

# **D. E. Shaw Investment Management, L.L.C.**

## **Form ADV Part 2A: The Brochure**

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This brochure provides information about the qualifications and business practices of D. E. Shaw Investment Management, L.L.C. (the “Adviser” or “DESIM”), an investment adviser registered with the United States Securities and Exchange Commission (the “SEC”) under the U.S. Investment Advisers Act of 1940, as amended (the “Advisers Act”). Such registration does not imply a certain level of skill or training. If you have any questions about the contents of this brochure, please contact us at (212) 478-0000. The information in this brochure has not been approved or verified by the SEC or by any state securities authority.

Additional information about DESIM is available on the SEC’s Web site at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

This brochure is for informational purposes only. It does not convey an offer of any type and is not intended to be, and should not be construed as, an offer to sell, or the solicitation of an offer to buy, any interest in any entity, investment, or investment vehicle.

### **Material Changes**

There have been no material changes to this brochure since its most recent annual update on March 30, 2012.

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## **Item 4: Advisory Business**

DESIM is a Delaware limited liability company and an investment adviser registered with and regulated by the SEC under the Advisers Act. DESIM serves as an investment adviser to certain clients through managed accounts and as managing member, manager, and/or investment adviser of certain entities in the D. E. Shaw group.

The Adviser provides investment advice to separately managed accounts and to a number of affiliated collective investment schemes and other entities (the “Funds”). The Funds are institutional vehicles whose investor base consists of institutional investors and other highly sophisticated, high net worth participants. These investors must meet certain minimum financial requirements (*e.g.*, an institution must generally own and invest on a discretionary basis at least \$25 million of certain investments), among others, in order to be eligible to participate in the Funds, which are structured as private investment companies that are exempt from registration as investment companies under U.S. law by virtue of Section 3(c)(7) of the Investment Company Act of 1940, as amended (the “Investment Company Act”).

DESIM was formed in and has been a registered investment adviser since 2005. Since the D. E. Shaw group’s organization in 1988, the D. E. Shaw group has built a significant presence in many of the world’s capital markets, investing in a wide range of companies and financial instruments within both the major industrialized nations and a number of emerging markets. The D. E. Shaw group’s past activities have ranged from the deployment of investment strategies based on either mathematical models or human expertise to the acquisition of existing companies and the financing or development of new ones.

D. E. Shaw & Co., L.P. (“DESCO LP”) is the managing member and sole owner of DESIM. DESCO LP’s principal owner is Dr. David Elliot Shaw. Other entities and individuals hold minority stakes in DESCO LP.

DESIM bases its advice to clients on the investment objectives and restrictions (if any) set forth in the applicable investment management agreement, offering memorandum, organizational documents, and/or subscription agreements, as the case may be (each and collectively, the “Governing Document”).

DESIM managed approximately \$7.4 billion in investment capital on a discretionary basis as of January 1, 2013.

## **Item 5: Fees and Compensation**

DESIM acts as an investment adviser on a discretionary basis to managed accounts and as an investment adviser on a discretionary basis to Funds. Fees for such services generally include an asset-based fee and may include a performance-based fee. Fees are generally set forth in the applicable Governing Document. Asset-based fees are generally paid in arrears, unless set forth otherwise in the applicable Governing Document. The asset-based fee schedule for managed accounts is generally based upon the client’s account size and expected risk level, although managed account clients may negotiate alternative fees. The following table sets forth the current standard asset-based fee schedules for DESIM’s various investment strategies for managed accounts (this table is subject to change (*e.g.*, fees and/or investment strategies may be added, deleted, or modified)):

|   | Initial  | Next     | Over     |
|---|----------|----------|----------|
| Targeted Tracking Error (bps)                 | \$100 mn | \$100 mn | \$200 mn |
| <b>Large Cap/Broad Market Core Strategies</b> |          |          |          |
| <i>Long-Only</i>                              |          |          |          |
| 100   | 30 bps   | 27 bps   | 24 bps   |
| 200   | 51 bps   | 46 bps   | 41 bps   |
| 300   | 63 bps   | 57 bps   | 51 bps   |
| <i>Alpha Extension</i>                        |          |          |          |
| 300   | 78 bps   | 78 bps   | 78 bps   |
| <b>SMID Cap Core Strategies</b>               |          |          |          |
| <i>Long-Only</i>                              |          |          |          |
| 300   | 80 bps   | 80 bps   | 80 bps   |
| <b>All Cap Core Strategies</b>                |          |          |          |
| <i>Long-Only</i>                              |          |          |          |
| 100   | 33 bps   | 30 bps   | 27 bps   |
| 200   | 54 bps   | 49 bps   | 44 bps   |
| 300   | 67 bps   | 60 bps   | 54 bps   |
| <i>Alpha Extension</i>                        |          |          |          |
| 300   | 82 bps   | 82 bps   | 82 bps   |
| <b>International/World Strategies</b>         |          |          |          |
| <i>Long-Only</i>                              |          |          |          |
| 100   | 33 bps   | 30 bps   | 27 bps   |
| 250   | 63 bps   | 57 bps   | 51 bps   |
| <i>Alpha Extension</i>                        |          |          |          |
| 300   | 84 bps   | 84 bps   | 84 bps   |
| <b>All Country Global Strategies</b>          |          |          |          |
| <i>Alpha Extension</i>                        |          |          |          |
| 300   | 89 bps   | 89 bps   | 89 bps   |

Managed account fees shown in the preceding table are for investment management services only; third-party custodial fees and brokerage commissions and other fees are not included.

Performance-based fees may also be used in certain circumstances. DESIM may enter into performance-based fee arrangements with clients that fall within the definition of a “qualified client” pursuant to Rule 205-3 under the Investment Advisers Act of 1940 (“Advisers Act”) or as permitted under Section 205(b) of the Advisers Act. Performance-based fees are generally paid in arrears or, where applicable, at the time of termination of the advisory agreement or with respect to a Fund, at the time of a withdrawal, redemption, or distribution of capital, in each case unless otherwise set forth in the applicable Governing Document.

The fees with respect to a Fund are set forth in the applicable Governing Document. Funds generally have two series of regular member interests. One series is assessed an asset-based fee generally comparable to the asset-based fee applied to managed accounts utilizing the corresponding investment strategy. The other series is currently assessed a reduced asset-based fee as well as a performance-based fee, typically equal to 20% of the Fund’s outperformance of the stated benchmark for the relevant investment strategy.

In general, if an asset-based fee has been paid in full in advance for a period in which either the advisory contract with the relevant client has been terminated, or, with respect to a Fund, for the period in which an investor has withdrawn or redeemed its investment in such Fund, the applicable portion of such asset-based fee paid relating to the portion of the period after such termination, withdrawal, or redemption will be returned or credited to the client or to the withdrawing or redeeming Fund investor, subject to the actual terms of the applicable Governing Document; however, Governing Documents related to Funds typically do not permit a termination, withdrawal, or redemption mid-period. A client may terminate an advisory contract before its expiration date by complying with the provisions regarding termination provided in the advisory contract, including without limitation sending a notice of termination to the address designated under the advisory contract.

The Adviser may from time to time enter into agreements with certain underlying investors in the Funds that may provide for terms of investment that are more favorable than the terms described in the applicable Governing Document. Such terms may include the waiver, reduction or rebate of management fees, Fund expenses and/or performance fees, the provision of additional information or reports or more favorable transfer rights. No such agreement will necessarily entitle any other Fund investor to the same terms of investment.

Clients (including Funds) advised by DESIM may incur expenses in connection with custodial or brokerage services discussed in Item 12. In addition, each client bears its operating costs and expenses as described more fully in the applicable Governing Document. Furthermore, the Adviser may be entitled under the Governing Document to be reimbursed for some or all expenses that it or its related persons incur on behalf of the relevant client.

