



**Form ADV Part 2A: Firm Brochure**

March 29, 2016

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**This brochure provides information about the qualifications and business practices of Aristeia Capital, L.L.C. If you have any questions about the contents of this brochure, please contact us at (212) 842-8900. 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 Aristeia Capital, L.L.C. also is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

## **Material Changes**

Our last annual update to Part 2A of Aristeia Capital, L.L.C.'s Form ADV was on June 10, 2015. Though we note certain changes below that have occurred since our previous annual update, we recommend that you read this Form ADV Part 2A in its entirety.

### Section 1: Advisory Business

We have updated this section to clarify the categorization of our Advisory Clients.

The amount of net client assets that we manage on a discretionary basis has been updated to \$2,596,867,477 as of March 1, 2016.

### Section 2: Fees and Compensation

We have updated this section to describe our compensation arrangement with a client. We have also updated the description of the expenses which our clients – and indirectly, certain investors in our clients – may bear to be consistent with our clients' organizational and offering documents.

### Section 3: Performance-Based Fees and Side-By-Side Management

We have updated this section to reflect the potential conflict that might exist in side-by-side management of private fund clients.

### Section 4: Types of Clients

We have updated this section to clarify the minimum investment requirements for certain clients and investors in our clients.

### Section 5: Method of Analysis, Investment Strategies and Risk of Loss

We have updated this section to clarify the risk associated with the lack of investment diversification.

### Section 7: Other Financial Industry Activities and Affiliates

We have edited this section to reflect the addition of new affiliates.

### Section 8: Code of Ethics, Participation or Interest in Client Transactions and Personal Trading

We have edited the description of our firm's Code of Ethics.

### Section 9: Brokerage Practices

We have updated this section to reflect the potential conflict that might exist in allocating investment opportunities to clients with different terms. We have also updated this section to include our firm's treatment of trade errors.

## Section 12: Custody

We have updated this section to reflect the engagement of a vendor that provides “class action” recovery services to our firm and our clients.

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## **1. Advisory Business**

Aristeia Capital, L.L.C. (also referred to as Aristeia Capital), founded in 1997, is an investment services firm specializing in investment management for private investment funds. All of our clients are private investment funds. The principal owner of Aristeia Capital is Aristeia Holdings, L.P. Anthony M. Frascella, William R. Techar, Robert H. Lynch, Jr., Kevin C. Toner and Aristeia Holdings GP LLC own Aristeia Holdings, L.P. Aristeia Capital maintains offices in Greenwich, Connecticut and New York City.

Aristeia Capital specializes in offering investment advisory services to private investment funds. In providing our advisory services, we focus on investments in the credit markets and other opportunities that we think exhibit attractive return profiles. We strive to employ a dynamic approach to managing our clients' portfolios by actively managing our clients' positions to extract profits and attempt to mitigate risk through a variety of investment strategies. We use a combination of mathematical and statistical modeling and fundamental research and analysis to determine our target investments.

### *Advisory Clients*

Our firm's advisory clients fall into two categories:

1. Private funds sponsored and controlled by Aristeia Capital for a variety of investors (referred to as the "Aristeia Funds")
2. Private funds sponsored by unaffiliated institutions (referred to as the "Dedicated Funds").

Our firm tailors our advisory services to the individual needs of our clients. Our portfolio managers adhere to the investment strategy set forth in each client's Private Placement Memorandum and/or other governing documents. Our clients' Private Placement Memoranda and/or other governing documents allow for investing in a broad array of securities and financial instruments to the end of achieving their investment objectives, subject to any investment guidelines and restrictions agreed upon with each client.

We do not participate in wrap fee programs.

The amount of net client assets that we manage on a discretionary basis is \$2,596,837,362 as of March 1, 2016. This figure includes the assets held in the Aristeia Funds and the Dedicated Funds, as well as fees owed to us by funds the payment of which has been deferred to future dates. We do not manage any client assets on a non-discretionary basis.

## **2. Fees and Compensation**

Our firm, or affiliates of our firm, typically receive compensation from each of our clients based on both the percentage of assets we manage and on performance achieved for each client's account. We do not receive compensation based on the assets or performance of

the closed-end Aristeia Fund. Our performance-based compensation is also generally subject to a loss carryforward requirement or “high water mark.” This means that we only receive a performance-based profit allocation or fee when an investor’s account value for the year has recovered any losses from prior years (reduced proportionately by any withdrawals an investor makes).

Interests in our clients are only offered to “qualified purchasers” as defined in the Investment Company Act of 1940, as amended, and therefore, this brochure does not contain our advisory service fee schedule. Qualified purchasers are generally (i) individuals and certain family-owned companies owning total investments in excess of \$5,000,000 or (ii) entities owning total investments in excess of \$25,000,000. Certain “knowledgeable employees” of our firm are permitted to invest in certain of our clients.

Depending on our arrangement with each client, we either deduct our asset-based fees from investors’ accounts, or bill our clients for the amount due, as applicable, at the end of each quarter or month, depending on the client. Similarly, depending on our arrangement with each client, we either deduct our performance-based compensation from the accounts of our clients, or bill our clients for the amount due, as applicable, at the end of each year or whenever an investor in a client is making a withdrawal, but only on the withdrawn amount.

None of our clients or investors in our clients pay any fees in advance.

Our fees and compensation are generally not negotiable. We have the general discretion to waive all or a portion of the asset-based fee and/or the performance-based compensation, but typically only exercise this discretion for investors in our clients that are our affiliates or employees. In addition, we may enter into side letter arrangements with certain investors in our clients, in which we grant them preferential terms.

In connection with our advisory services, clients, and indirectly, investors in our clients, bear all of their own ordinary expenses, including those of each client’s master fund, as applicable. The enumerated list below is detailed but does not contemplate every possible expense a client may incur, and we may bear certain expenses for one client that we do not bear for another client. Investors in our clients should review the governing documents for each applicable client, which may discuss additional costs, fees and expenses not discussed in this brochure.

