighted toward either the long or short side of the position. We may also make short sales “against the box”, or where an account retains a long position in the same security. At any particular time, an account’s portfolio may be “net long” (i.e., the value of long positions, at cost, will be greater than the net exposure on short positions) or “net short” (net exposure on short positions will be greater than the value of long positions).

**Broad Range of Securities and Investments.** The accounts may invest not only in equity securities, but also in so-called hybrid securities, including options (covered and uncovered), warrants, debt instruments (including defaulted debt securities, bank debt and trade claims), convertible debt, and senior and subordinated tranches of asset-backed pools. The accounts may invest in the securities of foreign issuers, including both those traded overseas as well as those traded in the United States. Trading in securities of foreign issuers often involves additional risks (such as those associated with unfavorable changes in exchange rates) but also, in our view, may offer selective opportunities for unusual gains.

We may cause the accounts to invest in a variety of options, whether singly or in combination with other options or securities positions, including options on specific securities, as well as market index or “market basket” options, options on currencies or other instruments, for speculative purposes, to increase directional exposure, or in order to seek to limit certain risks, primarily general market risks.

We are also authorized to engage in transactions in other derivative securities, commodities, commodity futures, financial futures or foreign currencies, without restriction other than any applicable regulatory requirements.

**Restricted Securities.** We may cause the accounts to invest in so-called “Restricted Securities”, *i.e.*, securities as to which the public resale is currently restricted under the Securities Act of 1933, as amended (the “Securities Act of 1933”), and which are not immediately convertible into freely tradable securities. We intend to cause the accounts to purchase Restricted Securities where pricing and growth characteristics justify the limited liquidity and which provide the means of achieving eventual marketability, such as registration rights under the Securities Act of 1933 or the right to convert into marketable securities. There will typically be no limit as to the percentage of an account’s assets which may be invested in Restricted Securities.

**Initial Public Offerings.** A portion of an account’s portfolio may include stocks purchased in underwritten initial public offerings of equity securities (“New Issues”), in situations when such companies satisfy our investment methodology. Equity securities issued in New Issues are subject to certain investment restrictions imposed by the Financial Industry Regulatory Authority (“FINRA”). Under our current policy, investors that are “restricted persons”, within the meaning of FINRA Rule 5130, will generally not participate in profits and losses resulting from a fund’s investment in any New Issues. In the event that beneficial interest in a fund by executive officers and directors of a public company or a covered non-public company under FINRA Rule 5131, and persons materially supported by such executive officers and directors, exceeds 25% of the fund, such persons would generally be excluded from allocations of items of cost, expense, profit, gain, income or loss with respect to New Issues to the extent deemed necessary by Ascend for the fund to be permitted to participate in New Issues.

**Cash Positions.** As a defensive strategy, or pending the identification of companies meeting our methodology, we may cause the accounts to invest in a variety of cash equivalents or money market instruments. Accordingly, the accounts may not be fully invested at all times.

**Holding Periods.** The account portfolios are expected to experience a high rate of turnover. In view of our opportunistic investment strategy, holding periods for the accounts’ core positions may vary substantially depending on market conditions (such as volatility) and available competing investment ideas, are likely to include short-term trading situations with a duration of several days or months and intra-day transactions. We may actively trade short positions and trade around long core positions on a short-term basis. In instances where our investment criteria are not being met, positions may be liquidated.

The accounts are authorized to invest in all types of securities in furtherance of our investment strategy. Accordingly, the possible investments to be utilized by the accounts will not necessarily be limited to those described above.

### **Investment Techniques**

We are authorized to employ a broad variety of specified investment techniques in furtherance of our investment strategy.

**Leverage.** The accounts utilize leverage, as we consider appropriate, with respect to their investment activities. Leverage involves the use of borrowed funds, primarily margin borrowings, to increase the amount of invested capital in an account’s long or short positions. In general, there are no fixed limitations on the accounts’ use or extent of leverage, other than applicable regulatory requirements. Employment of leverage can increase both the proportionate amount of potential gain, as well as of potential loss, relative to an account’s equity capital. In a typical long position involving margin

borrowing, for example, as much as approximately one-half of an account's invested funds may be furnished by margin borrowings. If, however, the value of the position declines (or, in the case of a margined short position, the securities sold short increase in value), the securities (or cash) serving as collateral for such margin position may be liquidated, resulting in a loss proportionately greater than would be the case absent such use of leverage.

**Short Selling.** We employ short selling opportunistically as a part of our investment strategy, where the we believe the security sold short is likely to decline in price, and hedging situations, where the position is intended to wholly or partially offset another position in a related security. Selling securities short involves selling securities which an account does not own. In order to make delivery to its purchaser, the account must borrow securities from a third party lender. The account subsequently returns the borrowed securities to the lender by delivering to the lender securities purchased in the open market. The account must generally pledge cash with the lender equal to the sales proceeds of the borrowed securities as well as any additional cash or securities required as collateral under applicable margin regulations. In addition to lending the securities, the lender generally pays the account a fee (or rebate of interest) for the use of the account's cash. An account will generally realize a profit or a loss as a result of a short sale if the price of the security decreases or increases between the date of the short sale and the date on which the account covers its short position, *i.e.*, purchases the security to replace the borrowed security.

**Options.** We may cause the accounts to engage in various types of options transactions, including speculative and hedging positions in options on securities, commodities, indices and other investments, including both put and call options. Hedging activity is designed to reduce the risks relating to market fluctuations in the price of a security held long by an account, as well as risks attendant to short selling, and may offset other transactions in the underlying stock or other securities held by the account involved in the transaction. Short positions maintained by an account may be hedged through the purchase of call options on the securities sold short. In certain situations, an account may purchase put options as an alternative (in whole or in part) to establishing a short position.

We may cause the accounts to write or sell options on securities and other instruments, whether or not such options are covered. An option written by an account is "covered" if (in the case of a call option) the account owns the security, currency or other instrument underlying the option or has a right to acquire such underlying instrument without additional cash consideration (or for additional cash consideration held in a segregated account) or (in the case of a put option) the account has an equivalent short position, or offsetting long put position, in the underlying instrument.