Neither the Adviser nor its supervised persons receives compensation for the sale of securities or other investment products to clients or investors.

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

DESIM enters into performance-based fee arrangements with clients as discussed in Item 5 above.

The performance-based fees available to the Adviser in connection with a particular client may be higher than those available to the Adviser in connection with another client, whether in percentage or absolute dollar amounts. Therefore, the Adviser may have an incentive to devote more research and development or other activities, and/or to allocate investment opportunities, to such higher fee-paying client.

When trading on behalf of multiple clients with differing performance-based fees, the Adviser endeavors to allocate investment opportunities among clients in a fair and equitable manner. The Adviser's trade allocation for any given client may vary based on differences in investment objectives among clients, different capital constraints of each client, varying leverage preferences of each client, and any scheduled increase or decrease of any particular client's assets under management. The Adviser does not alter its allocation policy with respect to a client, or allocate trades among multiple advisory clients, without the approvals of relevant senior management and compliance personnel.

## **Item 7: Types of Clients**

DESIM clients include public and private pension plans, endowments, foundations, and private wealth management firms. DESIM's clients also include the Funds, which are structured as private investment companies that are exempt from registration under Section 3(c)(7) of the Investment Company Act. A minimum dollar value of assets and other conditions are typically imposed on clients. DESIM may advise clients, whether managed account clients or Funds, that are subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). DESIM qualifies as a "qualified professional asset manager" (QPAM) as defined by ERISA. As a result, client transactions directed by the Adviser may be exempt from certain prohibited transaction rules of ERISA.

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

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

The Adviser's focus is the pursuit of potentially attractive investment opportunities. DESIM applies the D. E. Shaw group's quantitative models and computational techniques, based on the D. E. Shaw group's twenty-five-year experience in managing alternative investment strategies, to construct benchmark-relative equity strategies for both separately managed accounts and Funds. DESIM can customize its strategies by allowing a client to select a portfolio benchmark from a number of U.S., international, and global equity indices and either preserve the long-only constraint or relax it using a "130/30" investment approach.

DESIM acts as an investment adviser on a discretionary basis to managed accounts and as an investment adviser on a discretionary basis to Funds, with respect to securities, commodities, other financial instruments, other interests, and any other property of any kind (collectively, "Investments").

However, the Adviser expects to pursue its investment objective primarily through the purchase and sale of Investments, expected to include common and preferred stock (including ETFs and other investment

companies), swaps and other derivative instruments and contracts related to the foregoing, and money market instruments. In particular, the portfolios of Funds and managed accounts managed by DESIM are expected to be focused on corporate equity securities publicly traded in U.S. and foreign markets and ETFs. The Adviser also may engage in activities, including certain financing activities, in furtherance of or incidental to the purchase and sale of Investments.

DESIM's trading and other authority with respect to a particular client will be outlined in the applicable Governing Document.

### **Potential Risk Factors**

An investment with the Adviser involves substantial risks that should be carefully considered. Certain risk factors that may be considered applicable to an investment with the Adviser are outlined below. Additional risk factors are outlined in the Governing Document for the applicable Fund. It should be noted, however, that there may be other risk factors applicable to such an investment that are not identified but that might still result in material losses to investors. Prospective investors should also consult their own legal, investment, tax, and other advisers, and the applicable Governing Document, as to whether an investment with the Adviser is appropriate for them.

It should be noted that many of the risks outlined under one caption or heading are applicable to one or more other captions and headings.

### **No Assurance of Investment Return**

An investment in a managed account or Fund managed by the Adviser is not intended as a complete investment program. Such an investment should be regarded as speculative in nature and appropriate only for a sophisticated investor that can afford a loss of all of its investment with the Adviser and that is able to invest for an indefinite period. It should not be assumed that an investment in a managed account or in a Fund managed by the Adviser will be profitable. In addition to the risk of loss on its Investments, clients' investments are subject to the direct and indirect fees and expenses outlined elsewhere in this brochure or applicable Governing Document, which will reduce returns and require that the Adviser make a certain level of profit from its investing activities in order for an investment simply to break even.

Past performance of the Adviser's strategies or the investment vehicles sponsored, advised, and/or managed by the Adviser, or of any investment strategies operated within any such investment vehicle, is not indicative of the results that will be achieved by the Adviser in the future and provides no assurance of the success of the Adviser in achieving its investment objective.

### **General Factors**

The operating results, financial condition, activities, and prospects of an investment in a managed account or Fund managed by the Adviser could be materially adversely affected by changes or instability in market, economic, political, technological, regulatory, and social conditions, and by numerous other factors outside the control of the Adviser.

In recent years, disruptions in the global financial markets, the scope and severity of which are without precedent in recent financial history, have had materially adverse, and in certain cases catastrophic, consequences for the values, liquidity, and stability of certain types of Investments, including the types of

Investments the Adviser's clients may pursue. Similar or dissimilar disruptions may occur in the future, and the duration, severity, and ultimate effect of such disruptions are difficult to forecast. These disruptions may lead to additional regulations or laws, which could have a material adverse effect on managed accounts or Funds managed by the Adviser.

In addition, many of the Adviser's investment strategies and/or Investments are likely to be exposed to risks relating to weaknesses in various global economies and risks relating to the economic cycle. Numerous factors affecting the performance of the Adviser's investment strategies, such as interest rates, commodity prices, equity prices, availability, and terms of financing, demand from market participants, and deflationary and inflationary pressures, may be affected by the economic cycle and long-term economic trends. Predictions about financial market conditions and economic factors are highly uncertain, and the presence, duration, and impact of any market or economic conditions could have a material adverse effect on the Adviser's investment strategies. Further, managed accounts and/or Funds managed by the Adviser may be unable to open or liquidate positions as a result of changes or instability in market conditions, trading halts due to regulatory limits (such as daily-price-fluctuation limits), emergency trading bans, counterparty actions, or other factors. Such inability to trade could have a material adverse effect on managed accounts and/or Funds managed by the Adviser.

The Adviser may choose not to attempt to, or be unable to, hedge the risk exposures outlined in this brochure, and there can be no assurance that any hedging attempted by the Adviser would reduce applicable risks.

### **Special Risks of Certain Markets**

Certain markets may pose special risks due to, among other factors, the limited availability of useful information, the reliance on self-interested persons for price and other information, a limited number of market participants, and more or less regulation. For example, price information might be available only from brokers or dealers and might not be verifiable. Further, less regulation in certain markets might enable market intermediaries or other investors to engage in "frontrunning" (whether directly or through their customers or agents) of the Adviser's trades, to misuse information about positions managed by the Adviser to reduce the value or liquidity of those positions, and to take other actions that materially adversely affect the Adviser's investment strategies. The limited availability of price information or actions of market intermediaries or investors could exacerbate other risk factors outlined in this brochure, including short squeezes, and could have a material adverse effect on the Adviser's investment strategies. In addition, brokers, dealers, or other market participants may withdraw or substantially reduce the scope of their activity with regard to certain markets or Investments without notice, resulting in disruptions to strategies, pricing, and/or the ability to liquidate or close out positions. Any of the foregoing could have a material adverse effect on the Adviser's investment strategies.

