

# Force Capital Management, LLC

## Part 2A of Form ADV

### The Brochure

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This brochure provides information about the qualifications and business practices of Force Capital Management, LLC (the "Force" or the "Investment Manager"). If you have any questions about the contents of this brochure, please contact us at 212-451-9160. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (the "SEC") or by any state securities authority.

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

## Material Changes

This brochure does not contain any material changes from the March 2016 annual amendment, although certain information has been updated.

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## Advisory Business

Force is a Delaware limited liability company that provides investment management services to private pooled investment vehicles and separately managed accounts. The private pooled investment vehicles are offered to investors on a private placement basis, and are structured as U.S. or non-U.S. limited partnerships, non-U.S. corporations, or other types of entities.

Force serves as the management company for Force Capital II LLC, which is an investment partnership that is organized under the laws of the United States (collectively, the "domestic funds"). JL Advisors II LLC, a Delaware limited liability company affiliated with Force, serves as the general partner ("GP") of this domestic fund.

Force is also the investment adviser to Force Capital II LTD and Force Select LTD, two investment funds organized under the laws of the Cayman Islands (collectively, the "offshore funds"). Shares in the offshore funds are generally offered on a private placement basis to persons who are not "U.S. persons" as defined under Regulation S of the Securities Act of 1933, as amended, and U.S. tax-exempt entities. (The offshore funds together with the domestic funds are referred to as the "Funds").

Advice with respect to each Fund is tailored according to the investment objectives, guidelines, and requirements set forth in the Funds' offering memorandum and advisory agreement. Force may enter into agreements with one or more Fund investors ("side letters") that have the effect of altering or supplementing the terms of the offering to the specific investor. Among other things, terms in side letters may alter notification requirements, redemption rights, transparency, and most-favored nation status. Under certain circumstances, the side letters could create preferences or priorities for certain investors over

other investors. In the event of a conflict between a side letter and the relevant Fund's other agreements and governing documents, the terms of the side letter with the investor shall control with respect to that investor.

Force does not currently serve as an investment manager to any separately managed accounts. Historically, when Force has been asked to advise the trading strategy of a separately managed account, the investment objective of those accounts have often, but not in all cases, called for it to be invested in a way that is pari-passu to the Force Capital II strategy. Unlike investors in the Funds, a separately managed account client may impose reasonable mandates, guidelines, or restrictions relating to investments. For example, a separately managed account may impose limits on concentration, risk, exposure, and liquidity that may be different from those in the Funds. A separately managed account Client directly owns the positions in its separately managed account and, thus, the Client will typically have full, real-time transparency to all transactions and holdings in such account, and may be better able to assess the future prospects of a portfolio that is substantially similar to the portfolios of the other Force private funds. The account owner in a separately managed account may also, depending on the terms of the agreement, have the right to withdraw all or a portion of their capital from such managed account on shorter notice and/or with more frequency than the terms applicable to an investment in the private funds. Force may elect to advise separately managed accounts or funds in the future.

Force and its affiliates have full discretionary authority with respect to investment decisions for each of the Funds. (Force may refer to the Funds individually as a "Client", and collectively as "Clients".)

Force was founded in December 2002 and began operations in January 2003. Force is ultimately 100% owned and controlled by Robert S. Jaffe. As of December 31, 2016, Force managed approximately \$163 million in discretionary net assets under management on behalf of three (3) Clients, a figure that includes any deferred fees and direct investments made by Force employees.

## **Fees and Compensation**

The fees applicable to each Fund are set forth in detail in each of the Fund's respective offering documents. A brief summary of those fees is provided below.

Force generally receives a management fee ranging from 1% to 2% per annum, though fees can vary depending on the Fund and share class. The management fee is based on the net asset value of the capital accounts relating to each investor. The management fee is deducted quarterly, in arrears, and will be prorated for any period that is less than a full quarter. Force will waive or lower the management fee with respect to capital accounts of members, partners, officers, managers, employees, affiliates or other investors at Force's sole discretion.

The GP is generally entitled to a performance allocation from the domestic funds, while Force will receive a performance allocation from the offshore funds. Depending on the Fund share class, the performance allocation payable by the Funds will range from 15% to 20% of the increase in net asset value above a "high water mark" net asset value or, as the case may be, above a benchmark return as described in the relevant offering documents. Performance allocations accrue monthly, but are deducted annually in arrears. The "high water mark" assures that there will be no performance-based compensation paid on the recoupment of any net losses.

Fees and other terms such as liquidity and reporting may be negotiable or waivable depending upon a variety of factors including, among others, whether the investor is an employee of the Investment Manager, strategy of a Fund, type of advisory service offered, amount of assets under management, or the overall relationship with the Client or investor. Withdrawals of capital from a Fund may also be subject to a

redemption fee, payable to the affected private fund, for redemptions made in less than the term the investor agreed to, as described in the relevant offering documents.