An account may also utilize certain market-wide options, such as various types of index or "market basket" options, in an effort to hedge against certain market-related risks, as we deem appropriate. Accordingly, an account may have positions in a variety of options or similar instruments.

**Arbitrage Techniques.** We may engage in a variety of investment techniques involving arbitrage. Arbitrage in general is a strategy intended to exploit pricing disparities between two or more securities and includes such broad types as merger arbitrage and capital structure arbitrage. Merger, or risk, arbitrage involves securities of two or more companies undergoing a merger, takeover or other business combination or reorganization. In a typical merger arbitrage position, an account may assume a long position in the target company and seek to wholly or partially hedge such position by selling short securities of the acquirer. Upon consummation of the merger, the account's short position could be covered with the acquirer's securities issued in the transaction. Capital structure arbitrage involves securities of different ranking of the same or similar issuers and includes cross-credit arbitrage, balance sheet arbitrage and convertible arbitrage. In cross-credit arbitrage, simultaneous long and short positions may be established in debt or equity securities of companies in the same or related industries, to take advantage of valuation differences. In balance sheet arbitrage, an account will assume simultaneous long

and short positions in two securities of different credit standing within an issuer's capital structure. Convertible arbitrage involves simultaneous positions in convertible securities, including securities exchangeable for other securities, and the underlying securities, to exploit price differentials.

**Forwards, Swaps, Other Derivatives and Securities Lending.** We may utilize forwards, swaps and a broad variety of derivatives and other financial instruments, and may engage in securities lending transactions, in furtherance of our investment objective. One or more of these instruments and transactions may be employed in order to increase return, as a partial or complete hedge against other positions or against certain market or interest rate risks or as part of arbitrage or other trading strategies. Such instruments and transactions will generally be established through a negotiated contract entered into by an account with a financial counterparty. Such instruments are generally illiquid with no trading market.

In connection with such instruments and transactions (other than those where an account is lending its portfolio securities to a counterparty), an account will generally be required to deliver eligible collateral to the counterparty, typically consisting of cash, securities or other instruments held in the account's portfolio. In the event of a default by the account or other prescribed events, the counterparty may use, assign and/or liquidate the collateral and/or require the account to provide additional collateral.

With respect to those transactions where an account is lending its portfolio securities to a counterparty, the counterparty, rather than the account, is required to deliver eligible collateral, typically in cash or U.S. government securities, maintained on a current basis at an amount at least equal to the market value of the securities loaned by the account. In the event the counterparty encounters financial difficulties, or breaches its agreement with the account, there may be a loss, or a delay in the recovery, of the portfolio securities loaned by the account.

We are authorized to engage in a broad variety of investment techniques on behalf of the accounts, in furtherance of the accounts' investment strategy. Accordingly, the possible investment techniques we may use with respect to the accounts will not necessarily be limited to those described above.

### **Risk Management**

We apply risk controls in the management of accounts' portfolios. We use a variety of ongoing risk management policies and practices, including monitoring and adjustment of portfolio exposure; application of portfolio exposure guidelines; and the use of real-time portfolio evaluation tools.

Notwithstanding the above risk management practices, our investment strategy inherently involves certain significant risks. See the section titled "Risks Associated with Our Investment Strategy" below. Moreover, there can be no assurance that the above practices will necessarily be applied in all cases, or if applied, will successfully limit risk to acceptable levels.

There is no assurance that any account's investment objective will be realized or that any account will be profitable.

### **Risks Associated with Our Investment Strategy**

The investment strategy described above that we use for the accounts covers a wide range of investment types. Material risks involved in the strategy are described below.

**Alternative Investing Generally.** Our strategy is designed for investors seeking potential long-term growth from alternative investments, who do not require regular current income and who can accept a high degree of risk in their investments. In view of, among other things, the strategy's flexibility to invest

in a wide range of securities and instruments and to use a broad variety of investment techniques, the strategy may be deemed speculative in nature and is not intended to be a comprehensive investment program. The strategy is intended solely for sophisticated investors who are accustomed to and fully understand the risks of such investments and who are prepared to experience possible short term volatility and fluctuations in value in the interest of seeking superior long-term capital appreciation.

No assurance can be given that an account will achieve its investment objective or that our investment strategy will be successful with respect to any account.

**General Investment Risk.** Our strategy's investments consist of securities we identify using our methodology. Since the strategy involves identifying securities which are generally undervalued (or, in the case of short positions, overvalued) by the marketplace, success of the strategy necessarily depends upon the market eventually recognizing such value in the price of the security, which may not necessarily occur. Portfolio positions may undergo significant short term declines and experience considerable price volatility. Since our methodology does not require any minimum market capitalization, we may cause the accounts to take positions in smaller capitalization companies or other issuers which may involve an increased level of general investment risk. Equity positions may include speculative securities. Accordingly, investors must be prepared to assume the risks inherent in such speculative investments.

**Concentration of Investments.** The accounts' investment portfolios may, at times, be confined to the securities of relatively few issuers. There will be no fixed limits regarding concentration as to issuers, industries, industry sectors or types of investments. Any concentration necessarily increases the degree of exposure to a variety of issuer-related, industry or market risks. By concentrating investments in a small number of large security positions relative to capital, a loss in any such position could materially reduce an account's performance or asset base, to the extent not offset by other gains.

**Short Selling.** Short selling is a part of our investment strategy and will be utilized both in situations where we believe the securities in question are likely to experience price declines, over time, or as a hedge or offset to related long positions. Short selling inherently involves certain additional risks. Selling securities short creates the risk of losing an amount greater than the initial investment in a relatively short period of time and the theoretically unlimited risk of an increase in the market price of the securities sold short. There is also the risk that the securities borrowed by an account in connection with a short sale would need to be returned to the securities lender on short notice. If the request for return of securities occurs at a time when other short sellers of the security are receiving similar requests, a "short squeeze" can occur, and the account might be compelled, at the most disadvantageous time, to replace borrowed securities previously sold short with purchases on the open market, possibly at prices significantly in excess of the proceeds received earlier. In addition, short selling can involve significant borrowing and other costs which can reduce the profit or create losses in particular positions.