### **International Investments**

The Adviser may cause one or more of its clients to purchase, sell, hold, trade, originate, structure, and restructure Investments relating to markets and/or issuers both in the United States and outside the United States, including in certain developing or emerging markets. International investing and trading involve special risks not typically associated with trading in Investments relating to markets and/or issuers solely in the United States. Depending on the particular countries and Investments involved and

on the nature of the particular transactions executed outside of the United States, these special risks may include changes in exchange rates and exchange control regulations; downgrades in sovereign credit ratings; devaluations or non-convertibility of non-U.S. currencies; failures or disruptions in central banks, banking systems, markets, or financial exchanges; changes in monetary policies, interest rates, or interest-rate policies; political, social, and economic instability; adverse diplomatic developments; investment and repatriation restrictions; the nationalization and/or expropriation of assets; government intervention in the private sector; default by public and private issuers on their financial obligations (and limited recourse in connection with such defaults); the imposition of non-U.S. taxes; discrimination against foreign investors; and less liquid markets, less information, higher transaction costs, greater difficulty in enforcing contractual obligations, fewer or different rights for creditors generally, more uncertain procedures (if any) for bankruptcy or other reorganization or liquidation proceedings (“Reorganization Proceedings”), less information regarding legal and regulatory risks, less uniform accounting and auditing standards, greater price volatility, less reliable clearance and settlement procedures, more onerous regulatory requirements for private investment funds, and/or less government supervision of exchanges, brokers, market intermediaries, issuers, and other markets and market participants than is generally the case in the United States.

Further, individual non-U.S. economies may differ favorably or unfavorably from the U.S. economy in various respects, such as pace of economic growth, rate of inflation, amount of capital reinvestment, degree of resource self-sufficiency, and balance of payments position. For example, inflation and rapid fluctuations in inflation rates have had and may continue to have very negative effects on the economies and securities markets (both public and private) of certain countries in which the Adviser may invest, and may therefore have a material adverse effect on the Adviser’s investment strategies.

The Adviser may trade, directly or indirectly, Investments on exchanges located outside the United States. Some non-U.S. exchanges, in contrast to domestic exchanges, are “principals’ markets” in which performance is solely the responsibility of the individual member with whom the trader has entered into a contract and not that of an exchange or its clearinghouse. Clients thus may be subject to the risk of the inability of, or refusal by, a counterparty to perform with respect to any such contract. Moreover, as there may be less government supervision and regulation of non-U.S. exchanges, clearinghouses, and clearing firms than of those in the United States, clients may also be subject to greater risk of failures of the exchanges on which its positions trade and/or failures of such exchanges’ clearinghouses or clearing firms than it would be in the United States.

The foregoing risks are likely to be more pronounced in connection with Investments in countries with developing or emerging markets.

### **Availability of Investment Opportunities**

There can be no assurance that the Adviser will be able to identify and/or successfully take advantage of suitable investment opportunities. In addition, the Adviser decides which investment opportunities to pursue based on its assumptions, assessments, and estimates, all of which are subject to error. Even if the Adviser takes advantage of an investment opportunity, there is a risk that such investment opportunity will result in losses to the Adviser’s clients. Further, the Adviser may elect to stop deploying any particular investment strategy on behalf of a particular Fund at any time, regardless of whether such

strategy has been successful or whether other Funds continue (or begin) to deploy such strategy. If the Adviser is not able to identify and/or take advantage of suitable investment opportunities, it may alter its investment strategy and/or risk tolerances in order to deploy capital, which may have a material adverse effect on the Adviser's investment strategies.

Even if investment opportunities are identified, the Adviser may cause one or more of its clients to hold extensive cash positions for extended periods of time, which may reduce the returns of its investment strategies.

### **Correlation; Possible Concentration and Limited Diversification**

It is expected that the Adviser's clients will experience returns that are closely correlated with one or more equity indices. In addition, the Adviser is expected to cause its clients to maintain extensive unhedged exposure for an indefinite period to various sources of market and/or other risk, whether known or unknown (and thus will not be "market neutral"). There can be no assurance that an investment managed by the Adviser would improve the risk/return profile of any investor's overall portfolio or otherwise improve the performance of such portfolio, and such an investment may in fact result in material losses.

Although the portfolios managed by the Adviser are expected generally to be relatively diversified in certain respects, in some circumstances they may be concentrated (either in absolute terms or relative to a particular market index) in particular issuers, issues, companies, countries, industries, exchanges, counterparties, types of Investments, or other shared characteristics. Such concentration would magnify the risks associated with such Investments, including the risk of significant losses. Portfolios managed by the Adviser may not have any specific diversification requirements. In general, less diversification will tend to expose the applicable client to greater volatility and/or risk than would be the case with a more broadly diversified portfolio. Even if a particular client's portfolio is diversified, however, there can be no assurance that such diversification will reduce volatility and/or risk.

### **Currencies**

Client accounts generally will be denominated in U.S. dollars. Investments in such accounts therefore may be subject to fluctuations in the value of the applicable client's own domestic currency relative to the U.S. dollar.

The Adviser may recommend Investments that are denominated in currencies other than U.S. dollars, and there may be no limit on the portion of Investments that may comprise such Investments. As a result, a client may be exposed to currency risks, including the risk of fluctuations in the value of the applicable currency relative to the U.S. dollar. The occurrence of any such currency risk could have a material adverse effect on the client. The Adviser may or may not hedge such exposures, but it currently expects not to do so, and there can be no assurance that any such hedging would reduce applicable risks. A client may also incur costs in connection with hedging against currency exposures and conversions between various currencies.

## **Derivative Instruments**

In certain circumstances, the Adviser may cause its clients to trade derivative instruments. (Derivative instruments are financial instruments that derive their performance, at least in part, from the performance of an underlying asset, index, interest rate, or other reference instrument. Examples of derivative instruments include swaps, futures, forwards, options, warrants, options on futures, and swaptions.) To the extent such Investments are consistent with the applicable client's investment objectives, the Adviser will have authority to trade all types of derivative instruments on behalf of such client without limitation other than any limitations imposed by applicable regulations and/or by the client's counterparties and clearing brokers.

Investments and trading in derivative instruments are generally highly speculative and involve various risks that are different in certain respects from, and are possibly greater than, the risks associated with investing directly in the applicable underlying assets or reference instruments. Examples of various risks associated with derivative instruments include market risk, complexity, a high degree of leverage, illiquidity, the absence of reliable price quotes and/or a reliable trading market, unstable correlation between a derivative instrument and the underlying asset or reference instrument, volatility, tax risk, government intervention to influence prices, legal or regulatory uncertainty, and non-performance of the client's counterparties.

A decrease in the value of a client's derivative instruments could result in losses exceeding the capital allocated to them. Further, because trading such derivative instruments often requires amounts of capital that are small relative to the instruments' notional value, such trading may result in leveraging effects for the client's overall portfolio. Although such leveraging effects may have the effect of increasing returns experienced by the client in the event of favorable investment results, returns experienced by such client will be reduced by the cost of borrowing, and investment losses and other losses will be exacerbated by such leveraging effects (possibly causing substantial losses). Such leveraging effects may increase the volatility of the investment performance of the client's Investments and, as a result, the returns experienced by such client. The Adviser may cause a client to employ leveraging effects up to the maximum amount permitted by applicable law and regulation and by the client's counterparties, and may effect derivatives transactions resulting in leveraging effects through off-balance-sheet transactions or methods.

Trading derivative instruments might deprive a client of certain tax benefits obtained from trading the underlying assets or reference instruments and/or, with respect to over-the-counter derivative instruments, from trading otherwise similar exchange-traded instruments. Trading in futures contracts may be subject to limitations imposed by regulatory authorities and relevant exchanges, which may prevent a client from liquidating positions and could subject such client to substantial losses. Many derivative instruments are not traded on exchanges and historically have not been regulated. The regulation of derivative instruments is evolving, and changes in such regulation may affect a client, possibly adversely. For example, under recently adopted legislation, several U.S. regulatory authorities have enacted or are considering rules for oversight and/or regulation of the previously largely unregulated market in over-the-counter derivatives.