Each client’s expenses may vary but generally may include:

- expenses related to (1) researching and executing investment transactions and positions, including brokerage commissions and custody charges, interest and commitment fees on loans and debit balances, and (2) managing those investments,
- costs of borrowing securities to be sold short,
- expenses of risk and market data-related services,

- travel expenses related to research,
- research fees and materials (including online news and quotation services),
- trade processing,
- costs of any outside appraisers, accountants, attorneys or other experts or consultants that we or an affiliate of ours may engage in connection with specific transactions,
- bank charges,
- insurance costs,
- any legal fees and costs (including settlement costs) arising in connection with any litigation or regulatory investigation instituted against a client, as applicable, Aristeia Capital, or an affiliate of ours in connection with the affairs of a client, as applicable,
- all expenses incurred in connection with the registration, qualification or exemption of the client under any applicable laws, including any governmental, regulatory, licensing, filing or registration fees incurred in compliance with the rules of any self-regulatory organization or any applicable laws,
- any withholding or transfer taxes and government fees imposed on a client,
- fees and expenses incurred in connection with the preparation and printing of any offering documents, governing documents and agreements and any other fund documents,
- costs of accounting and auditor's fees, including the audit of a client's annual financial statements and the preparation of their tax reports and returns,
- an allocated portion of our firm's cost of (i) accounting related software and (ii) except to the extent limited by the Employee Retirement Income Security Act of 1974, certain classes of investors in our clients will bear expenses related to compensation (including salary, bonus and other benefits) of our accounting, tax and operations personnel providing services to our clients,
- the fees and expenses of legal counsel in connection with advice directly relating to a client's legal affairs,
- fees and expenses of the client's directors, corporate secretary, registered office or agent, and other corporate expenses, as applicable,

- costs of the client's administrator and custodians, as applicable, including any custodians engaged to perform certain specialized services for our clients located in jurisdictions requiring a custodian meeting certain regulatory requirements,
- costs of preparing and mailing reports or other materials to investors and holding meetings of investors,
- regulatory, legal or related charges associated with offering to or accepting investors from certain jurisdictions, and
- other ordinary miscellaneous operating and out-of-pocket expenses of the client.

In addition to the fees and expenses we mention above, certain of our clients, including the Dedicated Funds, may pay additional fees to their respective organizers, sponsors, or other service providers.

For more information on brokerage transactions and costs, please see Section 9: Brokerage Practices.

Neither our firm nor any of our principals or employees receives any transaction-based compensation for the sale of securities or other investment products.

### **3. Performance-Based Fees and Side-By-Side Management**

Aristeia Capital (or one of our affiliates) receives performance-based compensation from all of our clients each year other than the closed-end Aristeia Fund. Please see Section 2: Fees and Compensation for a more detailed explanation of the performance-based compensation we receive.

The existence of the performance-based compensation may create an incentive for us or our affiliates to make riskier or more speculative investments. This side-by-side management of clients with different compensation structures creates a potential conflict in that we may be incentivized to allocate investment opportunities to the clients that are subject to higher performance compensation. We seek to manage any potential conflicts of interest by adhering to the investment strategy and investment allocation policy discussed in each client's governing documents.

Because performance-based compensation is based in part on unrealized gains and losses, we may theoretically have an incentive to inflate the value of client assets through fair valuation determinations. We have policies in place to ensure consistent valuation methodologies for all of our funds. Additionally, from time to time certain situations affecting the valuation of a client's investments could have an impact on the net asset value of the client, particularly if prior judgments as to the appropriate valuation of an investment should later prove to be incorrect after a value-related calculation or transaction is completed. We are not required to make retroactive adjustments to prior

subscriptions or withdrawal transactions or management fees or performance-based compensation based on subsequent valuation data.

#### **4. Types of Clients**

We provide investment advice solely to pooled investment fund clients. Investors in our clients include individuals, pension and profit sharing plans, trusts, estates or charitable organizations, corporations or other institutional investors, and funds of funds. In addition, our firm's owners and employees together comprise one of the largest investors in the Aristeia Funds.

##### Investment Requirements

Generally, a minimum investment of between \$5,000,000 and \$20,000,000 is required, depending on the fund managed or sponsored by Aristeia. Dedicated Fund minimum investment amounts vary as set by the Fund's sponsor. Typically, we have the discretion to, and on occasion may, accept subscriptions below the minimum investment requirements. Certain Dedicated Funds organized under the laws of Ireland are subject to regulations requiring a minimum investment of €100,000 (or United States Dollar equivalent), and may have higher minimum investment requirements as a matter of policy.

To comply with Securities and Exchange Commission regulations, we require that U.S. investors in our clients qualify as "qualified purchasers" as defined under the Investment Company Act of 1940, as amended, or are otherwise qualified to invest under applicable regulations. See Section 2: Fees and Compensation for an explanation of the qualification requirements for qualified purchasers. Our non-U.S. investors are not subject to any particular wealth requirements.

This brochure is not an offer to invest in our funds.

#### **5. Method of Analysis, Investment Strategies and Risk of Loss**

Our primary focus is on investing our clients' assets in the credit markets and other opportunities that we think exhibit attractive return profiles. In managing our clients' accounts, we use a combination of fundamental research and analysis of (1) issuers, (2) complex financial instruments (such as convertible securities, credit default swaps, options and other derivatives), (3) the potential outcomes of corporate events, (4) the various processes for effecting corporate transactions and restructuring liabilities and (5) potential outcomes of litigation affecting specific investments. We utilize a set of systems for quantitative security valuation that we have built which models the unique features of a variety of securities and incorporates large amounts of market data that are necessary inputs to these models.

The following types of analyses are more detailed examples of how we conduct our fundamental research and analysis that we mention above. Before making an investment,



we evaluate each potential investment opportunity based on one, and typically several, of the following analyses. There can be no assurance that any of the following analyses will direct us to make profitable investment decisions, and each is subject to risk.

- *Instrument Relative Value Analysis:* Relative value is the attractiveness of opportunities measured in terms of risk, liquidity and return of one security relative to another.
- *Scenario Analysis:* We consider various price and corporate event scenarios for the target investment and its related hedge (if any) and how each scenario would affect the profitability of the potential investment.
- *Management Meetings:* We may meet with management representatives of issuers, in compliance with applicable securities laws, to obtain their perspective on their company's performance and capitalization requirements.
- *Financial Statement Analysis and Forecasting:* We review issuers' financial statements and may attempt to forecast future results based upon our review and financial and economic models and assumptions.
- *Capital Structure Review:* We review the capital structures of issuers in an effort to determine whether they may be more or less likely to raise additional capital or restructure outstanding securities in a mutually-beneficial manner.
- *Liquidity Forecasts:* We estimate an issuer's future cash flow and seek to predict the likely impact on the issuer's operations.
- *Enterprise Valuation:* We calculate an enterprise's value as market capitalization (share price multiplied by the number of shares outstanding) plus debt, minority interest and preferred shares, minus total cash and cash equivalents, seeking to arrive at what we believe the "true" valuation is.
- *Industry/Comparable Company Analysis:* We review and analyze an issuer's position within the context of the general economic environment and relevant industry cycles, industry size and growth rates, the competitiveness of the industry's landscape, barriers to entry and potential new entrants to the industry, product position and defensibility of market share, any technological, regulatory and similar threats and pricing power and cost considerations.
- *Review of Instrument Legal Rights:* We review the legal terms applicable to certain securities in which we invest to confirm that rights and entitlements beneficial to the holders of the securities are respected.
- *Catalyst Identification:* We identify potential events that might narrow the difference between a security's market price and our determination of its value. Catalysts may include changes in the regulatory environment, changes in a company's management or merger and acquisition activity.

