

# Arbiter Partners Capital Management, LLC

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This brochure provides information about the qualifications and business practices of Arbiter Partners Capital Management, LLC. If you have any questions about the contents of this brochure, please contact us at 212-650-4660 or [jmusher@arbiterpartners.net](mailto:jmusher@arbiterpartners.net).

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, nor does the registration with the SEC imply a certain level of skill or training.

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

## Material Changes

This reflects our annual update to December 31, 2016, the close of our recent fiscal year.

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## **Advisory Business**

Paul J. Isaac is the founder, majority principal, and portfolio manager of Arbiter Partners Capital Management, LLC (“Arbiter Partners”). Arbiter Partners was formed in January 2007, and is the investment manager for four investment partnerships operated under the Arbiter name.

Three of these partnerships (our primary funds) are opportunistic funds, investing primarily in equities, fixed income, and derivatives using a variety of long / short strategies. The goal is to maximize long term capital appreciation. Our investments are global in scope and across the range of instruments, including ETFs, closed end mutual funds, and the occasional private placement. The fourth and fifth partnerships are open to current investors in our primary funds, and each invests in a single corporate complex. As of January 1, 2017, these five funds had approximately \$777 million under management on a discretionary basis.

At the beginning of 2013, Arbiter Partners began offering advisory services to a separately managed account with an investment objective of long term capital appreciation. The account had approximately \$20 million under management as of January 1, 2017.

Arbiter Partners also provides certain administrative services to various accounts controlled by Mr. Isaac, his family or trusts related to his family (the “Isaac Accounts”). These accounts have considerable overlap in strategies as the Arbiter partnerships, except that they are generally long-only, use few or no derivatives, and are willing to accept greater illiquidity, country, and interim price risk.

## **Fees and Compensation**

Our three primary funds have management fees and performance allocations. The management fee is 1% per annum of the net assets of each fund, paid monthly in arrears directly from the fund. We have three classes of interests with differing performance allocations and lock-up periods. We are offering only Class C interests to new investors.

Class C interests have a 20% performance allocation on profits above a high-water mark. Class C interests have a 1-year hard lock, during which capital generally may not be withdrawn, followed by a 2-year soft lock, during which withdrawals generally are subject to an early redemption charge paid into the fund (not to the management company) to compensate the remaining investors for the liquidity demands imposed by the short-term trading of the early redeeming investor.

Class A and B interests, which we offer on a limited basis to prior investors but no longer offer to new investors, have 15% and 20% performance allocations and 3-year and 1-year hard lock, respectively, over a specific annual hurdle.

All performance allocations are made at the end of an investor’s hard lock-up period and then annually at the close of the fund’s fiscal year. Payments of fees and allocations from the funds to Arbiter Partners are made by the fund’s third-party administrator based on calculations performed by this administrator.

Our fourth and fifth funds offer a discounted management fee and performance allocation as each fund is primarily an opportunity for existing investors to increase their exposure to their investment in a single corporate complex, after which the proceeds are distributed. The

management fees are respectively 0.35% and 0.50% per annum, and both have a 15% performance allocation.

The management fee and the following other expenses are paid regardless of whether the respective fund produces positive investment returns. The funds bear their normal operating costs, which include various administrative professional expenses including those of the fund's administrator, auditors and attorneys, tax preparation, custody and brokerage fees, external trade related expenses, and soft-dollar expenses under the Section 28(e) safe harbor. These fees and expenses are further described in our materials specific to the partnerships, which may be made available to qualified investors upon request.

We offer our advisory services to a separately managed account for a particular client with a 1% management fee, paid quarterly in arrears.

There are no sales charges on our fund offerings or separately managed account, and our principals and employees are not compensated for the sale of securities or other investment products.

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

With respect to the funds managed by us, we have a conflict of interest between our duty to maximize profits and hence maximize any performance allocation, and our possible desire to avoid taking risks that might reduce the assets of the funds and consequently reduce the management fee payable to us. Conversely, the prospect of receiving a performance allocation may create an incentive for us to make investments that are riskier than would be the case in the absence of a performance allocation. We believe the latter risk is reduced by our principals maintaining a material portion of their personal net worth directly invested in our funds. Because the performance allocation will be based on increases in the net assets of a fund, we may receive compensation based upon unrealized appreciation as well as realized appreciation.