## **Short Sales and Leveraging Effects**

Certain investment strategies deployed by the Adviser involve the execution of “short sales.” In a short sale, an investor borrows securities from a lender and sells such securities to another person while retaining an obligation to return to the lender an equivalent quantity of the borrowed securities at a later date. Short selling allows an investor to profit from declines in a security’s value.

More generally, although short sales may be useful under certain circumstances in the pursuit of potential profit opportunities and/or the mitigation of certain forms of risk, they may result in an unlimited loss of capital within a relatively short period of time, whether due to price changes, recalls sought and penalties imposed by lenders of the borrowed securities, short squeezes, unavailability of the securities at the time the Adviser desires to close out the short position, or other causes. Purchasing securities to close out the short position can itself cause the price of such securities to rise, further exacerbating the loss.

Further, the Adviser may in certain circumstances make use of the proceeds of short sales to support an increase in the client’s positions in various Investments, resulting in leveraging effects for the client’s overall portfolio. It is anticipated that, over the long term, the success of certain investment strategies deployed by the Adviser will be materially affected by the leveraging effects associated with short selling, and applicable clients may employ leveraging effects up to the maximum amount permitted by applicable law and regulation and by such clients’ counterparties. Although such leveraging effects may have the effect of increasing returns experienced by such clients in the event of favorable investment results, returns experienced by such clients will be reduced by the cost of borrowing, and investment losses and other losses will be exacerbated by such leveraging effects (possibly causing substantial losses). Such leveraging effects may increase the volatility of the investment performance of such clients’ Investments and, as a result, the returns experienced by such clients.

A number of countries from time to time have imposed restrictions or outright bans on short sales and related transactions in financial sector securities (and, in some cases, other securities or instruments), making it difficult or impossible for many market participants (including participants employing investment strategies similar to those deployed by the Adviser) either to continue to implement their strategies or to control the risk of their open positions. In addition, short sales historically have been, and continue to be, subject to certain restrictions under U.S. federal securities laws. Moreover, pursuant to certain provisions of the Dodd-Frank Act, the SEC may propose certain short sale and/or short position reporting requirements that may have the effect of deterring or limiting short selling of U.S. equities in general. Other countries have adopted or may adopt similar or other types of short selling restrictions and short position reporting requirements. Any ongoing or future regulatory limitations on short selling, or any ongoing or future requirement to disclose short sales or short positions, may materially adversely affect the Adviser’s ability and willingness to implement its investment strategies.

Financing methods employed or derivative transactions entered into by a client of the Adviser may involve the economic equivalent of short positions in various Investments, which could have economic consequences substantially similar to those caused by the execution of short sales.

## **Hedging Techniques and Transactions**

The Adviser generally will not be obliged to hedge any particular form of risk in any particular situation and may, without notice to or the consent of any client, assume any such risk as determined by the Adviser. Under certain circumstances, hedging techniques intended to reduce certain forms of risk may actually increase risk, whether due to the unintended market impact of hedging transactions, leverage effects associated with hedging positions, unexpected adverse price movements of a hedging instrument relative to the hedged instrument (i.e., adverse changes in the “basis” between the hedging and hedged instrument), lower liquidity of the hedged and hedging positions relative to an unhedged position, the general risks related to the use of derivative instruments, or other factors.

Further, even where the Adviser seeks to hedge a particular risk, a suitable hedging transaction might not be identified by the Adviser, might not be available to the applicable client, and/or might not be successfully executed.

## **Complexity of Quantitative Strategies**

Many of the investment strategies that the Adviser deploys on behalf of clients are highly complex. In many cases, the successful deployment of a particular investment strategy may require or involve sophisticated mathematical calculations and complex computer programs. Although the Adviser intends to use good faith efforts to carry out such calculations and programs correctly and to use them effectively, there can be no assurance that it will successfully do so. Errors have occurred and may continue to occur in designing, writing, testing, monitoring, and/or implementing such calculations and programs, including errors in the manner in which such calculations and programs function together. Any such error may be difficult to detect, may not be detected for a significant period of time, and could have a material adverse effect on the Adviser’s clients. This risk may be exacerbated by the fact that elements of certain investment strategies deployed by the Adviser are expected to include executing a significant number of trades over a particular time period, which may result in many trades being affected by any such error before it can be detected and corrected. In addition, such calculations and programs are dependent upon accurate market and other data, and inaccuracies in or any corruption of such data (or errors in incorporating such data) may have a material adverse effect on the results of such calculations and programs. The Adviser may seek to apply existing calculations and programs to different components of the investment strategies deployed on behalf of its clients (including different markets, strategies, or Investments), but there can be no assurance that such application would prove effective in such different contexts. Moreover, the effectiveness of such calculations and programs may diminish over time, including as a result of market changes and changes in the behavior of other market participants. The Adviser may respond to such diminishing effectiveness by making certain changes to the investment strategies and/or the manner in which they are implemented. Any such changes also could increase the likelihood of the errors described above.

The complexity of the components of the investment strategies that apply such calculations and programs, and the interactions among such components, may make it difficult or impossible to detect the source of any weakness or failure in such components and/or such calculations and programs before material losses are incurred. For example, it may be difficult or impossible to distinguish unexpected trading results caused by market activity from unexpected trading results caused by an error in the applicable

calculations or programs. The mathematical calculations and computer programs utilized by the Adviser are subject to inherent limitations and may be improved upon as experience is gained, strategies are refined, and markets change. However, there can be no assurances that the Adviser would be able to or will make any such improvements, and its inability or failure to do so could have a material adverse effect on the Adviser's clients.

Further, the Adviser's clients are exposed to risks arising from the systematic or algorithmic trading of other market participants. Market events such as the "flash crash" of May 6 2010 illustrate how the behavior of one or a small number of market participants can cause dramatic movements in the prices of individual securities and/or the market as a whole. The systematic nature of certain investment strategies deployed by the Adviser may make the Adviser's clients particularly susceptible to such movements, which could have unforeseen effects on one or more such investment strategies. Any such market event could have a material adverse effect on a client of the Adviser.

### **Reliance on Technology; Back-up Measures**

The Adviser's investment activities and investment strategies are dependent upon various computer and telecommunications technologies, many of which are provided by or are dependent upon third parties such as data feed, data center, telecommunications, or utility providers. The successful deployment, implementation, and/or operation of such activities and strategies, and various other critical activities of the Adviser on behalf of its clients, could be severely compromised by system or component failure, telecommunications failure, power loss, a software-related "system crash," unauthorized system access or use (such as "hacking"), computer viruses and similar programs, fire or water damage, human errors in using or accessing relevant systems, or various other events or circumstances. It is not possible to provide comprehensive and foolproof protection against all such events, and no assurance can be given about the ability of applicable third parties to continue providing their services. Any event that interrupts such computer and/or telecommunications systems or operations could have a material adverse effect on the Adviser's clients, including by preventing the Adviser from trading, modifying, liquidating, and/or monitoring its clients' Investments.

The Adviser maintains back-up electronic books and records at their disaster recovery site, which is a fully operational data center facility. In the case of events that interrupt the Adviser's computer and/or telecommunications systems or operations, the Adviser hopes to resume trading, modifying, liquidating, and/or monitoring its clients' Investments relatively promptly, subject to any circumstances that are outside the control of the Adviser. In the case of severe business disruptions (e.g., regional power outage or loss of personnel), the Adviser may not resume such activities for one or more business days because (among other things) such resumption is dependent on other critical business constituents, such as brokers and exchanges, and on the nature of the disruption. Although the foregoing reflects the Adviser's objectives, designs, and/or plans, no assurance can be given that these objectives, designs, and/or plans will be realized, or that, in particular, the Adviser would be able to resume operations following a business disruption.