- *Litigation Analysis:* We seek to determine whether adversarial proceedings or bankruptcy or reorganization proceedings may create attractive investment opportunities.
- *Price History Analysis:* We review the price history of securities in which we may invest and of assets whose prices may be related to the price history of securities in which we may invest.

We strive to employ a dynamic approach to managing our clients' portfolios by managing our clients' positions actively to extract profits and attempt to mitigate risk through a variety of investment strategies. While we generally maintain a core group of long-term investments, we also try to take advantage of short-term trading opportunities that result from what we perceive as pricing anomalies.

Despite our models and methodologies, there is always the possibility that we may not correctly predict or evaluate the future performance of certain securities. Investing in any securities involves a risk of loss that any of our clients or any of the investors in our clients must be prepared to bear.

Certain risks associated with an investment in any client we advise include:

- *Investment Judgment and Market Risk:* The success of our investment programs depends, in large part, on correctly evaluating future price movements of potential investments. We cannot guarantee that we will be able to accurately predict these price movements and that our investment programs will be successful.
- *Quantitative Models:* Quantitative models are programmed to identify investment opportunities based on the occurrence of specified events and/or situations and are dependent upon historical data. Should these events and/or situations fail to occur or should the historical data inadequately address current market conditions, the models may not generate any investment opportunities and/or profits. Furthermore, securities selected using quantitative methods may perform differently from the market as a whole for many reasons, including the factors used in building the quantitative analytical framework, the weights placed on each factor and changing sources of market returns, among others.
- *Financial Markets and Regulatory Change:* The instability pervading global financial markets has heightened the risks associated with the investment activities and operations of private investment funds. Laws and regulations applicable to our clients, especially those involving taxation, investment and trading, are evolving and can change quickly and unpredictably in a manner adverse to our clients' interests.

Below we describe some of the most significant and prevalent strategies that we utilize in advising our clients and some important risks associated with those strategies. The following explanation of certain risks is not exhaustive, but rather highlights some of the more significant risks involved in each strategy mentioned below.

For a complete explanation of all relevant investment strategies and their associated risks, investors in our clients should also review each applicable client's Private Placement Memorandum or other governing documents, which may contain additional explanations of strategies, risks and other related details not discussed below.

- *High Yield, Investment Grade or Unrated Corporate or Government Securities:* Debt securities (including bonds) and preferred stock in which we invest on behalf of our clients may or may not be rated by credit rating agencies. If they are rated, this rating may range from the very highest to the very lowest. The lower-rated categories include debt securities that are in default and debt securities of insolvent issuers. The values of lower-rated securities (including unrated securities of comparable quality) fluctuate more than those of higher-rated securities and may be affected by the inability (or perceived inability) of issuers to make timely payment of interest and principal. In general, the market for lower-rated or unrated securities is smaller and less active than that for higher-rated securities, which can adversely affect our ability to sell these securities at favorable prices. We will not necessarily dispose of a security when its rating is reduced below its rating at the time of purchase.
- *Long/Short Credit Strategy:* On behalf of our clients, we invest in long and short credit positions in an attempt to take advantage of relative value opportunities where a specific credit instrument appears either undervalued or overvalued compared to a relevant benchmark. Our clients may experience losses if the values of their credit positions deviate from our expectations.
- *Capital Structure Arbitrage:* We may engage in capital structure arbitrage on our clients' behalf. This investment strategy seeks to identify and exploit the relationships between price movements in different securities and instruments within a single issuer's capital structure (for example, between senior debt and common stock or between subordinated debt and preferred stock). The ultimate goal is for the market values of the different securities to converge. If, instead, they go in opposite directions, our clients may incur substantial losses.
- *Distressed Securities:* Distressed securities refer to securities and other obligations issued by a company that is undergoing significant distress, such as bankruptcy or reorganization, or is likely to do so in the near future. The securities of distressed corporations are often overly discounted by the market, creating attractive opportunities for our clients. A significant risk of investing in distressed debt and securities is that the subject company's projected performance may not meet our forecasts. We may not always correctly identify and evaluate the nature and magnitude of the many factors that affect the probability of a successful reorganization or distribution of value in a reorganization.
- *Post-Reorganization Securities:* Our investments on behalf of our clients in companies that have just experienced a reorganization or restructuring may experience losses if our expected outcome proves incorrect. Post-reorganization

securities may be illiquid, subject to heavy selling and/or downward pricing pressure after completing a reorganization or restructuring.

- *Loan Participations and Assignments.* Our clients may invest in fixed-rate and floating-rate loans, which generally will be in the form of loan participations and assignments. Participations and assignments involve special types of risk, including credit risk, interest rate risk, liquidity risk and risks associated with being a lender. Loan participations typically represent direct participation in a loan to a corporate borrower, and involve additional risks for our clients such as the credit risk associated with an interposed bank or other financial intermediary and the risk of only being able to enforce their rights through the lender. Investments in loans through assignment may involve additional risks such as the risk of dealing with any collateral associated with the loan if the loan were foreclosed.
- *Relative Value and Convertible Arbitrage:* When we engage in relative value arbitrage on behalf of our clients, we seek to take advantage of relative pricing discrepancies between various instruments, including equities, debt, options, swaps and futures. The risk exists that the price differential we attempt to exploit could change unfavorably, causing a loss.
- *Convertible Securities:* Changes in interest rates, credit risk premiums, an issuer's stock price or an issuer's credit standing may affect the value of the convertible securities our clients hold. Our clients' abilities to achieve their investment objectives may be adversely affected if they hold convertible securities and other holders need to liquidate the same or similar securities.
- *Event-Driven Situations:* We invest on behalf of our clients in companies involved in acquisitions, tender offers, exchange offers, restructurings, work-outs, liquidations, spin-offs, reorganizations, bankruptcies or other catalytic changes or similar transactions on behalf of our clients. In any investment opportunity involving any type of event-driven situation, the risk exists that the contemplated transaction will be unsuccessful, will not occur, will take considerable time or will result in a distribution of cash or a new security the value of which will be less than we anticipated.
- *Share Class Arbitrage:* On our clients' behalf, we may engage in event-driven trades based on pricing discrepancies in different share classes of the same issuer. The desired goal is for the market values of the different share classes to converge or diverge. If, instead, they go in the opposite direction than the direction that we predicted, our clients may incur substantial losses.
- *Equity Stubs:* We may participate in equity stubs on our clients' behalf when we invest in a parent company that owns stock in a subsidiary and we also short the subsidiary or we short a parent company that owns stock in a subsidiary while we are long the subsidiary. If we misjudge the difference in value between the parent

company and its subsidiary or we fail to correctly predict changes in the values of the two entities, our clients may experience losses.