Because we advise the administrator of the partnerships in determining the fair value of positions whenever quoted values are not available or are deemed not to be representative of the market values, we have a conflict of interest between our responsibility to provide fair valuation advice to the respective fund, and our interest in maximizing the management fee and performance allocation payable from it. We believe, however, that in aggregate our performance allocation arrangements benefit investors by providing us as the manager with a greater incentive to manage assets well.

### **Types of Clients**

Our clients are the five partnerships managed by us, the separately managed account, and the Isaac Accounts mentioned above. The investors are primarily high net-worth individuals, family offices, and charitable trusts. We also have a limited number of institutional investors, including fund-of-funds and insurance companies. Our minimum initial investor account is \$1 million, subject to limited waivers in our discretion.

## **Methods of Analysis, Investment Strategies and Risk of Loss**

The Arbiter partnership (our first fund) was founded in 2001. We usually invest with a long-term horizon, looking 2-4 years out for positions across likely economic, industry, and investment fashion cycles. We accept mark-to-market volatility as an unfortunate inevitability if we are to reach our return goals.

We primarily apply bottom-up criteria in considering the risk-return characteristics of specific instruments, although these may take place within a broader industry or cyclical thesis. We consider instruments anywhere within a capital structure as we visualize it, use derivatives, accept significant basis risk versus analogous investments and/or are creative in our inclusion of non-traditional exposures when we believe these are available at a sufficient discount to other possible means of taking on a desired risk factor. Our perspective on risk emphasizes downside valuation, especially where we feel there is a “margin of safety” with limited long-term potential for permanent capital loss, although there may be considerable risks of near-term price volatility. We make selective exceptions for binary outcome commitments with what we consider extraordinary risk/reward characteristics. We will often invest without specific knowledge of the particular catalyst that might trigger a marked appreciation relative to current trading prices, in part because we believe the absence of such a catalyst may materially depress the current trading price. Our view on specific investments, and our willingness to bear these risks, is influenced by our macroeconomic perspective, which may also alter our aggregate portfolio positioning. These factors generally will cause us to have greater volatility and basis risk than many of our peers, and require us to have longer lock-ups and redemption cycles than may be typical.

The funds may engage in short selling, hedging, option and derivatives trading, leveraging (including, but not limited to, margin trading and investing in derivatives) and other strategies from time to time in seeking to achieve the funds’ investment objective of maximum capital appreciation. These strategies present incremental risks, as discussed below. The funds will at times invest in securities with relatively low prices, which have historically been subject to greater percentage price fluctuations than higher-priced securities. Notwithstanding the existence of a public market for particular portfolio investments, certain U.S. and non-U.S. portfolio investments may be thinly traded, may be subject to substantial variation in market value, or may cease to be traded at any time.

All securities investing presents the risk of loss of capital, and our funds are no exception. A fund investor should be prepared to accept losses.

*Short Selling.* To make a short sale, the funds must borrow the securities being sold short. A short sale will result in a gain if the price of the securities sold short declines between the date of the short sale and the date on which securities are purchased to replace those borrowed. A short sale will result in a loss if the price of the securities sold short increases. If the price of securities sold short increases, the funds may be required to provide additional collateral or to liquidate other investments to maintain short positions, which may not be at favorable prices. Short selling is often viewed as a speculative investment strategy that requires specialized skills and presents heightened risks of losses.

*Hedging.* Hedging strategies in general are intended to limit or reduce a portfolio's exposure to market risk, but, if improperly effected, may increase volatility and/or risk. Any such strategies that the funds employ may be expected to increase the funds' transactions costs, interest expense and other costs and expenses.

*Options Trading.* Stock or index options that may be purchased or sold by the funds include options not traded on a securities exchange. Options not traded on an exchange are not issued by the Options Clearing Corporation. The risk of nonperformance by the obligor of such an option may be greater and the ease with which the funds can dispose of such an option may be less than in the case of an exchange traded option issued by the Options Clearing Corporation. The funds may sell both "naked" put and call options as part of its strategy regarding individual positions. Options add incremental volatility risk to the portfolio.