## **Electronic Trading**

The Adviser expects to trade on electronic trading and order routing systems. Transactions using an electronic system are subject to the rules, regulations, and policies of the exchanges or persons offering the system or listing the instrument. Characteristics of electronic trading and order routing systems vary widely with respect to order matching procedures, opening and closing procedures and prices, trade error policies, and trading limitations or requirements. There are also differences regarding qualifications for access, grounds for termination of access, limitations on the types of orders that may be entered into the system, and other applicable terms. Each of these matters may present different risk factors with respect to trading on or using a particular system. Each system may also present risks related to system access, varying response times, security, service providers, and the receipt and monitoring of electronic mail.

Trading through an electronic trading or order routing system is also subject to risks associated with system or component failure, whether such failure affects the hardware or software of the exchange or person offering the relevant system or of the Adviser. In the event of system or component failure, it is possible that, for a certain time period, it might not be possible to enter new orders, execute existing orders, or modify or cancel orders that were previously entered. System or component failure may also result in loss of orders or order priority. Trading venues offering an electronic trading or order routing system typically adopt rules to limit their liability, the liability of member brokers and software and communication system vendors, and the amount that may be collected for system failures and delays, which rules vary among the venues.

In addition, changes in laws or regulations related to electronic trading and order routing systems are being considered in certain jurisdictions. Any such changes may have a material adverse effect on certain strategies deployed by the Adviser.

## **Portfolio Turnover**

Certain investment strategies that are expected to be deployed by the Adviser are based at least in part on short-term considerations and thus are characterized by rapid portfolio turnover. Such rapid turnover is expected, among other things, to cause clients to experience substantial brokerage fees, commissions, and/or commission-equivalents, and/or increased aggregate liquidity costs (or price “slippage”), any or all of which could have a material adverse effect on the investment performance of the Adviser’s investment strategies.

## **Publicly Available Information; Disclosures to Separately Managed Accounts**

Certain information regarding clients of the Adviser and/or their Investments is likely to be required to be made publicly available. For example, the Adviser may cause one or more of its clients to engage in transactions that, as a result of ownership of a security or other instrument by such client, another client of the Adviser, or otherwise, would require filings with a governmental agency or compliance with other regulatory requirements. In addition, the Adviser may have clients that may be (or whose underlying owners may be) required, under applicable law (including freedom of information laws), to make publicly available certain information provided by the Adviser to any such client or owner. Moreover, clients of the Adviser (or such clients’ underlying owners), whether or not subject to freedom of information laws or similar disclosure requirements, could disclose information regarding the Adviser and/or its investments

in violation of their confidentiality obligations to the Adviser or the client. Because various aspects of the Adviser's investment strategy are based upon quantitative trading methods or other proprietary information, any of the foregoing disclosures of information would increase the already material risk that other market participants will seek to use such information to their advantage (such as by reverse engineering the Adviser's investment strategy, by seeking to adversely affect the prices of a client's Investments, by "frontrunning" a client's Investments, by causing a client to prematurely liquidate Investments, or by other actions), which could have a material adverse effect on or more clients. This risk is further exacerbated by the fact that the Adviser deploys its investment strategies in separately managed accounts for individual clients, and each such client generally has complete information about the positions and trading in its separately managed account.

### **Regulatory Ownership and/or Trading Restrictions and Reporting Requirements**

Certain governments, regulators, and self-regulatory bodies have imposed (and may impose) limits, triggers, and/or other thresholds with respect to positions in certain types of securities, futures contracts, and other assets that the Adviser may recommend for its clients. Positions owned, held, or controlled by related entities (such as the Adviser, its affiliates, or one or more of their clients) may be aggregated for purposes of determining whether such thresholds have been reached or exceeded. With respect to positions managed by such entities, the Adviser or its affiliates may (a) limit trading in such positions in order to avoid reaching such thresholds or (b) if such thresholds are exceeded, (i) dispose of positions to the extent necessary to fall below those thresholds, (ii) be limited in purchasing or selling such positions for a certain period of time, or (iii) be subject to disclosure obligations, fines, limits on short-term trading profits, or other consequences; in each case which could have a material adverse effect on the Advisers' clients. For example, the CFTC and/or certain exchanges may require aggregation of a particular client's positions in certain futures contracts with positions held by other clients of the Adviser (or its affiliate) in applying limits on net long or net short positions in such contracts. In such cases, such other client may utilize the full amount of available position limits for their own benefit, and, as a result, the original client could be required to limit its use of futures or liquidate its positions on such exchanges. When multiple entities are affected by such limits, triggers, and/or other thresholds, the Adviser or its affiliates may determine to allow the consequences to fall disproportionately on certain entities, which could have a material adverse effect on one or more of the Adviser's clients.

In certain situations, the Adviser may recommend that a client engage in transactions that, as a result of ownership of a security or other instrument by such client, another client, or otherwise, would require filings with a governmental agency or compliance with other regulatory requirements, such as mandatory takeover offers or certain restrictions on trading. In addition, the Adviser may be restricted (by law or by its internal policies) in its ability to trade a particular Investment or may determine to limit or prohibit the participation of the client in a particular Investment or to recommend that the client to liquidate a particular Investment at an inopportune time. Compliance with filing and other requirements (including additional reporting requirements imposed in the future on the Adviser and/or its clients) may result in additional costs to a client and/or may delay its ability to trade, or to respond in a timely manner to changes in the markets with respect to, the applicable security or other instrument. The regulatory regimes outlined above may change over time, and any such changes may adversely affect one or more clients.

### **Small or Midsized Companies**

Certain Investments recommended by the Adviser may be issued by, or otherwise related to, small or midsized companies. Such Investments may involve greater risk than comparable Investments issued by or related to large companies. Small or midsized companies may face intense competition for important resources, such as experienced management and personnel, capital, and financing. Such companies may be at a disadvantage relative to larger companies, including with respect to sales or distribution resources, operational and financial controls, or other economies of scale. Small and midsized companies may be more likely to experience financial, operational, legal, and/or other distress.

Investments in or related to small and midsized companies may be less liquid or exhibit more price volatility than Investments in large companies. The securities of small and midsized companies are often traded over-the-counter or on regional exchanges, which may have lower volumes than are typical on national exchanges, or may be privately held, with no secondary market for such securities.

### **Competition**

Changing, evolving, and maturing markets, as well as an increase in the number of market participants employing strategies similar to or otherwise in competition with the strategies employed by the Advisers, may make it significantly more difficult to compete for profitable Investments. Certain of these market participants may possess competitive advantages over the Adviser or any of its clients, including greater expertise, experience, or resources; superior access to investment opportunities; lower cost of capital; and/or higher risk tolerances. There can be no assurance that any effort by the Adviser to minimize any competitive disadvantages will be successful.

The Adviser may face other competitive challenges, whether due to regulation, limited liquidity, crowded markets, increased competition for personnel, or other similar or dissimilar factors. Competition and its challenges may have a material adverse effect on the Adviser and/or its clients.

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

In April 2010 and June 2010, certain entities in the D. E. Shaw group advised by DESCO LP unintentionally violated futures contract position limits set by the U.S. Commodities Futures Trading Commission ("CFTC") in connection with trading soybeans and corn, respectively, on the Chicago Board of Trade, a member of the CME Group. In each case, the violation was as of the close of trading on a single day, and in each case, the D. E. Shaw group discovered the violation and put on correcting trades on or before the next trading day and before receiving notification of the violations, so that its positions were below the applicable limits. DESCO LP submitted to the CFTC an Offer of Settlement, in which DESCO LP consented to cease and desist from such violations and to the payment of a civil monetary penalty of \$140,000. The CFTC entered an Order on February 22, 2012, accepting the Offer of Settlement. The CME Group issued warning letters to the D. E. Shaw group for each violation.