- *Equity Securities:* We buy equity securities on behalf of our clients, seeking to profit from both security selection and thematic sector or market timing decisions. Our clients may suffer losses if we invest in equity instruments of issuers whose performance diverges from our expectations or if equity markets generally move in a single direction and we have not hedged against this type of move (see below for an explanation of hedging).
- *Fixed-Income Securities:* Fixed-income securities provide periodic returns and the eventual return of the principal at the end of the term. The value of fixed-income securities changes in response to interest rate fluctuations and market perception of the issuer's ability to pay off its obligations. The risk exists that an issuer may be unable to make interest or principal payments on its obligations.
- *Private Debt and Equity Securities:* Investments in privately held companies, including early stage companies, are inherently fragile and easily affected by both internal and external forces. On the other hand, these businesses can gain suddenly in value in response to an internal or external positive development. Significantly, typically little publicly available information exists concerning newer, private companies. In addition, private companies' securities typically are not traded in the volumes typical for larger companies, and it may take longer to sell private securities or we may have to accept potentially less favorable prices if selling a position.
- *Short Selling:* We typically hedge against clients' long positions in convertible or other securities by selling short the primary security's underlying security or a related security. Whereas when we buy securities long our clients' risk of loss is limited to the cost of the securities, there is no limit to losses in a short sale because there is no cap on the price our clients may have to pay to buy the securities sold short. Short selling may be adversely affected by regulatory restrictions or an increased cost and/or diminished availability of borrowing the security sold short.
- *Borrowing/Leverage:* We may borrow against the assets of our clients when we believe that the returns from investing the proceeds will exceed the interest paid on the borrowing. Borrowing involves risk to our clients because the interest on the borrowed amount may be greater than the income from or increase in the value of the securities purchased with the borrowed amount and the value of the securities purchased with the borrowed amount can decline below the amount borrowed.
- *Margin Transactions:* To increase our clients' buying power, sometimes we engage in margin transactions in which our clients borrow from a broker to purchase more securities than they otherwise would be able to with their initial cash investment. Trading on margin is risky because it not only can increase

gains, but also can amplify losses to the point where a client may lose more than its initial investment.

- *Hedging Transactions:* Hedging generally is an essential component of our strategy. Hedging entails determining certain risks in one's portfolio and making trades seeking to offset those risks. The success of a client's hedging strategy is subject to our ability to correctly assess the degree of correlation between the performance of the instruments used in the hedging strategy and the performance of the investments in the portfolio being hedged. We may not always choose the right variable to hedge against, or might choose not to hedge against or might not anticipate certain risks. Our clients' portfolios will always be exposed to certain risks that cannot be hedged.

Many other investment strategies we employ can be used as hedging techniques, such as options, warrants, futures, forwards, swaps, repurchase agreements and reverse repurchase agreements and short selling.

- *Swaps, Futures and Other Derivatives:* At times, we may invest on behalf of our clients in swaps, futures and other forms of derivative contracts, which are contracts between two parties, the value of which is linked to another security or commodity, or an "underlying asset." Most of the derivatives in which we may trade are over-the-counter, meaning they are privately negotiated between two parties, as opposed to being traded on an exchange. Over-the-counter transactions typically involve significant transaction costs and a greater risk of nonperformance by opposing parties. Also, many of the protections afforded to participants in a regulated environment may not be available in connection with over-the-counter derivative transactions.

Derivative contracts expose our clients to potential gain or loss from a change in the price of an underlying asset in an amount that exceeds the amount of cash or assets required to establish or maintain the derivative contract. Finally, derivative contracts are risky because, ultimately, their success depends in part on the counterparty's ability to turn over the cash flow it promised.

The regulation of certain derivative instruments known as swaps is undergoing significant change in the United States and Europe. Certain swaps transactions have become subject to regulation by the Commodities Futures Trading Commission, while others are subject to the jurisdiction of the Securities and Exchange Commission. The Commodities Futures Trading Commission's regulations require that certain swaps transactions be centrally cleared which may result in increased costs and reduced liquidity for our clients when entering into these transactions. European regulations governing these transactions may also result in increased costs and reduced liquidity in these positions. These regulations, and industry practices in response, are likely to evolve rapidly in the coming years.

A discussion of some of the particular types of swaps and derivative contracts in which we invest follows below.

- *Total Return Swaps:* A total return swap is a contract between two parties under which one party makes payments based on a set rate, while the other party makes payments based on an underlying asset's return. The underlying asset is usually a publicly-traded security, but may also be an index or a loan or bond. Risks associated with total return swaps include the risk that the obligor of the underlying asset will default on its obligations and any risks associated with owning the underlying asset.
- *Interest Rate Swaps:* An interest rate swap is a contract between two parties under which parties exchange interest rates on a principal amount. The principal amount is never exchanged but is used to calculate each party's interest payments. There is always the risk that interest rates will go in an unanticipated direction, which would negatively affect our earnings. There is also the risk that the other party will default and be unable to complete the contract, which may result in losses to our clients.

Also, as we mention above, the Commodity Futures Trading Commission now requires interest rate swaps to be centrally cleared and reported and subjects our counterparties to significant obligations. This clearing requirement may affect our ability to negotiate individualized terms on our clients' behalf and/or may increase the costs of entering into these derivative transactions by increasing margin or capital requirements.