**Price Volatility.** Stocks are inherently volatile. Such volatility may result in the value of an account's assets fluctuating from time-to-time more greatly than that of other investment vehicles which may be more diversified. There can be no assurance that our investment strategy, including its hedging techniques, or other investment strategies or techniques, will be effective in protecting the accounts from such price volatility.

**Investments in Restricted Securities.** We may cause the accounts to invest a significant portion of their assets in "Restricted Securities", which are securities subject to significant legal or contractual restrictions on their public resale. Investing in Restricted Securities involves a number of significant risks. Without the ability to resell Restricted Securities in the public markets, an account may be compelled to hold such investments indefinitely or to dispose of them in private transactions on unattractive terms. Such restrictions therefore can impair both the avoidance of losses as well as the timely realization of gains. Although in some instances an account may have registration rights or other

contractual means of achieving liquidity as to its investment in Restricted Securities, such rights may in fact be limited or ineffective in achieving the secondary market desired. Restricted Securities invested in by the accounts may include highly speculative, developmental stage issuers, as well as securities of more seasoned companies, which can involve significant issuer or industry related risks.

**Investments with Limited or No Liquidity.** We may cause the accounts to take significant positions in particular securities which are relatively large as compared to their trading volume or overall market capitalization. Such positions may at times prove more difficult to sell in a timely or efficient manner and could thus impair to some extent an account's ability to fully realize portfolio gains or limit losses. We do not generally limit investments to issues of any particular minimum capitalization and may, in fact, focus upon smaller capitalization stocks when such securities appear to afford greater appreciation potential. Such stocks often have less liquidity than large capitalization issues.

**Leverage; Interest Rates; Margin.** As discussed above, we utilize leverage on behalf of the accounts, with respect to the more leveraged funds on a moderate to extensive basis, primarily for investment purposes to increase investment positions or to make additional investments. Leverage may be employed by means of conventional margin arrangements, or through options, swaps, forwards and other derivative instruments.

While leverage (including the use of derivatives) presents opportunities for increasing an account's total return, it has the effect of potentially increasing losses as well. Accordingly, any event that adversely affects the value of an investment, either directly or indirectly, could be magnified to the extent that leverage is employed. The effect of the use of leverage by the accounts in a market that moves adversely to the investments of the entity employing the leverage, could result in a loss to an account that would be greater than if leverage were not employed by the account. In addition, to the extent that an account borrows funds, the interest cost at which the account can borrow will affect the operating results of the account. The use of leverage in accounts organized as partnerships may result in certain investors, such as tax-exempt organizations, employee benefit plans and individual retirement accounts, recognizing "unrelated business taxable income" for Federal income tax purposes.

The use of short-term margin borrowings by the accounts may result in certain additional risks to the accounts. For example, should the securities that are pledged to brokers to secure an account's margin accounts decline in value, or should brokers from which the account has borrowed increase their maintenance margin requirements (i.e., reduce the percentage of a position that can be financed), then an account could be subject to a "margin call", pursuant to which the account must either deposit additional funds with the broker or suffer mandatory liquidation of the pledged securities to compensate for the decline in value. The broker will typically have the right to liquidate an account's portfolio in certain circumstances. In the event of a precipitous drop in the value of the assets of the account, the account might not be able to liquidate assets quickly enough to pay off the margin debt and might suffer mandatory liquidation of positions in a declining market at relatively low prices. Similar risks may arise in connection with longer-term borrowings and certain derivative transactions.

**Options.** We will utilize options in furtherance of our investment strategy for both speculative and hedging purposes. Options positions may include long positions, where an account is the holder of put or call options, as well as short positions, where an account is the seller (writer) of an option. Although option techniques can increase investment return, they can also involve a relatively higher level of risk. The writing (selling) of uncovered options involves a theoretically unlimited risk of a price increase or decline, as the case may be, in the underlying security. The expiration of unexercised long option positions effectively results in loss of the entire cost or premium paid for the option. Option premium costs, as well as the cost of covering options written by an account, can reduce or eliminate position profits or create losses as well. An account's ability to close out its position as a purchaser of an

exchange listed option is dependent upon the existence of a liquid secondary market on option exchanges. On occasion we may also utilize options, particularly in foreign markets, which may have limited liquidity.

The seller (“writer”) of a call option which is covered assumes the risk of a decline in the market price of the underlying security or other instrument below the purchase price of the underlying instrument, less the amount of premium received by the seller, and forgoes the opportunity for gain on the underlying instrument above the exercise price of the option. The buyer of a call option assumes the risk of losing its entire investment (the premium paid) in the call option. If the buyer of a call option sells short the underlying security or other instrument, a loss on the call option itself may be offset, in whole or in part, by any gain on the short sale of the underlying position.

The seller (“writer”) of a put option which is covered assumes the risk of an increase in the market price of the underlying security or other instrument above the sales price (in establishing the short position) of the underlying instrument, plus the premium received by the seller, and forgoes the opportunity for gain on the underlying instrument below the exercise price of the option. The buyer of a put option assumes the risk of losing its entire investment (the premium paid) in the put option. If the buyer of a put option holds a long position in the underlying security or other instrument, a loss on the put option itself may be offset, in whole or in part, by any gain on the underlying position.

**Derivatives.** The derivatives markets are frequently characterized by limited liquidity, which can make it difficult as well as costly to close out open positions in order to either realize gains or to limit losses. Additionally, many derivatives are valued on the basis of dealers’ pricing of these instruments. However, the price at which dealers value a particular derivative and the price which the same dealers would actually be willing to pay for such derivative should an account be required to sell such position may be materially different. Such differences may have a materially adverse effect on an account if it is required to sell derivative instruments in order to raise funds for margin purposes or to pay withdrawals.

The pricing relationships between derivatives and the underlying instruments on which they are based may not conform to anticipated or historical patterns, resulting in unanticipated losses.

The stability and liquidity of forwards, swaps, repurchase agreements, and other over-the-counter derivative transactions depend in large part on the creditworthiness of the parties to the transaction. If there is a default by the counterparty to a transaction, an account may have contractual remedies pursuant to the agreements related to the transaction; however, exercising such contractual rights may involve delays or costs, or may not be successful, which could adversely affect the account. It is possible that in the event of a counterparty credit default, an account may not be able to recover all or a portion of its investment in such derivative instrument and may be exposed to additional liability (*i.e.*, the obligations associated with what has become an unhedged position).