*Leveraging.* Margin trading requires the pledge of certain assets as collateral, and margin calls may result in the funds being required to pledge additional collateral or to liquidate portfolio investments, which may result in selling portfolio investments at substantial losses that otherwise would not have been realized. The funds may also invest in derivatives. An investment in derivatives may expose the funds not only to market risk but also to the risk of default by the issuer. Both short selling and options strategies carry implicit leverage, and the use of leverage, whether explicit or implicit, increases volatility.

The foregoing is only a select listing of certain significant investment strategies and risks. More complete strategy and risk information is set out in the material specific to our funds, which may be made available to qualified investors upon request.

### **Disciplinary Information**

The firm and principals of Arbiter Partners have not been involved in any material legal or disciplinary events.

### **Other Financial Industry Activities and Affiliations**

Paul J. Isaac, our founder, majority principal, and portfolio manager, was previously the Chief Investment Officer and second largest shareholder of Cadogan Management, LLC ("Cadogan"), a fund-of-hedge funds manager. Cadogan's team and management of most of its investment products were consensually transferred in late 2011 to Cantor Fitzgerald Investment Alternatives.

Mr. Isaac is a non-voting minority owner and non-voting member of the Investment Strategy Committee of Miller Investment Management, L.P. In his capacity, he does not advise or solicit clients, or make specific investment recommendations.

As already suggested, we and/or our principals may sponsor, manage or participate in other investment activities and projects unrelated to the funds' business without presenting such opportunities to the Arbiter funds. We and/or our principals also may raise capital or act as consultant for, or have other interests in, private or public companies in which the funds may invest. To the extent that we and/or our principals engage in such activities, we and/or they may receive compensation in the form of cash, securities, warrants and similar interests from these activities.

Mr. Isaac continues to act as trustee or manager of various family accounts described above. Many of these accounts materially pre-date the founding of Arbiter. Mr. Isaac is not compensated for his activities managing such accounts. In some circumstances, the family account may pay administrative fees to Arbiter Partners, which handles many of the administrative details of the accounts. In certain of these accounts Mr. Isaac has an economic or a contingent economic interest. The investments of such accounts may have overlaps with holdings of Arbiter.

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

### Code of Ethics

All our supervised persons (as defined for the purposes of the Investment Advisors Act of 1940) and principals must annually affirm and sign our Code of Ethics, which affirms our fiduciary duty to our clients. The form to be completed annually by our employees includes a listing of accounts that can hold reportable securities under SEC rule 204A-1, and we require direct duplicate statements by the employees' custodians and brokers to our Compliance Officer for reporting and tracking purposes.

In addition to the Family Office, which as discussed above pre-dates the funds, we permit personal trading as we believe that individual analysts gain valuable experience by managing their own portfolio, and that they should be able to benefit from expressing their views once presented to the partnership.

We mitigate and manage the potential conflicts in a three pronged, "trust but verify" approach. With limited exceptions (such as Treasuries or a broad index ETF), employee trades must be cleared prior to execution with Mr. Isaac. This ensures that ideas are presented first to Arbiter. However, there are various reasons why a trade might not be included in the broader portfolio, including insufficient liquidity, high or low risk, portfolio concentration or construction, unlikelihood to meet the portfolio's return hurdle, or in the eyes of the portfolio manager, an insufficient expected return for the risk. While most requests are granted, some may initiate further research and result in incorporation of the position into the portfolio. Conflicting positions are not approved. In addition, positions must be held for at least 90 days, to avoid short-term trading by, and the potential distraction of, the analyst.

We receive and monitor monthly (or quarterly, if there are no monthly) statements direct from the brokerage firms to ensure compliance with the above. Employees must also submit an annual securities holdings report to disclose personal holdings. Violations of the trading policy are reviewed with the employee, and appropriate actions taken.

Upon request, we will provide a copy of our Code of Ethics to any client or prospective client to review in our offices.

## Trade Allocations, Isaac Accounts

Besides the Arbiter partnerships, Mr. Isaac directly manages the Isaac Accounts in which the principals have direct or indirect interest, or where they are trustees for the accounts. This may create actual or potential conflicts of interest, as Mr. Isaac may be viewed as having greater personal incentive with respect to the performance of the Isaac Accounts than that of the Arbiter funds. We therefore have adopted policies and procedures that address such conflict of interest summarized below.