- *Credit Default Swaps:* A credit default swap is a contract between two parties under which they both agree to isolate and separately trade the credit risk of at least one third-party entity. Our clients may use credit default swaps to hedge a portion of the default risk on a single debt obligation or portfolio of obligations. They also may use credit default swaps to implement a portfolio manager's theory that a particular credit or group of credits will experience credit improvement or credit deterioration. The leverage involved in many credit default swap transactions, and the possibility that a widespread downturn in the market could cause massive defaults, both add to the uncertainty of an investment in these instruments.
- *Repurchase and Reverse Repurchase Agreements:* Under a repurchase agreement, a client sells securities yet also agrees to repurchase them at an agreed upon date and price. Repurchase agreements involve the risk that the value of the securities sold may decline, yet our client must still repurchase them. Under a reverse repurchase agreement, a client buys securities but agrees to sell them in the future. Reverse repurchase agreements involve the risk that a client must sell the securities at a fixed price that is lower than the securities' current market value. Also, these transactions involve the risk that the other party to the agreement will be

unable or unwilling to complete the transaction as scheduled, which may result in losses to our client.

- *Futures*: A future is a contractual agreement to buy or sell a particular commodity or financial instrument at a pre-determined price in the future. At times, futures may be illiquid investments because certain commodity exchanges limit fluctuations in particular futures contract prices during a single day. Once the price of a futures contract has increased or decreased by an amount equal to the daily limit, that contract cannot be traded unless traders are willing to trade it within that limit which could prevent us from promptly selling unfavorable contracts. Sometimes, we may ultimately settle the differences in a futures contract for cash, rather than delivering or receiving the underlying commodity or financial instrument.
- *Forwards*: A forward is a privately-negotiated contract between two parties to buy or sell an asset at a specified future date at a price agreed upon at the time the contract is made. Because there is not a big secondary market for forwards, they may be difficult to sell should they become unfavorable for our clients.
- *Options*: On behalf of our clients, we may invest in call and/or put options. Call options are the right to buy a security at a certain price within a defined time period. Put options are the right to sell a security at a certain price within a defined time period. An option's value may decline because of passage of time, the value of its underlying asset may change, changes in the market's perception as to the underlying asset's future price behavior or any combination of these factors.
- *Option Writing*: Our clients may write (essentially, sell) call and put options on securities. The applicable client receives a premium from writing a call or put option, which increases the client's return if the option expires unexercised or is exercised at a net profit. When a client writes a call option, it must be prepared to deliver the security regardless of its market price; when it writes a put option, the client takes the risk that it will be required to purchase a security from the option holder at a price above the current market price of the security.
- *Warrants*: Warrants are derivative instruments that entitle the holder to buy the underlying stock of the issuing company at a fixed exercise price until an expiration date. The values of warrants do not necessarily change with the values of the underlying stock and warrants cease to have value if they are not exercised prior to their expiration dates.
- *Undervalued Assets*: On behalf of our clients, we often invest in assets that we believe are undervalued. Identifying investment opportunities in undervalued assets is difficult and we cannot assure any clients that we will be able to recognize or acquire undervalued assets. While investments in undervalued assets



offer our clients the opportunity for above-average capital appreciation, they also involve a high degree of financial risk and can result in substantial losses.

- *Foreign Securities:* We occasionally buy and sell foreign securities for our clients' accounts, particularly in the European region. Investing in foreign securities involves certain risk factors not typically associated with investing in U.S. securities, such as fluctuation between exchange rates, the costs of converting from one currency to another, greater risk of political, social or economic instability and the possibility that foreign taxes may be imposed on our clients' income. In addition, there may not be much information available regarding foreign securities because foreign companies and governments may not be subject to accounting, auditing and financial reporting standards and requirements comparable to those of the U.S. Finally, some non-U.S. markets have difficulty keeping pace with large volumes of transactions which can lead to substantial delays and settlement failures that could adversely affect our clients' performance.
- *Investing in Emerging Markets:* We may, occasionally, invest on behalf of our clients in securities of issuers located in countries that are less developed than the United States and Europe but whose social and economic activity is in the process of reform and is experiencing rapid growth and industrialization. Risks associated with investing in some emerging markets include less publicly available information, less strict securities market regulation, less efficiency, less favorable tax provisions, a greater likelihood of severe inflation, unstable currency and war.
- *Short-Term Trading:* We may engage in short-term trading on our clients' behalf. Frequent trading results in high turnover and brokerage commission expenses which can adversely affect a client's performance if its trading is not sufficiently profitable.
- *Illiquid Investments:* Illiquid investments are (1) investments that are not heavily traded and cannot easily be converted to cash or (2) investments that we believe our clients must hold for several years to reach their potential value. If our clients require cash and we must sell illiquid investments at an inopportune time, we might not be able to sell illiquid investments at prices that reflect our assessment of their value or the amount paid for them.
- *Lack of Investment Diversification:* Some of our clients may be highly concentrated in a few related investments. Additionally, even for clients where we typically spread our clients' capital among many investments, there are times when we may determine that any of our clients should hold a few, relatively large investments in relation to a client's capital. Consequently, the success of each of those clients could be substantially adversely affected by the unfavorable performance of a single investment.

We do not recommend primarily any single type of security. Our clients' investments are rather diversified, yet we still encourage investors in our clients to consider all of the risk

factors we have explained in addition to those provided in the Private Placement Memorandum and/or other governing documents of our clients, as any investment can be risky and investors must be prepared to assume any potential loss.

## **6. Disciplinary Information**

On May 2, 2011, our firm voluntarily agreed, without admitting or denying any allegations, to a settlement with the SEC relating to Rule 105 of Regulation M under the Securities and Exchange Act of 1934. Rule 105 of Regulation M generally prohibits buying an equity security in a secondary public offering if the buyer sold short the same security during a restricted period (generally five business days before the pricing of the offering). This prohibition contained in Rule 105 of Regulation M applies regardless of whether any intent to violate the rule existed.

This settlement relates to our purchases of securities, on behalf of our investment fund clients, in four secondary public offerings between January and June of 2008. Our settlement included a censure, a cease and desist order under which we agreed not to violate Rule 105 of Regulation M in the future and a payment to the United States Treasury consisting of a disgorgement of profits associated with the transactions at issue in the amount of \$1,221,571, interest on that amount equal to \$141,205 and a civil penalty of \$400,000. Aristeia Capital fulfilled this payment obligation on May 5, 2011; our clients did not bear any portion of this obligation or any costs related to our resolution of this matter.

Neither our firm, nor any of our directors, officers or principals has been involved in any investment-related criminal or civil actions in a domestic, foreign or military court.

Neither our firm, nor any of our directors, officers or principals has been found to have caused an investment-related business to lose its authorization to do business.

Neither our firm, nor any of our directors, officers or principals has been involved in any self-regulatory organization proceedings.