**Defaulted Debt Securities and Other Securities of Distressed Companies.** We may invest a portion of the accounts’ capital in low grade or unrated debt securities (“high yield” or “junk” bonds) or in securities of distressed companies. Such investments involve highly significant risks. High yield bonds are regarded as being predominantly speculative as to the issuer’s ability to make payments of principal and interest. Investment in such securities involves substantial risk. Issuers of high yield debt may be highly leveraged and may not have available to them more traditional methods of financing. Therefore, the risks associated with acquiring the securities of such issuers generally are greater than is the case with higher rated securities. The risk of loss due to default by the issuer is significantly greater for the holders of high yield bonds because such securities may be unsecured and may be subordinated to the creditors of the issuer.

**Investment in securities of distressed companies involves highly significant risks.** In general, we will only cause the accounts to make such investments when we believe it is reasonably likely that the issuer of the securities will successfully complete an exchange offer or other restructuring or consummate a plan of reorganization, as the case may be. However, there can be no assurance that such restructurings or reorganization plans will be successfully completed or consummated. In addition, even if a restructuring or reorganization is completed, there can be no assurance that the securities or other assets received by an account as a result of the restructuring or reorganization will not have a lower value or income potential than anticipated and may also be significantly restricted as to resale. Successful investing in distressed companies involves substantial time, effort and expertise, as compared to other types of investments. Information necessary to properly evaluate a distress situation may be difficult to obtain or be unavailable and the risks attendant to a restructuring or reorganization may not necessarily be identifiable or susceptible of considered analysis at the time of investment.

**Foreign Investments.** A portion of the accounts' assets may consist of foreign investments, which may include foreign or domestic equity securities denominated in foreign currencies and/or traded outside of the United States. Such investments require consideration of certain risks typically not associated with investing in U.S. securities or property. Such risks include, among other things, trade balances and imbalances and related economic policies, unfavorable currency exchange rate fluctuations, imposition of exchange control regulation by the United States or foreign governments, United States and foreign withholding taxes, limitations on the removal of funds or other assets, policies of governments with respect to possible nationalization of their industries, political difficulties, including expropriation of assets, confiscatory taxation and economic or political instability in foreign nations.

There may be less publicly available information about certain foreign companies than would be the case for comparable companies in the United States and certain foreign companies may not be subject to accounting, auditing and financial reporting standards and requirements comparable to or as uniform as those of United States companies. Securities markets outside the United States, while growing in volume, have for the most part substantially less volume than U.S. markets, and many securities traded on these foreign markets are less liquid and their prices more volatile than securities of comparable U.S. companies. In addition, settlement of trades in some non U.S. markets is slower, less systematic and more subject to failure than in U.S. markets. There also may be less extensive regulation of the securities markets in countries other than the United States.

**Transaction Execution and Costs.** As a result of our investment methodology, the accounts' portfolios are likely to include short-term holdings (which may comprise a significant portion of the accounts' portfolios) and, consequently, the accounts will experience a relatively high volume of trading activity. In addition, in many cases relatively narrow spreads may exist between the prices at which the accounts will purchase and sell particular positions. The successful application of our methodology will therefore depend, in part, upon the quality of execution of transactions, such as the ability of broker-dealers to execute orders on a timely and efficient basis. Although we will seek to utilize brokerage firms which will afford superior execution capability to the accounts, there is no assurance that all of the accounts' transactions will be executed with optimal quality. Furthermore, on account of the degree of trading, total commission charges and other transaction costs may be expected to be high. The level of commission charges, as an expense of the accounts, may therefore be expected to be a factor in determining future profitability of the accounts.

In addition to seeking broker-dealers with superior execution capability, we may allocate transactions to brokers which agree to pay all or part of certain our and/or our affiliates' research-related expenses and those of the accounts, or so-called "soft dollar" arrangements. Although we will seek such arrangements only when we believe the same will be consistent with principles of best execution, such soft dollar arrangements may result in increased commission costs or other inefficiencies in execution. There can be

no assurance that we will be successful in seeking to reduce the expense costs of the accounts through satisfactory soft dollar arrangements or that such arrangements will not result in increased transaction costs or otherwise impact the accounts.

**Limitations on Shorting and Hedging Strategies.** We may employ certain hedging techniques, principally short selling, directed primarily toward general market risks. Hedging against a decline in the value of a portfolio position through short selling or other techniques does not eliminate fluctuations in the values of portfolio positions, or prevent losses if the values of such positions decline, but establishes other positions designed to gain from those same developments, thus moderating the decline in the overall portfolio value. Such hedge transactions, however, also limit the opportunity for gain if the value of the portfolio position should increase. In addition, the degree of correlation between price movements of the instruments used in a hedging strategy and price movements in the portfolio position being hedged may vary. Insufficient correlation between hedged and hedging positions may not only result in failing to protect the accounts against the risks sought to be hedged but may actually increase the magnitude of overall loss in the event of losses in the hedging positions.

For a variety of reasons, we may not seek or be able to establish a sufficiently accurate correlation between such hedging instruments and the portfolio holdings being hedged. Moreover, we may not necessarily endeavor to hedge the accounts' portfolios whatsoever. As a general matter, the accounts' portfolio will be exposed to basic issuer risk and other risks attendant to its investment strategy and to particular positions, which risks will not be generally hedged.

**Overall Investment Risk.** All securities investments risk the loss of capital. The nature of the securities purchased and traded by the accounts and of the investment techniques and strategies we employ may increase this risk. There can be no assurance that the accounts will not incur losses. Many unforeseeable events, including, but not limited to, actions by various government agencies, such as the Federal Reserve Board, and domestic and international economic and political developments, may cause sharp market fluctuations which could adversely affect the accounts.

Any past successes with our investment methodology cannot assure future results. There can be no assurance that the investments or investment techniques we employ for the accounts will achieve the accounts' investment objectives or that the accounts will be profitable.

Additional information concerning the risks of investing in the funds is contained in the offering or explanatory memorandum of the funds.