While there can be significant overlap of investments, the Isaac Accounts generally have different investment objectives than the Arbiter funds, and so will typically hold different portfolio compositions. For example, the Isaac Accounts are generally long-only, able to take greater market and liquidity risk, and generally do not use derivatives. When trading in the same names, however, trades for Arbiter have priority ahead of the Isaac Accounts or trading is executed and allocated using average pricing.

Various factors may be considered for determining the daily trading and expected ending allocations, including overall portfolio construction and risk factors, ability to hedge, ability to hold the position, current and expected liquidity in the portfolio, availability and liquidity of the security, price, and trading volume. As a result, when trading over multiple days, the average price achieved for one account may be different from the average price realized for another account. When there are overlapping positions, we trade according to one or more of the following processes (as further described below). As we tend to be fairly price sensitive and context dependent, we will typically make decisions and allocations on a day-by-day basis, with allocations set prior to the trade. Another factor is the availability of liquidity on specific days, as certain of our clients' positions are traded infrequently or at small size. Not all orders are filled.

As discussed below, we do not always aggregate trading for the funds with that of the Isaac Accounts. As a result of the priority for Arbiter funds and the various factors described above, there may be periodic "catch-up" trading, in which an Isaac Account trades in a particular security without a nearby trade for Arbiter funds, despite similar interest in the trades. In all such cases, we consider whether the trade should be first allocated to the Arbiter funds within the context of the various factors.

When there is overlap on particular securities, trades are placed with a priority for Arbiter ahead of the Isaac Accounts or in parallel through average pricing. Trades are generally placed in three stages: First, trades are placed exclusively for the Arbiter partnerships; second trades are placed for the Arbiter partnerships and the Isaac Accounts with predefined allocations; and third, there is a catch-up stage with trading primarily or only for the Isaac Accounts. Depending on the expected liquidity of the securities, the first stage may be omitted. During the second stage, when trades are placed on the same day, the same broker is used whenever possible, and we average price the trades across the accounts. When separate brokers are used, for example if a specific broker is required by the account being traded, pricing may differ. In these circumstances, we will average price when possible, though we might not be able to do so if some accounts are restricted to using specific brokers. Also during the second stage, trades are



typically allocated across the accounts with rough priority for the Arbiter partnerships. One example of the latter is if only a small quantity is traded, it may be completely allocated to the Arbiter partnerships. Another example is a disproportionately high allocation for the Arbiter partnerships in early trading, and a disproportionately low allocation in later trading over a multi-day period. This latter is a “smoothed” version of the three stages mentioned earlier. Price changes and availability of the securities may interrupt the buying or selling of specific securities, which will affect the average prices paid or received for a security.

In some instances, an investment initially meeting only the Isaac Accounts criteria evolves to meet the Arbiter partnerships’ criteria. For example, the underlying liquidity of the security may be greater than initially expected, and so then would be appropriate for the Arbiter partnerships, in which case the change is documented and trading then follows the procedures above.

While the impact of any set of allocation and trading rules typically cannot be known with certainty ahead of time, we generally believe that the foregoing practices will operate over time more for the benefit of the Arbiter partnerships than for the Isaac Accounts, although we can offer no assurance of that result.

The Isaac Accounts can be said to benefit from the greater institutional scale and experience realized by Mr. Isaac from his management of the Arbiter funds.

#### Sales Interest in Client Transactions

There may be times where it would be in the interest of some of our accounts to cross-trade positions among each other, which we would trade only on the basis of readily available market pricing. We have established procedures to cross-trade these positions at the closing price of the security, or the mid of the bid-ask spread, when there is readily available market pricing. Generally, the Isaac Accounts would not participate in such trades with client accounts. If they were to be involved, the trades may be deemed principal trades, which would receive further review as described below under “Redemptions in Kind”. Arbiter allows redemptions in-kind by distributing securities rather than cash. When these redemptions are made to affiliates, they could be deemed principal trades, and may occur so long as remaining investors are not disadvantaged. These procedures are described below.