## **7. Other Financial Industry Activities and Affiliates**

Neither our firm, nor any of our directors, officers or principals is registered as a broker-dealer or a representative of a broker-dealer or has an application pending to register as a broker-dealer or a registered representative of a broker-dealer.

Neither our firm nor any of our directors, officers or principals is registered, or has an application pending to register, as a futures commission merchant, commodity pool operator, a commodity trading advisor, or is an associated person of any of the above.

### Affiliations With Pooled Investment Vehicles

Our firm and our affiliates, Aristeia Advisors, L.L.C. and Aristeia Select Opportunities GP, L.L.C., have sponsored the Aristeia Funds. Aristeia Advisors, L.L.C. serves as the general partner to the open-ended Aristeia Funds and Aristeia Select Opportunities GP, L.L.C. serves as the general partner to the closed-end Aristeia Fund. The Dedicated Funds have been organized or sponsored by third parties. Our clients do not have independent management, and, for our clients organized offshore, we or a third party organizer or sponsor have selected their board of directors or board of advisors (each of which may include a principal of our firm), as applicable. Although this arrangement may give us heightened control and discretion over our clients, we manage any potential conflicts of interest by adhering to the investment strategy and investment allocation policy discussed in our clients' Private Placement Memoranda or other governing documents.

We do not recommend or select other investment advisers for our clients.

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

We have adopted a Code of Ethics and Personal Trading Policy (the "Code of Ethics") in accordance with Securities and Exchange Commission requirements. Our Code of Ethics works to ensure that our employees' actions, including their personal securities transactions, are consistent with our firm's fiduciary duty to our clients and to ensure compliance with legal and regulatory requirements. It focuses on specific areas where employee conduct has the potential to affect clients' or investors' interests adversely, such as personal securities trading, outside activities, gifts, borrowing and lending, and the influence of personal relationships and charitable contributions. Our Code of Ethics requires employees to submit transactions or holdings statements, to our Chief Compliance Officer for any account holding securities in which an employee or certain family members have an interest. Most employee trades in which an employee or certain family members have an interest must be reviewed and pre-approved by our Chief Compliance Officer or his designee. We provide a copy of our Code of Ethics to any client or any investor in our clients, or any prospective client or prospective investor that requests one. All references to the Chief Compliance Officer in this section include the Chief Compliance Officer or his designee, as appropriate.

Although in general our firm, our affiliates or our employees do not buy or sell for client accounts securities in which they have a material financial interest, from time to time we may advise our clients to purchase or sell securities in which we or one of our affiliates or employees hold a position. For example, when an employee arrives at Aristeia Capital owning securities of an issuer in which our clients have invested, we would permit this employee to sell his or her position if our clients are not actively trading that particular security and if doing so would not adversely affect our clients in any way. We may permit such activity under other circumstances as well. These transactions are subject to review by our Chief Compliance Officer and to our Code of Ethics, which seeks to ensure

that client interests are placed first, ahead of those of our firm, our affiliates and our employees.

We have a variety of procedures in place to ensure that we address any potential conflicts that may arise between our employees and our clients, especially in order to prevent our employees from buying or selling the same or similar securities in which we trade for our client contemporaneously for their personal accounts.

As mentioned above, not only must our Chief Compliance Officer or his designee review and pre-approve most types of employee personal securities trades, but also our Chief Compliance Officer may order that any personal transaction be reversed or modified by the end of the day. Upon receiving a request for pre-approval of a trade, our Chief Compliance Officer or his designee consults with our trading desk to determine whether the transaction would violate our prohibitions on personal trading (described immediately below). If the Chief Compliance Officer determines that a personal transaction would breach our policies, the Chief Compliance Officer will deny approval of the trade. In addition, the Chief Compliance Officer's approval of a trade is only valid on the business day on which it is given.

Generally, but subject to any exceptions that we have discussed above, we do not permit employees or certain family members to trade in the following securities:

- securities that any of our clients currently hold with the exception of Exchange Traded Funds,
- securities that we are currently reviewing and/or considering purchasing or selling for a client,
- securities issued by a company with which we have executed a non-disclosure or similar agreement,
- securities issued by a company of which we are reviewing potentially material, non-public information and
- securities that are convertible, exchangeable or exercisable into any of the previously mentioned categories of securities.

We also generally prohibit employees and certain family members from placing more than six trades per month. However, our Chief Compliance Officer may waive our restrictions under certain circumstances.

Also, as previously mentioned, we require employees to submit transactions or holdings statements to our Chief Compliance Officer for any account holding certain securities in which an employee or certain family members have an interest. Employees must report transactions in any holdings not reflected in their statements, such as securities acquired in private placements, to our Chief Compliance Officer within 30 days after the end of every quarter. Our Chief Compliance Officer regularly compares these statements with

employees' approved personal trading requests to ensure compliance with our personal trading policies.

We may from time to time choose to engage in cross trades in accordance with our cross-trading policy. Specifically, our portfolio managers may occasionally determine that it is in line with certain clients' investment strategy and in the best interest of our clients to have one client purchase a security from another client that is selling the same security, otherwise known as a "cross trade." There may be a conflict of interest because a cross trade is not independently negotiated. We do not take any commissions or fees in connection with effecting cross trades between our clients. In fact, we may coordinate cross trades between clients in an attempt to reduce or eliminate transaction costs. When coordinating any cross trades between clients, we must follow our written procedures for cross trading in order to reduce the potential for conflicts of interest. Our cross trading procedures require, among other things, that the selling client receive only cash for the trade, the trade be effected at an independent current market price, the only fees that the clients are allowed to pay are customary transfer fees and the trade must be consistent with each participating client's investment policy.

## **9. Brokerage Practices**

In selecting broker-dealers and determining the reasonableness of their commissions for our clients' transactions, we strive to achieve "best execution," by taking into account any combination of the following factors:

- commission costs,
- capital adequacy, meaning that a broker-dealer has sufficient capital to correspond to its risk,
- ability and willingness to commit capital,
- confidentiality,
- the nature and quality of research products and services offered,
- market expertise and
- execution ability, which includes:
  - the minimization of total trading costs, errors, incomplete trades and market impact,
  - the speed at which a broker-dealer can effect a transaction,
  - a broker-dealer's use of advanced technology and infrastructure and
  - the maximization of price improvement.

We also evaluate the usage of research and execution services provided by broker-dealers by surveying certain employees on a quarterly basis. We incorporate results of such surveys in selecting brokers-dealers.