**Trade Error Policy.** It is our policy that the utmost care be taken in the handling and execution of trade orders. However, errors may occur in handling these trades, caused either by our employees or by firms with which we do business, such as broker-dealers. Examples of trade errors include orders: (1) in excess of the amount each account was intended to trade; (2) to sell a security when it should have been purchased (and vice versa); (3) for the wrong securities; or (4) contrary to investment restrictions, limitations or investment policies.

In correcting trade errors, the following principles apply:

- With respect to a single trade error caused by a party other than Ascend, we will act in such manner as we believe to be reasonable and in the best interest of the applicable account (including, if deemed appropriate, seeking reimbursement or monetary compensation from the service provider or other party that caused the trade error), in an effort to minimize any loss. In determining the appropriate action to be taken, we may take into account the limitations placed upon our staff and other resources in connection with providing advisory services to the affected account and other accounts on an ongoing basis, as well as other

operating responsibilities. The determination of the action, if any, to be taken in connection with any such trade error may be made on a case-by-case basis;

- With respect to any single trade error caused by Ascend that results in costs, expenses or losses to an account in an amount equal to or exceeding one percent (1%) of the net asset value of such account (the “Trade Error Threshold”) at the time of the trade error, we will bear all such costs, expenses or losses;
- With respect to any single trade error caused by Ascend that results in costs, expenses or losses to an account in an amount less than the Trade Error Threshold at the time of the trade error, we may, but are not required to, bear some or all of such costs, expenses or losses; *provided, however*, that if in any fiscal year of an account, the amount of costs, expenses or losses incurred by the account with respect to one or more trade errors caused by Ascend during the fiscal year exceeds the Trade Error Threshold (measured based on the net asset value of the account as of the beginning of such fiscal year), then we will be responsible for paying any costs, expenses or losses with respect to such account that exceed the Trade Error Threshold for such fiscal year;
- A gain in an account caused by a trade error that is discovered after settlement will be credited to the affected account; *provided, however*, that (i) if we incur any out-of-pocket expenses or other costs as a result of such trade error, then the amount of the gain to the account will be reduced on a dollar-for-dollar basis (up to the amount of the gain) by the amount required to reimburse us for such expense; or (ii) if the trade error is caused by a party other than Ascend and we determine that it is appropriate to reverse the trade error in whole or in part, then the gain may be reduced in whole or in part as a result thereof;
- Error reports must be completed and maintained for all trades made in error.

These principles are intended to provide general guidance. Exceptions may be warranted in particular circumstances. Significant exceptions will be discussed with senior management and are required to be approved by senior management and documented.

## **Item 9. Disciplinary Information**

On July 17, 2003, the Securities and Exchange Commission instituted and simultaneously settled an administrative proceeding with Ascend Capital, LLC and its principals Malcolm P. Fairbairn and Emily T. Wang Fairbairn. Without admitting or denying the Commission's findings, Ascend Capital, LLC and its principals agreed: (i) jointly and severally to pay a total of \$21,258.50 in disgorgement of trading profits derived from three transactions in 2001 and prejudgment interest, (ii) jointly and severally to pay a \$25,000 civil money penalty and (iii) to cease and desist from future violations of Section 10(a) of the Securities Exchange Act of 1934, as amended, and Rule 105 of Regulation M promulgated thereunder.

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

### **Material Financial Industry Affiliations of the Firm**

Ascend Capital, LLC is the general partner of Ascend Capital Limited Partnership, through which it provides investment advisory services to certain accounts. This brochure also provides information regarding Ascend Capital Limited Partnership. Ascend Capital Limited Partnership is the general partner of Ascend Partners Fund I LP, Ascend Partners Fund II LP, Ascend Wilson Fund LP (a private fund established for the benefit of a particular investor) and Ascend CL Fund LP (a private fund established as

a feeder fund for a particular investor as part of a separate master-feeder structure established for the investor).

## **Conflicts of Interest**

Malcolm Fairbairn is the managing member of Ascend Capital, LLC and serves as the sole investment manager of all the funds and separate accounts. Each of the funds employs a similar investment strategy, which is described in Item 8 of this brochure.

In addition to the funds and our current separate account clients, we may in the future participate in or sponsor other investment vehicles, and possibly have additional advisory accounts or clients. We may also determine to engage in other businesses. The existence of such present and future multiple investment vehicles and accounts, or other businesses, may create the material conflicts of interest described below.

**Time Commitments.** The existence of multiple investment vehicles, accounts and/or clients may create conflicts as to time and resource commitments on the part of our personnel (including Mr. Fairbairn). Mr. Fairbairn intends to devote his primary efforts to management of the funds and the separate accounts, which will involve similar trading and monitoring responsibilities. However, should he have additional clients or other business responsibilities in the future, while Mr. Fairbairn will devote such time to the business of each fund and separate account as he deems necessary, such commitments may have the effect of reducing the time he devotes to the investment activities of the existing funds and separate accounts. Ascend may retain additional personnel as Mr. Fairbairn deems necessary.

**New Investment Strategies and Related Products.** From time to time, we may determine to develop new investment strategies, with a view toward offering new managed account or investment fund products to investors. Such new investment strategies may be similar in certain or many respects to the investment strategies we employ for existing clients, and may involve the purchase and sale of some or all of the securities and investments which comprise the portfolios of the funds and the separate accounts. Such new investment strategies may be “tested” by means of one or more newly established accounts or investment funds that are initially funded by our own or our personnel’s capital. To the extent that the assets of any such new account or investment fund remain solely attributable to us and our personnel, the account or investment fund will be treated as a personal account of our firm and will be required to comply with our personal account trading policy, subject to exceptions as we may determine from time to time. Such accounts or investment funds may be expected at times to engage in purchases and sales of securities contemporaneously with purchases and sales of the same securities by one or more of the funds and separate accounts. In such event, it is anticipated that allocations of securities among such new accounts or investment funds, the funds and the separate accounts will generally be made as described below, but may, due to strategy-related or other reasons, vary in our discretion. At all times, we intend to monitor the investment activities and allocations with respect to any new accounts or investment funds, the funds and the separate accounts and intend to operate such new accounts or investment funds in a manner that will not negatively impact the funds and the separate accounts. At any time, we may determine to offer interests in a new investment fund to outside investors; and, at such point in time as investors that are not affiliated with Ascend have invested capital in a new investment fund and thereafter, such new investment fund will be treated as our client and will generally be subject to the allocation provisions set forth below.