In addition to management fees, Fund investors may bear other costs that are charged to the Funds, as disclosed in each Fund's offering documents. Each Fund will bear expenses that include, without limitation, accounting and auditing expenses, administration expenses (including, without limitation, fees payable to the Fund's administrator), fees payable to the Fund's Directors (if any), the costs of maintaining the Fund's legal existence, due diligence expenses, legal expenses (including, without limitation, any fees and expenses of counsel and other expenses incurred in connection with the prosecution or defense of any claim), consulting expenses (including, without limitation, any allocable share of overhead expenses relating to any consulting activities), travel and other out-of-pocket expenses (including, without limitation, the Investment Manager's out-of-pocket travel expenses incurred in connection with research of investment opportunities), all investment expenses (including, without limitation, brokerage commissions, research and analysis fees and expenses (payable to unaffiliated third parties), interest on margin accounts and other indebtedness, borrowing charges on securities sold short, custodial fees, dealer-manager or proxy solicitation fees and expenses relating to the acquisition of securities and other investments, and any other expenses reasonably relating to the purchase, sale, holding or enhancement of a Fund's assets), and any other direct and variable costs relating to or associated with the Fund or its operation. If a Fund and one or more other Funds, or other Clients of Force or its affiliates manage, may be responsible for some or all of a particular cost, Force or an affiliate may allocate the cost among all those entities, Clients, and Funds in its discretion. Please refer to the *Brokerage Practices* section below for information with respect to brokerage (e.g., how the Investment Manager selects brokers and determines the reasonableness of their compensation).

To the extent that a Fund or Separately Managed Account is invested in an exchange-traded fund or mutual fund, the Fund or Separately Managed Account will bear, along with other shareholders, its pro rata portion of the exchange-traded fund's or mutual fund's management, trading, and administrative fees and expenses.

If applicable, fees and expenses, including management fees and performance allocations, charged to each separately managed account are negotiated on a case-by-case basis, and detailed in an investment management agreement between the Investment Manager and a separately managed account client. Separately managed account management fees are typically billed quarterly, in arrears, and will be prorated for any period that is less than a full quarter. The management fee is based on the net asset value of the separately managed account, as of the prior quarter-end. Separately managed account clients may select whether to receive a bill for fees, or have such fees automatically deducted from the assets in the Separately Managed Account's custodial account. Expenses of separately managed accounts typically include brokerage commissions and other research and transaction costs, as described in the applicable investment management agreement. Separately managed accounts may benefit from certain services paid for by the Funds (e.g., see Fund expenses disclosure above), in which separately managed accounts do not share in the expenses. Please refer to the *Brokerage Practices* section below for information with respect to brokerage.

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

As stated in the *Fees and Compensation* section above, Force generally charges, performance-based fees based on the net capital appreciation of the Funds and, if applicable, separately managed accounts. The fact that Force is compensated based on the amount of a Client's profits may create an incentive for Force to make investments on behalf of the Funds or separately managed accounts that are riskier or more speculative than would be the case in the absence of such compensation. Further, investment advisers have

an inherent conflict of interest to favor Clients or accounts that pay more in fees, such as performance-based fees.

In addition, performance-based fees received by Force are primarily based on realized and unrealized gains and losses. As a result, performance based fees earned and paid could be based on unrealized gains that Clients may never realize. At the time of this filing, Force and related persons have a large majority of the beneficial ownership of Force Select LTD. This creates an incentive for Force to favor these Clients relative to other Clients with respect to the allocation of investment opportunities, specific trades, or expenses to be borne by Clients, among other things.

Force has adopted and implemented written compliance policies and procedures that are designed to address the above conflicts of interest. Further, Force has a fiduciary duty to act in the best interests of the Funds and, if applicable, separately managed accounts.

Where applicable, performance-based compensation is charged by Force in conformity with Section 205 of the Investment Advisers Act of 1940, as amended (the "Advisers Act"), and Rule 205-3 thereunder, as applicable.

## **Types of Clients**

As detailed in the *Advisory Business* section above, Force manages the Funds on a discretionary basis. The Funds are private investment vehicles that are exempt from registration under the Investment Company Act of 1940, as amended (the "1940 Act"), in reliance on Section 3(c)(7) or Section 3(c)(1) of the 1940 Act.

The minimum initial investment in a Fund is \$2,000,000 and the minimum additional investment in a Fund is \$500,000. The minimum investment amounts may be waived in limited circumstances by the GP in its discretion (in the case of the domestic funds) or by the Board of Directors (in the case of the offshore funds). Investors are also required to meet certain eligibility and suitability standards as set forth in each Fund's offering documents.

The minimum initial investment requirement for prospective separately managed accounts is \$50 million. However, minimums may be waived at the discretion of Force, and Force may accept or maintain accounts below the stated minimum.

The Investment Manager reserves the right to decline any prospective separately managed account. The Investment Manager also reserves the right to resign as investment adviser to any separately managed account, in accordance with the terms in the investment management agreement relating to the separately managed account, after initiation of the investment advisory relationship.