In addition, broker-dealers may offer ancillary services to us. For example, our employees occasionally participate in “capital introduction” events sponsored by broker-dealers. Capital introduction events are events designed to bring asset managers together with investors in one forum. We may use certain consulting services provided by broker-dealers, such as services related to technology and human resources issues. While we do not commit to allocate certain brokerage business or otherwise compensate broker-dealers for organizing these events or for any successful investor relationships we make at these events, or for any consulting services, we may consider potential invitations to capital introduction events or the availability of consulting services when selecting broker-dealers to execute our clients’ trades, subject to our duty to seek best execution.

Significantly, many of our trades are over-the-counter transactions, in which the most important consideration in choosing a broker-dealer is the price we can negotiate on our clients’ behalf.

At times, we may execute trades through broker-dealers that employ family members of our employees. These family members’ compensation may be directly or indirectly affected by our trading. In order to ensure that we select broker-dealers objectively and that our selection is not influenced by potential benefits to family members, we adhere to our policy of considering the relevant factors listed above when choosing broker-dealers for our clients’ trades.

We Utilize Research and Other “Soft Dollar” Benefits. At times, our firm may pay higher prices to buy securities from, or accept lower prices for the sale of securities to, brokerage firms that provide us with investment and research information. This investment and research information is often referred to as one type of “soft dollar” benefit, and may also be referred to as “full-service brokerage.” The research services that broker-dealers might provide us with include:

- written information and analyses concerning specific securities, companies or sectors,
- market, financial and economic studies and forecasts,
- statistics and pricing or appraisal services,
- discussions with research personnel and
- invitations to attend conferences or meetings with management or industry consultants.

We can use these research services and products in connection with our advisory services for any of our accounts, not necessarily for only the account that “paid” for them. For

example, we might utilize research services that a broker-dealer provides for one of our funds in connection with our advisory services for other accounts and vice versa. We aim to allocate soft dollar benefits in a fair and equitable manner, but may not necessarily allocate soft dollar benefits to each of our client accounts in proportion to the soft dollar credits that each client generates.

We note that another type of soft dollar relationship exists, in which a broker-dealer pays the expenses and costs of third parties that provide an investment adviser with benefits. We do not engage in any of these “third party soft dollar” relationships.

We Intend for our Use of Soft Dollar Benefits to Fall Within the Safe Harbor. The Securities and Exchange Commission has created a safe harbor that protects financial advisers from liability for a possible breach of fiduciary duty to their clients for engaging in soft dollar arrangements for certain services at other than the lowest transaction costs if they make a good faith determination that the amount of the commission was reasonable in relation to the value of the research services received. We intend that our soft dollar arrangements will fall within this safe harbor.

The Use of Soft Dollars Can Create a Conflict of Interest. Although our policies require us to always obtain the best execution for our clients by taking into account all applicable factors, using client transactions to obtain research and other benefits creates incentives that result in conflicts of interest between advisers and their clients. When we use client markups or markdowns to obtain research products and services, our firm receives a benefit because we do not have to produce or pay for the research products and services. The availability of these benefits may influence us to select one broker-dealer rather than another to perform services for clients, based on our interest in receiving the products and services instead of on our clients’ interest in receiving the best execution prices. Obtaining these benefits may cause our clients to pay higher fees than those charged by other broker-dealers.

The use of soft dollars to obtain research services creates a conflict of interest between our firm and our clients because our clients pay for products and services that are not exclusively for their benefit and that may be primarily or exclusively for the benefit of our firm or other clients. To the extent that we are able to acquire these products and services without expending our own resources, our use of soft dollar benefits tends to increase our profitability.

We Use Particular Procedures to Direct Transactions in Return for Soft Dollars. We direct our clients’ transactions to broker-dealers based on overall best execution, as explained above. Our Brokerage Committee periodically reviews our brokerage practices and procedures to ensure that we are achieving best execution on all trades for our clients.

We Do Not Consider Referrals in Selecting or Recommending Broker-Dealers. At times, we may have an incentive to select a broker-dealer based on our interest in receiving referrals, rather than on our clients’ interest in receiving most favorable trade execution. Specifically, on behalf of our clients, we accept investments from full-service financial firms investing on their own behalf or on behalf of their clients and on behalf of certain

clients we have engaged placement agents. These financial firms and placement agents may have related broker-dealers which may create an incentive for us to select the related broker-dealers however, we may utilize the related broker-dealers only if, without taking into account the business they or their affiliates give us, we believe that they provide “best execution” for our clients, based on any of the factors enumerated at the beginning of this section.

Our Clients Do Not Direct Brokerage. As all of our clients are private investment funds that we manage, we select all broker-dealers for our clients.

#### Trade Aggregation and Allocation

Sometimes we decide that some or all of our clients should participate in the same investment opportunity. In this case, we aggregate the purchase or sale of the securities for the various client accounts so long as doing so is consistent with receiving the best possible execution and reducing brokerage commissions. Generally, when we aggregate a trade for multiple clients, our trading and risk management system automatically allocates the trade order among the participating clients pursuant to our proprietary algorithm that establishes the desired exposure of each client to a particular position taking into account factors such as:

- clients’ relative sizes by assets under management,
- the investment strategy or sub-strategy into which the position is classified,
- whether a position is a primary position or a hedge to a primary position and
- each client’s overall exposure to a position or strategy at the time of the subject trade.

The target positions determined by the algorithm for each client are subject to constraints such as position size restrictions or lack of counterparty relationships. In addition, we may authorize overrides of the target positions that the algorithm generates for reasons such as tax or regulatory considerations. We review and document overrides of the target positions that the algorithm generates.

If an order cannot be fully executed under current market conditions, we allocate the executed portion of the trade among the participating client accounts using the same system we use to allocate fully executed orders, explained immediately above. Ultimately, clients benefit when we aggregate trades because they receive volume discounts on execution costs.

The closed-end Aristeia Fund follows a private equity-based strategy with respect to certain securities in parallel with our other clients. Because the closed-end Aristeia Fund has a substantially different investment mandate from our other clients, investments and dispositions may not be made concurrently or at the same price. Additionally, because transparency and liquidity terms vary amongst the clients, we may cause liquidation of an



investment for one client while retaining or increasing the position held by another client in the same investment.

### Trade Errors

Our firm has internal controls in place to prevent trade errors from occurring. On those occasions when an error nonetheless occurs, we will use reasonable efforts to correct the error as soon as possible. Our clients' organizational and/or operating documents may contain legal standards for liability of trading errors. Generally, we seek to reimburse our clients for net losses arising from trading errors over relevant periods.