**Allocation Issues.** The existence of multiple funds and separate accounts that generally all invest in the same securities can create a material conflict of interest with respect to the allocation of investment opportunities among accounts. We allocate investment opportunities among the accounts by applying such considerations as we deem appropriate, including relative size of such investment vehicles, accounts and clients, amount of available capital, size of existing positions in the same or similar securities, impact

of leverage, investment objective and strategy considerations, including, without limitation, concentration parameters and tax considerations and other factors. As a result of such considerations, allocations among the accounts will not necessarily be pro rata. In cases where a limited amount of a security or other instrument is available for purchase, the allocation of such security among the accounts may necessarily reduce the amount thereof available for purchase by the other accounts.

Although the funds and the separate accounts generally invest in the same securities, the net performance of one account may vary materially from that of other accounts as a result of the allocation policies described above, as well as differing expenses, tax considerations, the impact of leverage and other factors.

**Balancing Transactions.** Notwithstanding that the funds and the separate accounts currently all employ a similar or substantially similar investment strategy and will generally invest and trade on a *pari passu* basis, certain differences in the specific investment strategies employed (including, applicable investment parameters, eligibility criteria with respect to various clients or investors, applicable expenses, available capital, the relative use of leverage and other factors) may result in non-*pari passu* treatment of specific accounts with respect to some or all of their investment and trading activities.

From time to time, in our discretion, we adjust (or “rebalance”) the portfolio holdings of one or more of the accounts so as to eliminate or minimize variations among the portfolio holdings of the accounts that employ the same or similar investment strategies or otherwise to maintain what we believe to be a desirable portfolio composition for each of the accounts, subject to the applicable account differences described above. With respect to any rebalancing transactions, different broker-dealers are generally used to effect buy orders and sell orders in the same security. Rebalancing transactions are effected at the next publicly quoted price on the trading day on which securities are rebalanced among clients. Rebalancing transactions may, or may not, be subject to commissions.

**Conflicts Regarding Valuations and Other Matters.** We are responsible for a variety of important matters affecting the funds and separate accounts, particularly those funds for which we serve as the general partner. Among other matters, in certain cases we determine the value of the securities held by the accounts. Such valuation affects both reported account performance as well as the calculation of both the incentive allocations/fees and the management fees payable to us by the accounts. Although the governing documents, offering documents and investment advisory agreements of the accounts prescribe the method of valuing different types of investments, which generally involve current market price information, there may be investments as to which current or reliable market price information is unavailable, in which event we may have discretion in determining the appropriate means of valuation. Furthermore, in the event we are provided with, or otherwise come into possession of, information which leads us to determine that one or more valuations of account assets for a prior period are inaccurate, where we are responsible for valuation we may adjust or amend such prior valuations as we deem appropriate, and adjust or amend any reports or statements of the account (whether or not previously issued) with respect to such prior periods.

**New Issues.** Under our current policy, investors that are “restricted persons”, within the meaning of Financial Industry Regulatory Authority Rule 5130 (the “New Issue Rule”), generally will not participate in profits and losses resulting from a fund’s investment in any New Issues. We may modify our policy with respect to New Issues, in our sole discretion. As permitted by the New Issue Rule, we will be entitled to receive our incentive allocation/fee on any profits derived in connection with a fund’s new issue purchases. Such an arrangement may be regarded as creating a financial conflict of interest between us and the fund investors. In particular, non-restricted fund investors bear the risk of possibly speculative investments in new issues, in which we would have no portion of our own capital at risk but receive an incentive allocation/fee as to any profits derived from such investments.

**Possible Agreements with Certain Investors.** The funds and we may from time to time enter into agreements with one or more fund investors whereby in consideration for agreeing to invest certain amounts in the relevant fund and other consideration we deem material, such investors may be granted favorable rights not afforded to other investors. Such rights may include one or more of the following:

- special rights to make future investments in a fund or managed account, as appropriate;
- special withdrawal rights, relating to frequency, notice and/or other terms;
- rights to receive reports from a fund on a more frequent basis or that include information not provided to other fund investors (including, without limitation, more detailed information regarding positions);
- rights to receive reduced rates of the incentive allocation/fee and/or management fee;
- rights to receive a share of the incentive allocation/fee, management fee or other amounts we earn; and
- such other rights as may be negotiated between the fund and such fund investors.

The funds and we may enter into such agreements without the consent of or notice to the other investors.

In addition, we may from time to time enter into similar agreements with one or more managed account investors. It should be noted that managed account investors will typically be provided with additional transparency with respect to the investment positions of the managed accounts and may be provided with real-time, direct access to the managed accounts portfolio positions, on a negotiated, case-by-case basis.

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

### **Code of Ethics**

We have established a Code of Ethics pursuant to Rule 204A-1 under the Investment Advisers Act of 1940, as amended. The purpose of our Code of Ethics is to identify the ethical and legal framework in which we and our personnel are required to operate and to highlight some of the guiding principles and mechanisms for upholding our standard of business conduct. Our Code of Ethics is designed to ensure that all applicable personnel are aware of and adhere to our policies and procedures. The description below is a summary only. A complete copy of our Code of Ethics will be provided to clients and prospective clients upon request.

**Standard of Business Conduct.** As a fiduciary, we owe our clients the highest duty of loyalty and we rely on each of our personnel to avoid conduct that is or may be inconsistent with that duty.

**Basic Principles.** Our Code of Ethics is based on a few basic principles: (i) the interests of our clients come before our interests and those of our personnel; (ii) the professional activities and personal investment activities of our personnel must be consistent with our Code of Ethics and avoid any actual or potential conflict between the interests of clients and those of our firm or our personnel; (iii) the activities of our personnel must be conducted in a way that avoids any abuse of any such person's position of trust with and responsibility to our firm and its clients; and (iv) our personnel may not engage in any act, practice or course of conduct that would violate the provisions of Rule 204A-1.