DESIM believes there are no other legal or disciplinary events that are material to a client's or prospective client's evaluation of its advisory business or the integrity of its management.

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

Certain management persons of the Adviser are registered representatives of D. E. Shaw Securities, L.L.C. ("SEC LLC"), which is a related person of the Adviser and a broker-dealer registered under the Securities and Exchange Act of 1934, as amended (the "Exchange Act") and a member of Financial Industry Regulatory Authority, Inc. ("FINRA").

DESIM and certain of its related persons are currently registered as commodity pool operators (each a "CPO") pursuant to the Commodity Exchange Act (the "CEA") and are members of the National Futures Association (the "NFA"). Certain other of DESIM's related persons have been listed with the Commodity Futures Trading Commission (the "CFTC") as commodity pools and will be operated as "exempt pools" in accordance with Commodity Futures Trading Commission Rule 4.7. DESIM and certain of its related persons rely on an exemption from registration as commodity trading advisers with the CFTC. One of the management persons of DESIM is registered with the NFA as an associated person of the Adviser and each of the Adviser's related persons that is registered as a CPO.

### **Related Persons**

The Adviser is part of an international financial services firm. The Adviser acts as managing member, manager, holding company, and/or "parent company" for certain of its related persons, and this activity may be considered to be separate from the provision of investment advice. For purposes of this brochure, the Adviser does not consider itself to be engaged in the business of its related persons.

DESIM is a managing member or manager of certain Funds and acts as adviser for such Funds as well as for other Funds.

Subject to applicable law, the Adviser may use for clients, or suggest or recommend to clients, placement agent services offered by the Adviser's related person, SEC LLC, which is a broker-dealer registered under the Exchange Act and a member of FINRA. To the extent that the services of the Adviser's broker-dealer related person are utilized, clients may be charged a fee.

The Adviser's related person, DESCO LP, is registered with the Securities and Exchange Commission as an investment adviser under the Advisers Act, is registered as a CPO pursuant to the CEA, and is a member of the NFA. The Adviser licenses certain intellectual property from DESCO LP and utilizes certain assets and resources of DESCO LP (including without limitation certain of DESCO LP's employees) in connection with its own investment advisory activities. All of the persons treated as the Adviser's employees in this Form ADV are employees of DESCO LP; may share their time among the Adviser, DESCO LP, and/or affiliates of the foregoing; and receive compensation and other benefits from DESCO LP and/or such affiliates. In addition, as agreed between the entities, the Adviser may reimburse DESCO LP for certain expenses and DESCO LP may reimburse the Adviser for certain expenses.

The Adviser's related person, D. E. Shaw & Co. (U.K.), Ltd. ("DESCO UK") has received permission from the U.K. Financial Services Authority under Part IV of the Financial Services and Markets Act 2000, authorizing it to engage in certain regulated activities in the United Kingdom. Pursuant to that authorization, DESCO UK provides investment management and other services to the Adviser that will ultimately be for the benefit of certain of the Adviser's advisory clients; the Adviser compensates DESCO UK for those services. DESCO UK may utilize certain of the Adviser's employees in connection with its

own investment management activities. In addition, as agreed between the entities, the Adviser may reimburse DESCO UK for certain expenses and DESCO UK may reimburse the Adviser for certain expenses. The directors of DESCO UK are Neil Cosgrove, Julius Gaudio, and Chris Zaback. In addition to being a director of DESCO UK, Mr. Cosgrove is a Managing Director of DESCO LP, having joined DESCO LP in February 1998. Mr. Cosgrove received his B.A. from St. Catherine's College, University of Cambridge. Please refer to Form ADV Part 2B for the education and business backgrounds of Mr. Gaudio and Mr. Zaback.

The Adviser's related person, D. E. Shaw & Co. (Asia Pacific) Limited ("DESCO AP") is licensed with the Securities & Futures Commission in Hong Kong to engage in certain regulated activities, pursuant to which DESCO AP provides asset management and other services to the Adviser that will ultimately be for the benefit of certain of the Adviser's advisory clients; the Adviser compensates DESCO AP for those services. DESCO AP may utilize certain of the Adviser's employees in connection with its regulated activities. In addition, as agreed between the entities, the Adviser may reimburse DESCO AP for certain expenses and DESCO AP may reimburse the Adviser for certain expenses. The directors of DESCO AP are Julius Gaudio and Lou Salkind. Please refer to Form ADV Part 2B for the education and business backgrounds of Mr. Gaudio and Dr. Salkind.

The Adviser's related person, D. E. Shaw & Co. Global, L.L.C. ("DESCO Japan") is licensed with the Japan Financial Services Agency and the Kanto Local Finance Bureau of Japan as an entity authorized to engage in Type II Business activities pursuant to the provisions of Article 29 of the Financial Instruments and Exchange Law; however, DESCO Japan intends to surrender this Type II Business activities license during 2013.

### **Certain Potential Conflicts of Interest**

DESIM and its related persons and their directors, partners, officers, and employees may have various advisory, transactional, financial, and other interests in securities and/or other financial instruments that may be purchased or sold by the Adviser's advisory clients (or clients of related advisers), which themselves may be related persons. DESIM, and/or its related persons that are investment advisers, has established a variety of restrictions, procedures, and disclosures designed to address potential conflicts between the interests of its clients and the interests of itself and/or its related persons in this regard, to ensure that its actions are consistent with the best interests of its advisory clients in this context. When conflicts of interest in this regard arise, they are addressed in compliance with all legal requirements and such restrictions, procedures, and disclosures, as applicable. Restrictions and procedures generally are established by heads of the applicable strategies, senior management, and/or compliance personnel.

The Adviser has actual and potential conflicts of interest with respect to its clients. Such conflicts arise from, among other things, the management and operation of its clients, as well as from other activities ("Other Activities") that are unrelated (or only partly related) to the business and affairs of the Adviser's clients. The Adviser and its related persons may, and in certain cases currently do, engage in a range of Other Activities, and there are no limits on the nature or the extent of Other Activities that they may engage in or may establish in the future. Examples of Other Activities include: (a) providing investment advice and/or operational or other services to various clients or other persons; (b) engaging in investment, trading, lending, or financial businesses and activities unrelated to its clients; (c) engaging in

technology-related or other businesses and activities; and (d) serving as general partner or manager of, or holding a limited partner, shareholder, member, or other ownership interest in, other investment vehicles or other businesses. These Other Activities may be for the benefit of the person performing the activity or for the benefit of other persons. No client of the Adviser shall have any right to participate in or otherwise receive the benefit of any Other Activity.

The Adviser may establish a new Fund or other entity in the future that would be exposed to certain of the investment strategies deployed on behalf of clients. Clients might or might not be permitted to participate in such new Fund or other entity, as determined by the Adviser. The Adviser may determine to continue or discontinue any such competing activity being conducted for the benefit of a client. If such activity is discontinued, the relevant client may forgo the benefit of material future investments and of expertise developed by the Adviser. If such activity is continued, then competition with such new Fund or other entity may materially adversely affect the relevant client. Among the factors the Adviser would consider in making such decision are the operational, tax, regulatory, and legal efficiencies; capital stability; sources of additional capital; and the expected performance profile of the applicable strategy.

As disclosed in the applicable Governing Document, DESIM has no obligation to recommend for purchase or sale by its clients any securities that the Adviser, its related persons, and/or personnel of the foregoing may purchase for themselves or for other clients. In addition, the ability of DESIM to effect and/or recommend transactions for certain or all clients may be restricted due to actual or perceived regulatory requirements in the United States or elsewhere, to the Adviser's or a related person's internal policies designed to comply with such requirements, to actual or perceived conflicts of interest, to operational issues, and/or to other issues. Regulatory or contractual limitations related to effecting transactions for certain of DESIM's clients may not apply to other clients, resulting in differences among the composition of and return from client portfolios. DESIM reserves the right not to effect transactions for clients with or through its related persons.