## **10. Review of Accounts**

On a daily basis, our firm's Trading Desk Manager, or his designee, reviews all trading activity that our position managers conduct for our clients' accounts. Our Trading Desk Manager, or his designee, examines our trading activity specifically for trades that may violate our firm's internal policies or any applicable laws or regulations and reports any violations to our Chief Compliance Officer.

The Trading Desk Manager periodically reviews and monitors our clients' portfolios to ensure that we are complying with each client's risk parameters. In addition, the Trading Desk Manager, our Chief Risk Officer or their designees periodically review our clients' trading records to verify that we are complying with our trade aggregation and allocation policy, as described in Section 9: Brokerage Practices.

We provide investors in our clients with either written quarterly or written monthly reports, as mandated in the applicable governing documents, that contain performance information about the fund in which they have invested for the previous quarter or month, as appropriate. Our administrator also provides investors in our clients with individual monthly capital account statements, generally via email. In addition, we provide investors in our clients with written annual reports that contain audited financial statements and tax information. We may provide other information to investors in our clients from time to time, including information required under our agreements with a particular client. We may also respond to requests for specific information from investors in our clients and in these situations we do not seek to ensure that all investors receive the information that we may provide.

## **11. Client Referrals and Other Compensation**

Our firm does not, nor do any principals or employees of our firm, receive any economic benefit from non-clients for providing advisory services to our clients.

Our firm has engaged, and may continue to engage, third parties to solicit investors and act as placement agents for certain of our clients. Placement agents may charge a placement fee directly to investors solicited by such placement agent. However, such fees will not be collected by or from our clients. Placement agents may be paid a portion of the management fee or performance allocation attributable to investors solicited by

them, thereby reducing the fees received by our firm and our affiliates. It is the firm's practice not to pay any person or entity in respect of client solicitation unless the fees are paid pursuant to a written agreement.

As previously explained in Section 9: Brokerage Practices, on behalf of our clients, we may accept investments from full-service financial firms investing on their own behalf or on behalf of their clients. These financial firms, as well as any placement agents we ~~may~~ have engaged, may have related broker-dealers which we may indirectly compensate with brokerage commissions only if, without taking into account the business they give us, we believe that they provide "best execution" for our clients.

## **12. Custody**

While it is our firm's practice not to accept or maintain physical possession of any of our clients' assets, we are deemed to have custody of the Aristeia Funds' assets under Rule 206(4)-2 of the Investment Advisers Act of 1940, as amended, because we have the authority to access these clients' funds and deduct fees and expenses from these clients' accounts.

In order to comply with Rule 206(4)-2, we utilize the services of a bank or qualified custodian (as defined under Rule 206(4)-2) to hold the Aristeia Funds' assets. We also ensure that the qualified custodian maintains these funds in accounts that contain only clients' funds and securities. In accordance with Rule 206(4)-2, we also (1) engage an outside auditor to audit the Aristeia Funds at the end of each fiscal year and (2) distribute the results of the audit in audited financial statements that are prepared in accordance with United States generally accepted accounting principles (or in the case of certain of our clients, reconciled from International Financial Reporting Standards to United States generally accepted accounting principles) to all investors in the Aristeia Funds within 120 days after the end of the fiscal year.

## **13. Investment Discretion**

### Scope of Authority

Our firm accepts discretionary authority to manage our clients' securities accounts. Essentially, this means that we have the authority to determine, without obtaining specific client consent, which securities to buy or sell and the amount of securities to buy or sell. Despite this broad authority, we are committed to adhering to the investment strategy and program set forth in each of our clients' Private Placement Memorandum or other governing document.

### Procedures for Assuming Authority

Before accepting their subscriptions for interests, all investors in our clients are provided with a Private Placement Memorandum or other governing document that sets forth, in detail, the relevant client's investment strategy and program. By completing the

subscription documents to acquire an interest in one of our clients, investors give us complete authority to manage their investments in our clients in accordance with the Private Placement Memorandum or other governing document they each received.

## **14. Voting Client Securities**

### Proxy Voting Policies and Procedures

It is our firm's policy that we must vote all client proxies solely in the best interests of our clients. We generally believe that voting in the best interest of our clients entails voting in a manner that will maximize the value of the security. Under certain circumstances, we may determine that it is in our clients' best interests to abstain from voting.

Our firm uses an electronic proxy voting service to manage the process for voting our clients' proxies. We believe that it is in the best interests of our clients to vote their proxies in accordance with the recommendations of our proxy voting service, which utilizes a proxy voting program that our firm has worked with the service provider to tailor. However, our position managers receive information regarding each proposed vote and if a position manager believes that it would best serve a client's interest to vote differently than as recommended by the service (or not to vote at all), he or she can override the automatic vote. Any employee who overrides an automatic vote must note his or her decision for the override in the record relating to that particular proxy vote. An affiliate of this vendor provides "class action" recovery services to Aristeia and our clients on a flat annual fee basis.

### Potential Conflicts of Interest

If any employee responsible for voting proxies identifies any potential conflicts of interest between our firm or any of our employees and the relevant client in connection with voting a client proxy, he or she must notify our Chief Compliance Officer. If we do determine that a conflict exists, (1) we will ensure that any conflicted employee cannot participate in or have any influence over our evaluation of the proxy vote or (2) our Chief Compliance Officer will obtain the recommendation of an independent third-party proxy voting specialist and cast the vote in accordance with its recommendation.

### Recordkeeping

Our proxy voting service provider maintains the following records relating to proxy voting, all of which we can instantaneously access online:

- Proxy statements received for client securities.
- Records of proxy votes cast on behalf of our clients.
- Records of written requests from investors in our clients for proxy voting information and our written responses to any written or oral requests.

- Any documents relating to the identification and resolution of any conflict of interest relating to our voting of client proxies.
- Copies of all communication we receive and any internal documents we create that are material to any proxy voting decisions we make on behalf of our clients.

Upon request, any of our clients or any of the investors in our clients can obtain (1) a copy of our proxy voting policies and procedures and (2) information concerning proxy votes on its behalf.

Neither our clients, nor investors in our clients, can direct us to vote client proxies in a certain manner.

We have the authority to vote all of our clients' proxies and receive all of their proxies and similar solicitations.

## **15. Financial Information**

We do not require nor do we solicit prepayment of more than \$1,200 in fees per client, six months or more in advance.

We are not aware of any financial condition that is likely to impair our ability to meet our contractual commitments to our clients.

Our firm has never been the subject of a bankruptcy petition.