**Conflicts of Interest.** As a fiduciary, we have an affirmative duty of care, loyalty, honesty and good faith to act in the best interests of our clients. We make every effort to avoid conflicts of interests and

fully disclose all material facts concerning any conflict of interest that may arise with respect to any client. We take a conservative approach and impose a high standard on our personnel by stressing that individuals subject to our Code of Ethics must try to avoid situations that have even the appearance of conflict or impropriety.

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

**Personal Securities Transactions.** All personnel must comply with our Personal Account Trading Policy. Except with respect to certain securities (including, indices, mutual funds, exchange-traded funds and certain government securities) and with respect to certain accounts for which a person does not exercise investment discretion, personal securities transactions by our personnel must be pre-approved by our Chief Compliance Officer.

**Service as a Director.** None of our personnel may serve as a director of a publicly-held company without prior approval by our Chief Compliance Officer based upon a determination that service as a director would not be adverse to the interest of any of our clients. We may not trade in any securities issued by any company of which any of our covered persons is a director.

**Reporting of Violations.** Our personnel are required to report any violation, apparent violation or potential violation of our Code of Ethics to our Chief Compliance Officer. We have adopted a whistleblower policy in connection with such reporting.

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

## **Interested Transactions**

We may, from time to time, recommend a security in which our firm or one of our related persons, directly or indirectly, has an interest. For instance, it may be expected that separate account assets will be invested in securities of issuers in which one or more other separate accounts or funds hold positions. In addition, fund assets may be invested in securities of issuers in which one or more other funds or separate accounts hold positions. Given the likely frequency of such occurrence, clients will not be provided with notification of such occurrences. This may represent a conflict of interest for us, and this conflict, and our procedures for addressing such conflict, are described in detail in Item 10 of this brochure.

As described above, all personal securities transactions by the firm's personnel are subject to pre-approval by our Chief Compliance Officer before the supervised person may proceed with the transaction, except for transactions in certain categories of securities such as mutual funds, money market funds and U.S. government securities.

We may permit a supervised person to invest in securities or related securities that a fund is also investing in, but subject to the requirement that such a transaction will not disadvantage any client account. In addition, all supervised persons are required to submit personal trading information to the firm for review by our Chief Compliance Officer. Our pre-approval procedure and the submission of supervised persons' personal trading information assist us towards our goal of ensuring that no personal trading of any supervised person will disadvantage any client account.

## **Item 12. Brokerage Practices**

### **Selection of Brokers**

We have full authority to select broker dealers to execute the funds' investment transactions. We have appointed brokerage firms to act as "prime brokers" for the funds. A firm appointed as a fund's prime broker has certain administrative responsibilities, including the issuance of account statements and information with respect to securities transactions effected through other broker-dealers. A prime broker may be allocated a portion of the funds' securities transactions, subject to principles of best execution. We may, in our discretion, change our selections of prime brokers for any fund.

With respect to the separate accounts, we will generally have the authority to select brokers and to determine the amount of commissions to be paid, subject to principles of best execution. Separate account clients, pursuant to their investment advisory agreements, may impose restrictions on our broker selection ability. The funds and separate accounts are referred to collectively, here and elsewhere in this brochure, as the "accounts."

We allocate a portion of each account's brokerage business to additional brokers (other than the applicable prime broker(s) in the case of the funds, and the custodian or other primary broker(s) in the case of separate accounts), on the basis of certain considerations, which may include:

- the amount of commission;
- the quality of execution;
- the reputation, experience and financial stability of the broker/dealer involved and its quality of service, familiarity with the securities markets and investment techniques employed with respect to an account;
- research and analytic services;
- clearing and settlement capabilities;
- the availability of margin or other leverage;
- block positioning or other special execution capabilities; and/or
- other services provided.

### **Soft Dollars**

The commissions an account will pay to brokers will not necessarily represent the lowest commission rates available, but will reflect our evaluation of the research and other brokerage-related services supplied by such brokers. In each case, we will make a determination that the amount of any increased commission costs on account of such research or other services is reasonable relative to the value of services so provided.

The research obtained through an account's brokerage allocations, whether or not directly useful to it, may be useful to Ascend in connection with services we render to another account or accounts we or our principals manage. Similarly, research we obtain for commissions paid to brokers in the course of managing such other accounts may be useful to the account. Since any particular research we obtain may be useful to the account and such other accounts, in considering the reasonableness of brokerage commissions paid by an account, we will not attempt to allocate the relative costs or benefits of research as between the account and the other accounts we manage, except in limited circumstances where we deem appropriate.

Section 28(e) of the Securities Exchange Act of 1934, as amended, provides a "safe harbor" to investment managers who use commission dollars of their advisory accounts to obtain investment research, brokerage and other services that provide lawful and appropriate assistance to the managers in performing investment decision making responsibilities, provided that the amount of any increased commission costs on account of such research or other services is reasonable relative to the value of the services so provided. Any such arrangement we may enter into will be confined to the products or services that qualify as "research and brokerage services" within the meaning of Section 28(e) and that meet the other requirements of that Section. The research we receive under such an arrangement is both proprietary (prepared by the relevant broker/dealer) and may be created or developed by third parties.

In our last fiscal year we used soft dollars to pay for research and brokerage-related services. All of the services paid for with soft dollars were services the costs of which would have been paid for or reimbursed by the accounts if not paid for with soft dollars.

In general, any and all brokerage allocations will be subject to principles of best execution and the other allocation policies described above, as well as any restrictions imposed by applicable law.

### **Aggregation of Orders**

When we deem the purchase or sale of securities to be in the best interest of more than one account, we may aggregate the securities to be purchased or sold by all such accounts in order to obtain superior execution or lower brokerage expenses. In particular, execution prices for identical securities purchased or sold on behalf of multiple accounts in any one business day may be averaged. In such events, allocation of the securities purchased or sold, as well as expenses incurred in the transaction, will be made among the accounts by applying such considerations as we deem appropriate, including:

- relative account size of such entities and clients,
- amount of available capital,
- size of existing positions in the same or similar securities,
- impact of leverage,
- investment objective and
- strategy considerations, including, without limitation,
  - concentration parameters,
  - tax considerations and
  - other factors.

Although such allocations may be *pro rata* among accounts, they will not necessarily be so. No account will be entitled to investment priority over another account and an account will not necessarily participate in every investment opportunity. We endeavor to make all investment allocations in a manner which we consider to be the most equitable to all accounts.