As disclosed in the applicable Governing Document, DESIM may give advice and take action with respect to any of its clients that may differ from the advice given, or may involve a different timing or nature of action taken, with respect to any one or all other clients that the Adviser or its related persons advise, and thus effect transactions for such clients at prices or rates that may be more or less favorable than for other clients. DESIM may advise one or more clients to take positions the same as, different from, or opposite to positions the Adviser or its related persons advise one or more other clients to take. In general, the Adviser will act in the best interests of its clients, subject to applicable law and to any agreement, organizational or other document, or disclosure applicable to a particular client or underlying investor. DESIM and/or its related persons may hold the same (or the opposite) position in a given security, commodity, or other financial instrument as that held by the client at the same time.

Any common (or opposing) positions described above may limit the ability of DESIM to add to the position held on behalf of any particular client, to readily liquidate such a position, or to obtain a favorable price in the course of such liquidation. In effecting transactions for the client, related person, and/or any other persons or entities, it may not always be possible or consistent with the investment objective of the client or of such other persons or entities to take or liquidate the same investment positions at the same time or at the same prices. The "market impact" associated with a liquidation by such other persons or entities may adversely affect a client's ability to liquidate its position; or where a

client's position is liquidated, the price at which such liquidation occurs; or where a client does not liquidate its position, the mark-to-market value of such position.

DESIM, its related persons, and/or their clients may trade with each other from time to time upon the advice of the Adviser and, as applicable, related persons. DESIM generally does not itself trade securities on a principal basis with clients. Certain clients and related persons of the Adviser, however, are deemed principals (and in the future other clients may be deemed principals), based on SEC staff guidance, due to the investment in each such client or related person by the Adviser and controlling persons exceeding 25% of that client's or related person's assets. To the extent that DESIM and/or its related persons (including Funds) engage (or are deemed to engage) in principal securities transactions, any such transactions will comply with applicable law. DESIM and/or its related persons may have interests in such transactions that are adverse to a particular client.

To the extent permitted by applicable law and the applicable Governing Documents, DESIM or its related persons may effect "cross transactions" between the Adviser's and/or its related persons' client accounts in which one client will purchase securities held by another client. DESIM and/or its related persons will direct clients to enter into such transactions only when the transactions are consistent with the best interests of both clients and at a price that the Adviser and/or its related persons believe constitutes best execution for both clients. Neither DESIM nor any related party receives any commission or commission equivalent in connection with these transactions.

Disclosures regarding conflicts of interest and their resolution generally will be contained in the applicable Governing Document, this brochure, and/or another document. Other documents, such as financial or periodic reports, furnished to clients or investors may contain disclosure regarding conflicts of interest.

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

DESIM and its affiliated investment advisers have adopted a code of ethics (the "Code") that establishes the standard of business conduct that must be followed by, among others, all partners, directors, officers, and employees of the Adviser and these investment advisers (collectively "Supervised Persons"). The Code incorporates the following general principles, which all Supervised Persons are expected to uphold: act in the best interests of clients; conduct personal securities transactions in a manner consistent with the Code, which seeks to address certain conflicts of interest in this regard; avoid taking any inappropriate advantage of one's position at the Adviser; maintain confidentiality of information concerning the Adviser's securities recommendations and client securities holdings and transactions; and provide accurate disclosure in reports required by auditors, regulators, or government bodies.

The Adviser believes that these general principles not only help the Adviser fulfill its obligations undertaken as an investment adviser, but also protect the Adviser's reputation and instill in employees the Adviser's commitment to honesty, integrity, and professionalism.

The Code also provides guidelines for Supervised Persons regarding adherence to securities laws generally, transactions in personal accounts involving public and private securities and commodities,

activities outside of the investment adviser's business, giving and receiving business-related gifts, and the maintenance and memorialization of certain family and/or close personal relationships. For example, the Code requires that all Supervised Persons obtain approval prior to effecting any securities or commodities transaction in a personal or related account for which the employee exercises control. In addition, the Code requires that all Supervised Persons report Code violations and outlines potential sanctions for such violations. The Adviser's Chief Compliance Officer is responsible for various aspects of the Code's administration, including without limitation the monitoring and review of personal securities and commodities transactions of Supervised Persons, and is available for any questions Supervised Persons have regarding the Code. The Adviser will provide a copy of the Code to any client or prospective client upon request and may elect to provide a copy of the Code to investors in the Funds.

Please see Item 10 for additional information regarding conflicts of interest.

## **Item 12: Brokerage Practices**

Generally, DESIM is authorized by each client to determine the financial institution or counterparty to be used, if any, for each transaction executed on behalf of such client. In selecting such financial institutions or counterparties for transactions, DESIM seeks to obtain the best execution of transactions for its clients under the circumstances (consistent with what it believes to be the best overall interests of the client), but need not solicit competitive bids, and does not have an obligation to seek the lowest available commission cost. The price offered by a financial institution or counterparty, including commissions and commission equivalents, if any, and other transaction costs, is normally an important factor in this decision, but financial institution and counterparty selection also takes into account the overall quality of the execution services offered, including without limitation such factors as: execution capability; willingness and ability to commit capital; creditworthiness and financial stability; clearance and settlement capability; ability to maintain confidentiality; the provision of research and other services; and potential or perceived conflicts between clients of DESIM and DESIM's related persons. Accordingly, transactions will not always be executed at the best price or the lowest available commission. In addition, DESIM is not required to negotiate "execution only" commission rates; thus, the clients may be deemed to be paying for other services provided by the financial institution that are included in the commission rate. Subject to its duties under the express terms of any applicable agreement and under applicable law, DESIM may determine eligibility of and/or direct transactions or commissions to certain broker-dealers, exchanges, or other financial institutions and counterparties (or their affiliates) that are direct or indirect owners of DESIM, are owned directly or indirectly by DESIM, or are otherwise affiliated with DESIM; have made (or whose affiliates have made or directed) investments in Funds advised by DESIM or a related party; or may be willing to furnish other services for the benefit of DESIM or a related party. In the latter case, such services will include only brokerage and research services that are deemed to fall within the safe harbor provided by Section 28(e) of the Exchange Act or any amendment or successor to such provision. Such services may include the provision of information on economic trends or conditions, political developments, industries, groups of securities, individual countries, and individual companies, as well as post-trade brokerage services or communication services related to the execution, clearing, and settlement of transactions. Research or other services obtained in this manner may be used in servicing any or all advisory clients of DESIM and may be used in connection with advisory accounts other than

those that pay commissions and commission equivalents to the financial institution relating to the research or other service arrangements. The receipt of such services from particular financial institutions or counterparties may cause the Adviser to have an incentive to select or recommend such financial institutions or counterparties rather than financial institutions or counterparties from which the Adviser's clients would receive the most favorable execution. The appropriateness of brokerage commissions is evaluated by DESIM on an ongoing basis.

Clients may need to maintain and use a number of brokerage accounts to facilitate the various trading strategies deployed by DESIM. Nevertheless, the clearing, settlement, and custody of client positions may be carried out by a limited number of counterparties and, depending on the Investment, may require negotiation on a transaction-by-transaction basis. This may create a concentration of exposure to the creditworthiness of the counterparties carrying out such clearing, settlement, and custody. Any failure of any such counterparty could have, and has had in the past, a material adverse effect on clients.