Other affiliate transactions may be present in our business, including instances when we organize a special purpose vehicle to facilitate a particular investment. For example, we may choose to hold the interests of our clients in certain types of private placements through such an SPV formed for that purpose. If so, we or our related persons typically would serve as directors, trustees, general partners, managing members or other control persons for the vehicle. In addition, the customary master-feeder structure under which the Arbiter funds operates can be viewed to inherently involve an affiliate transaction, that being the ongoing sale and redemption of the master fund shares by the master fund for the benefit of the feeder fund.

### Redemptions In Kind

To the extent an investor wishes to make certain redemptions in-kind, in other words, through the receipt of securities rather than cash, Arbiter will accommodate to the extent possible, so long as other investors in the fund are not disadvantaged. For example, such a request might be made if the investor were intending to make charitable contributions with appreciated securities. Generally speaking, the distribution of appreciated securities rather than cash would defer or avoid the realization of capital gains for the remaining investors, which would be advantageous for the remaining investors. Employees of Arbiter actively participate in this redemption process, and outside investors have indicated that they would be interested at some point in the future.

The general criteria for evaluating a request for a redemption in-kind include (but are not limited to): the inventory of appreciated securities with the necessary maturity of the thesis and tax characteristics; transparent third party (e.g., stock exchange) pricing; the liquidity of the security, such that Arbiter could repurchase if desired, or that an investor selling the securities would not be expected to materially adversely affect the price; and the size of the redemption. The criteria will be consistently applied across time and internal and external investors. Consistent application, however, is not a guaranty of identical results. Generally speaking, requests for redemption at the same distribution date will be made pro rata with each other. In the event that the redemption is made by an employee of Arbiter, that employee shall not make the decision about what securities would be distributed.

Redemptions will be made using the closing price of the securities as of the redemption date. Actual transfer of shares may take longer to process, and may depend on the timing of the striking of NAV, or other factors. The market risk in this interim period is borne by the redeeming investor.

As a check on the appropriateness of the security for a redemption in-kind or a cross trade involving principal accounts, the transaction is reviewed and must be approved by the outside directors of Arbiter Partners Offshore, Limited, as proxy representatives of Arbiter's investors in general. While these directors have a fiduciary duty to only the investors in Arbiter Partners Offshore, the interests of these investors and our broader investor base are aligned in this matter, and would be impacted similarly. In particular, the outside directors review for fairness of the valuation, and the liquidity of the security.

### **Brokerage Practices**

We allocate trades to obtain the best overall qualitative execution for client transactions in the particular circumstances, i.e., not exclusively the lowest commission cost. A substantial portion of our trades are conducted electronically at lower commissions relative to these charged by "full service" broker-dealers. However, we often engage external traders for a number of reasons, including access to international markets, broader research platforms, liquidity, and overflow capacity.

We use research, research-related products and other brokerage services on a "soft dollar" commission basis. These products and services are paid using either explicit soft dollar collected through our prime broker's soft-dollar program, or through trading commissions with other

brokers for the research and execution service that they provide directly. Conflicts of interest may arise to the extent that we use brokers for access to research or soft dollars as we would otherwise incur expenses to assemble the information ourselves.

To mitigate this risk, we only enter into a soft dollar arrangement if we determine in good faith that the commission paid is reasonable in relation to the value of the execution and research services provided and provides lawful and appropriate assistance to the investment manager in performance of its investment decision-making responsibilities. We believe that we are able to negotiate costs on client transactions that are competitive and consistent with our policy to seek best execution. In all cases, only those research services eligible under the Section 28(e) safe harbor, i.e., that are allowed under Section 28(e) of the Securities Exchange Act of 1934, are paid using soft dollars. All of our soft dollar expenses are reviewed by our prime broker's soft dollar program to ensure compliance under third party review. Non-eligible expenses are paid by the firm. For any mixed-use products or services, we will maintain appropriate records of our good faith determinations of reasonable allocations.

Some examples of products and services paid using soft dollars include access to ISI Research, Capital Economics research, and SNL Financial. The first two provide regular macro and micro analyses that we incorporate into our analyses, while the latter provides specific analyses on industries and specific companies that we cover and invest in.

We do not select brokers based on client referrals. Nor do we allow clients (either direct or indirect) to direct trades to specific brokerage houses.