### **Directed Brokerage**

With respect to any separate account where the relevant client determines that the client, rather than Ascend, will identify and select brokers to be used for transactions in the account, the client will be responsible for negotiating the terms and arrangements for the client's accounts with the brokers. In such cases, we have no responsibility with respect to the identification and selection of the brokers or the terms of execution and other services provided by the brokers. As a result, such accounts may pay higher

commissions or other transaction costs or greater spreads, or receive less favorable net prices, on their transactions than would otherwise be the case.

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

Mr. Fairbairn reviews our strategy on a daily basis. Our Chief Operating Officer and Chief Financial Officer typically reviews each account on a daily basis to analyze account holdings, performance and investment activity.

**Funds.** After the end of each fiscal month, each investor in a fund is provided with an unaudited account statement that details any contributions or withdrawals, and the opening and closing account balance for the period covered. With respect to Ascend Partners I LP and Ascend Partners II LP, year-to-date management fee paid and year-to-date accrued incentive allocation is also provided. After the end of each fiscal year, each investor in a fund is provided with audited financial information with respect to the performance of such fund, as well as information regarding the status of the investor's capital account and certain tax reporting information.

**Other Accounts.** Brokerage statements are generated no less than quarterly. These statements are sent directly to the client by the account custodian. These reports list the account positions, activity in the account over the covered period, and other related information. Clients are also sent confirmations following each brokerage account transaction unless receipts of confirmations has been waived by the client. We will not issue separate reports with respect to such clients.

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

We have three arrangements pursuant to which we compensate a third party in connection with client referrals or fund investor referrals.

In the first arrangement, in connection with a special purpose private investment entity with respect to which we have been retained as the investment adviser, we have entered into a solicitation fee agreement with a third party to solicit investments into the special purpose entity by persons other than U.S. persons or persons situated in the U.S. Under the arrangement, we may be required to pay fees to the third party with respect to the persons solicited. The solicitor and/or its affiliates also serve as the risk monitor, trustee, corporate manager, commodity pool operator, registrar and prime broker for the special purpose entity.

In the second arrangement, a third party has created private investment vehicles to invest into our funds. Affiliates of the third party will solicit their clients to invest in these private investment vehicles. In order to help defray the costs of the third party in connection with sponsoring and providing ongoing administration and operational support to the private investment vehicles, we have agreed to pay fees to the third party.

In the third arrangement, we have retained a financial technology company that operates an alternative investment platform for the purpose of facilitating investments in funds by certain prospective investors, to serve as a "platform arranger" in connection with the facilitation of investments in Ascend Partners I LP, Ascend Partners II LP, Ascend Partners I Ltd., Ascend Partners II Ltd. and Ascend Partners II BPO Ltd. Under the arrangement, we may be required to pay fees to the platform arranger with respect to the persons solicited.

We may in the future enter into additional platform arrangements. Such platform arrangers will be entitled to receive compensation from us in consideration for such services (in particular with respect to investors that invest in one or more of our funds through the relevant platform). In addition, we may in the future engage one or more placement agents for the purpose of introducing prospective investors to one or more of our funds. Placement agents will also be entitled to receive compensation from us in consideration for such services (in particular with respect to introduced investors that invest in one or more of the funds).

## **Item 15. Custody**

If we are deemed to have custody of the assets of a client account that is not a pooled investment vehicle, the client will be provided with an account statement by a third party custodian no less than quarterly. These statements will be sent directly to the client by the account custodian. These statements list the account positions, activity in the account over the covered period, and other related information. Clients will also be sent confirmations following each brokerage account transaction unless receipt of confirmations has been waived by the client. We will generally not issue separate reports with respect to such clients. Clients should carefully review statements they receive from the account custodian.

## **Item 16. Investment Discretion**

Item 4 includes a description of the investment discretion that we exercise with respect to the funds and separate accounts. Fund investors generally do not have any ability to restrict the investment of the fund, although under limited circumstances we may agree with a particular investor that such investor will not participate in certain categories of investment made by the fund. Separate account investors have greater flexibility to impose restrictions on types of investments or investment strategies.

We generally exercise investment discretion with respect to accounts pursuant to a power of attorney that is granted by each fund or separate account client as part of the investment advisory agreement relating to each such account.

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

We have authority to vote client securities for certain accounts. With respect to such accounts, we have engaged Institutional Shareholder Services (“ISS”) to assist us with the analysis, voting and record keeping of all proxies. ISS provides independent assessment and recommendations with regard to all proxy items for securities held by the funds and any other accounts with respect to which we have been allocated the responsibility for voting proxies.

We have adopted a written policy regarding the voting of client proxies that is designed to ensure that we fulfill our fiduciary obligation to our clients. The written policies are designed to address a wide range of common business and social issues often contained in proxy statements and vote them in the best interest of our clients. Items not specifically addressed in the policy will be dealt with on a case-by-case basis by our portfolio managers with guidance, as deemed necessary by the portfolio managers, from ISS. We may, or may not, in our discretion, base our proxy voting decisions on established policies or recommendations on individual proxy proposals developed by ISS.

If we become aware of potential or actual conflict of interest relating to a particular proxy proposal, we may handle the proposal as follows:

- if the proposal is addressed in the proxy voting policy as “For” or “Against,” we will vote the proposal in accordance therewith; or
- if the proposal is designated in the proxy voting policy as “case by case” (or not addressed), we will cause the client to be notified of such conflict and will cause the proxy to be voted in accordance with the client’s instructions, or if no instructions are received, refrain from voting. In the case of a fund, we will thoroughly review the proposal and voted in the best interests of the fund or, in our discretion, not vote.

A copy of the our proxy voting guidelines is available upon request. We will also provide, upon request, information regarding how we have voted on a specific proxy item. All requests must identify the security and the item(s) and be submitted to us in writing.

Investors in the funds may obtain a copy of our Proxy Voting Policies and Procedures, and information regarding how we voted particular proxies on behalf of the funds, on request.

## **Item 18. Financial Information**

We do not require or solicit prepayment of more than \$1,200 in fees from the accounts, six months or more in advance, and therefore are not required to include a balance sheet for our most recent fiscal year.