When portfolio decisions are made contemporaneously for multiple clients in the same instrument, the Adviser may, if consistent with market conditions, client characteristics, and applicable law, bunch or aggregate client orders (including orders for clients in which the Adviser, its related persons, and/or its personnel have beneficial interests) for execution. Such bunched or aggregated orders might facilitate execution and may reduce brokerage and other costs. DESIM, however, is not required to bunch or aggregate orders if (a) portfolio management decisions are not made contemporaneously, (b) if DESIM determines that it would be consistent with its investment management duties or the interests of its clients not to do so, or (c) if bunching or aggregating is not practical operationally or otherwise. Because of prevailing trading activity, it is frequently not possible to receive the same price or execution on the entire volume of positions purchased or sold in such bunched or aggregated orders. When this occurs, DESIM (in its sole and absolute discretion) may charge or credit clients participating in the bunched or aggregated order with the average price of the various prices received for that order, or alternatively, may charge or credit such clients with a price determined in good faith to be an appropriate price. Positions purchased or sold in a bunched transaction are allocated to the participating clients using methods determined by DESIM in its sole discretion (which methods may include *pro rata* by assets under management or by proportionate order size). DESIM may, however, increase or decrease the transaction amount allocated to each client if necessary to avoid holding odd-lots or small numbers of positions for particular clients. If DESIM is unable to or does not fully execute a bunched transaction or DESIM determines that it would be impractical to allocate a small number of positions among all of the accounts initially intended to participate in the transaction, the Adviser may allocate such positions in a manner determined in good faith to be an appropriate allocation. Although it is anticipated that the bunching or aggregation of orders will benefit each client overall, aggregating orders may disadvantage clients, including without limitation by resulting in shared allocations of orders or worse execution prices for client orders. Alternatively, not aggregating orders may disadvantage clients, including without limitation by resulting in higher costs or worse execution prices for client orders.

A client who designates use of a particular broker-dealer or other financial institution, including a client who directs use of a broker-dealer or other financial institution in connection with payment for custodial services (whether or not recommended by the Adviser) should consider whether, under that designation, commission expenses, execution, clearance, and settlement capabilities, and whatever amount is regarded

as allocable to custodian fees, if applicable, will be comparable to those otherwise obtainable. A client who directs use of a particular broker-dealer or other financial institution should understand that it may lose the possible advantage which non-designating advisory clients derive from aggregation of orders of several clients as a single transaction for the purchase and sale of a particular security (where applicable) and/or other benefits that might be available from broker-dealers or other financial institutions selected by DESIM or its related persons.

DESIM's related persons may also have independent authority to determine and direct the execution of DESIM's clients' portfolio transactions, within the objectives, risk and liquidity profiles, and policies (if any) specified by each client or outlined in the applicable Governing Document and/or other written agreement with a client, subject to the same policies and restrictions discussed above.

DESIM generally is retained by clients on a discretionary basis and is authorized to determine and direct the execution of portfolio transactions and to delegate such authority to related persons or others, within the objectives and policies (if any) outlined in the applicable Governing Document or another written agreement with a particular client.

DESIM will attempt to correct any identified trade errors. As with all financial gains and losses attributable to Investments, any financial gains or losses resulting from trade errors are generally borne by the applicable client and underlying investors (as more fully described in the applicable Governing Document).

When trading on behalf of multiple clients with differing performance-based fees, the Adviser endeavors to allocate investment opportunities among clients in a fair and equitable manner. The Adviser's trade allocation for any given client may vary based on differences in investment objectives among clients, different capital constraints of each client, varying leverage preferences of each client, and any scheduled increase or decrease of any particular client's assets under management. The Adviser does not alter its allocation policy with respect to a client, or allocate trades among multiple advisory clients, without the approvals of relevant senior management and compliance personnel.

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

For each of DESIM's investment strategies, a strategy head and/or other supervisors are responsible for reviewing trading data and other reports on a regular basis and overseeing the trading activity performed on behalf of DESIM's clients within such investment strategy. Such reviews include without limitation a verification that actual trading activity is consistent with the intended strategy, investment guidelines, and investment restrictions (if any); a review of risks associated with a particular strategy; and a determination that trading is undertaken in compliance with applicable regulations. Certain of the principal executive officers of DESIM or its affiliates may review investment strategies periodically. In addition, DESIM uses independent third parties to conduct financial audits of the accounts of its clients that are Funds, and the Compliance Department reviews certain other aspects of regulatory compliance. The frequency of all such reviews is determined as warranted by the purpose of the review and other circumstances.

In addition to reports required by applicable law, DESIM provides reports in accordance with the applicable Governing Document or other written agreements with particular clients or underlying investors.

The Adviser provides advisory clients and/or investors in Funds with written reports on a periodic basis that generally include, among other things, the net asset value or the capital balance of the account and a measure of performance based on the change in valuation of the account during the report period.

In addition, an independent third-party administrator and other independent third parties conduct an independent monthly verification of the Adviser's pricing of the investment positions held directly or indirectly by certain Funds. The independent third-party administrator provides a monthly letter to investors in such Funds that confirms, among other things, the accuracy of the capital balances and of certain monthly performance information reported by the Adviser or the Adviser's related persons to those investors; the performance of an independent pricing verification; and the percentage (if any) of the relevant Fund's investments for which the independent third party was unable to verify prices.

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

The Adviser may enter into capital introduction agreements with certain financial institutions under which the financial institution does not receive compensation for this service. The Adviser does not currently use solicitors for client referrals. The Funds may engage internal and/or external placement agents for placement of new fund interests. Additionally, DESIM does not currently select or recommend broker-dealers based on whether DESIM or its related persons receive client referrals.

#### **Item 15: Custody**

Client assets are generally held in custody by unaffiliated qualified custodians; however, the Adviser is deemed to have custody of the assets of the Funds. Fund investors do not receive account statements from the custodian; rather, the Funds are subject to an annual audit, and the audited financial statements are distributed to each Fund investor.

#### **Item 16: Investment Discretion**

DESIM accepts discretionary authority to manage securities on behalf of its clients. The procedures governing assumption of this authority are outlined in the applicable Governing Document.

#### **Item 17: Voting Client Securities**

The Advisers Act generally requires investment advisers to vote all proxies within their authority. The Adviser does not vote proxies where it does not have the authority to do so or where the cost of doing so, in the opinion of the Adviser, would exceed the expected benefits to the client. The Adviser generally votes most shares through and in accordance with the recommendations of an independent third party proxy voting service (the "Voting Service Recommendations"). The Adviser has designated particular individuals to review Voting Service Recommendations to determine if any such recommendation is in the best interest of each client. Designated employees of the Adviser or its related persons review selected material proxy matters for the applicable advisory client and determine whether the Voting Service Recommendations appear to be in the best interest of such client. When the designated employees believe that the Voting Service Recommendation may be contrary to the best interest of a client, the

designated employees may consider an alternative vote, in which case they must obtain the approval of the Chief Compliance Officer and a Managing Director, or their respective designees, before instructing the proxy voting service to vote the applicable proxy. For the avoidance of doubt, the Adviser retains the authority to vote proxies, has not delegated such authority to any other party, and may vote against any Voting Service Recommendation if it determines such recommendation is contrary to the client's best interests.

The Adviser believes that the independent third party proxy voting service's internal policy regarding conflicts of interest, including the use of information barriers, adequately satisfies potential conflict of interest concerns. Additionally, the Adviser has established written policies and procedures designed to ensure that shares owned by a client for which the Adviser provides advice are voted in the best interest of such client (the "Proxy Voting Procedures"). The Adviser will provide a copy of the Proxy Voting Procedures to any client or prospective client upon request and may elect to provide a copy to investors.

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

The Adviser does not require or solicit prepayment of fees more than 6 months in advance. The Adviser has not been the subject of a bankruptcy petition at any time during the past ten years.