Whenever possible, we aggregate trades across the accounts that we manage on a day-by-day basis. This can be more efficient generally, improve the quality of execution for all participants and more readily allow average pricing across accounts. There are times, however, that we are not able to aggregate trades, most typically if there is not a common broker linked to the underlying custodian of the securities involved. In these cases, trades are conducted with different brokers either sequentially on the same day or on different days. When trades are executed sequentially, those for Arbiter funds generally are executed prior to trades for other accounts. Sequential execution can be expected to result in different net prices across the accounts, however, it is not known in advance, nor is it adjusted after completion, which execution will be at a higher (or lower) net price.

It is our policy to resolve trading errors as soon after discovery as reasonably practical in a manner that we have determined is in the best interest of its investors. Once a potential error has been reviewed and accepted as an error, a Trade Error Report is completed. We view most types of trading errors as "ordinary course" and not compensatory (so that no client should expect reimbursements relating to them). But all trading errors are reviewed and appropriate corrective responses, which may include a client reimbursement, are considered.

## **Review of Accounts**

The Chief Investment Officer or another senior portfolio manager generally reviews each client account on an at least a weekly basis.

Investors in our primary funds receive monthly account statements, as well as the fund's annual audited financial report delivered within 120 days after the end of the fund's fiscal year. Investor letters on performance and investments are sent approximately 3-6 times per year. Investors in our single complex fund receive quarterly statements, as well as the fund's annual audited financial report delivered within 120 days after the end of the fund's fiscal year. Investors in a separately managed account receive their statements on a quarterly or more frequent basis from their custodian.

### **Client Referrals and Other Compensation**

We do not pay any third parties to refer fund investors or clients to us. Nor are we compensated for our investment advice from a service other than the management fees and performance allocations described above, except to the extent that the "soft dollar" arrangements we have described may be deemed compensation to us.

### **Custody**

The partnerships' prime brokers, which are generally broker-dealers of national or global prominence, custody all of the publicly traded securities, as well as select private placements held by the funds, while custodial banks hold our bank debt. Deutsche Bank ("DB"), our administrator, receives position reports directly from the underlying custodian, which then forms the basis of the monthly statements sent out directly from them. DB monitors cash flows into and out of the partnerships.

On an annual basis, each partnership's auditor independently confirms year end positions as part of our audit process.

Custody for the separately managed account is held at a mutually agreed upon custodian of national or global prominence. Such custodian will send account statements at least quarterly directly to the client, who should carefully review such statements.

### **Investment Discretion**

Our clients are invested with our full discretion and over the range of strategies described in more detail above and in our material specific for the specific partnerships and investment management agreements. This authority is granted in the respective limited partnership agreement through our subscription agreements. Investors who do not wish to grant us this authority should not subscribe to the respective partnership. We do not accept investor limitations on our authority beyond our limited partnership agreements and retain the ultimate discretion over the investments.

Mr. Isaac sets the terms for each relationship he maintains with the Isaac Accounts, which are also managed on a fully discretionary basis.

### **Voting Client Securities**

We do not accept client or fund investor limitations on our voting authority. Nor are we aware of conflicts of interest presented by our proxy voting policies.

We vote the securities that the funds and our separately managed account hold (Mr. Isaac likewise votes for the Isaac Accounts). As we do not follow an activist strategy, most of our votes tend to be with management. We consider proposals on a case-by-case basis, voting in what we believe are the best long-term interests of our clients.

Generally, we vote for management's directors and the approval of the auditors. We tend to review in more detail compensation plans, and will vote against those if we feel they are overly generous to management. We tend to vote in favor of being acquired, as this usually provides an upside catalyst to the stock and is in the best interests of our shareholders. Votes to acquire another company are considered on a case-by-case basis. Shareholder and other proposals are also reviewed on a case-by-case basis.

Clients may contact Arbiter Partners under the phone number or email address listed on the cover page hereto to obtain information about how we voted the respective client's securities. Clients will receive a copy of our proxy voting policies and procedures upon request.

### **Financial Information**

All our client fees are paid in arrears. We confirm that we believe that there is no financial condition that is reasonably likely to impair our ability to meet our contractual commitments to clients. Arbiter Partners has never been subject to a bankruptcy petition.

### **Requirements for State-Registered Advisers**

We do not believe we are required to register our firm with any state securities authorities and have not done so.