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

The investment strategies, methods of analysis, and material risks applicable to each Fund are set forth in detail in the Fund's offering documents. A brief summary of those investment strategies, methods of analysis, and material risks is provided below.

### Investment Strategies/Methods of Analysis

Before describing the approach that Force may typically take, it is important to note, more generally, that Force has the flexibility to use most any investment strategy, long or short, in the global marketplace that it believes will enhance the overall performance and, except as described in a Fund's offering documents, there are no restrictions on the securities or other financial instruments that may be used by a Fund. The

Funds are authorized to buy, sell and otherwise acquire, hold, dispose of, and deal in securities and other financial instruments, on margin or otherwise, including but not limited to, listed and unlisted common stocks, preferred stocks, stock warrants and rights, bonds, debentures, convertible securities, money market obligations, ADRs, derivatives, foreign exchange contracts, private and public investment funds, futures and forward contracts, swaps and options, and any other financial instrument that Force believes will achieve the Funds' investment objective. The Investment Manager may also employ leverage in equity investments by the use of margin and other borrowings and through the use of derivatives.

Force manages two strategies through the vehicles listed below:

- Force Capital II Ltd. & Force Capital II LLC (together, "Force Capital II")
- Force Select Ltd. ("Force Select")

**Force Capital II** is a catalyst-driven, value-oriented long/short strategy that generally invests in public equity securities or exchange-traded equity options. The Force Capital II funds seek to achieve strong risk-adjusted, absolute returns by investing in and trading the securities of companies in anticipation of important events that the Investment Manager believes are being mispriced or misunderstood by the public markets. The Funds generally focus on middle and large capitalization companies in the financial, consumer, retail and industrial sectors and, on occasion, if the risk-reward opportunity is sufficiently attractive, the Funds may invest in companies with smaller market capitalizations. Force Capital II will generally hold exposure to a concentrated number of individual positions that it considers to be its "best ideas", which will generally result in total gross and net exposures for Force Capital II that will fluctuate to reflect the opportunity set.

**Force Select** is a highly concentrated fund, holding a limited number of investments (typically less than 15 total positions and as few as 1 or 2 positions at a time) and issuers generally in public equity securities or exchange-traded equity options. The Investment Manager seeks to identify and invest the assets of Force Select in securities of companies that the Investment Manager believes exhibit extraordinary investment potential thus concentrating its investments in a very limited number of positions and issuers. As a more concentrated fund, Force Select may also hold certain positions for longer periods of time than Force Capital II, which have a more catalyst-driven strategy and different risk management mandates.

On the occasions in the past when Force Capital has been asked to manage separately managed accounts, these strategies are often, but not necessarily, operated *pari-passu* to the Force Capital II strategy, holding the same positions, both long and short, in issuers generally in public equity securities or exchange-traded equity options.

In order to identify appropriate opportunities for the Funds, Force typically utilizes a fundamental research-intensive process that focuses on finding underlying value accompanied by a catalyst. The underlying value aspect of the process is to identify long and short investment opportunities that exhibit significant valuation discrepancies between current trading prices and intrinsic private business (or net asset) values. Force views these situations as being mispriced or misunderstood by the public markets. Force also seeks to determine whether it can identify clearly defined company-specific potential catalyst events that could cause a move in the price of the security closer to Force's view of the company's intrinsic value.

Force's Chief Investment Officer (the "CIO") and analysts review large numbers of possible investments looking for investments that meet Force's criteria. The CIO will analyze and discuss these possible investments to further refine and limit the firm's focus. Once a decision has been made that an investment looks promising, an analyst will delve into the historical record of the potential investment and look for sources of comparable data on both public and private companies. This process typically involves reading and analyzing public filings, where available, as well as a significant body of secondary source materials.

Force may also speak with company executives and other industry experts to assist in its analysis. The use of research information obtained through third parties, including published reports generated by individuals or entities outside the Investment Manager is permitted. Sources of such information include research provided by institutions, the brokerage community and industry/trade publications.

## Risks

All investing involves a risk of loss that investors in the Funds and any separately managed accounts should be prepared to bear. Force cannot guarantee that it will achieve a Client's investment objectives or that a return on investment will be obtained. Identifying undervalued assets is difficult, and there are no assurances that Force's investment strategies will succeed. Further, the past performance of Force is not necessarily indicative of future results. Fund investors should refer to their Fund's offering documents for detailed disclosures that specifically address the risks of the Fund's investment strategies, methods of analysis, and/or particular types of securities recommended.

Below is a summary of several potentially material risks for each significant investment strategy or method of analysis used by Force and/or particular type of security purchased or sold for Clients.

- *Trading and Investment Risks* – The securities markets are speculative; prices are volatile; and market movements are difficult to predict. Supply and demand for investments change rapidly and are affected by a variety of factors, including interest rates and general trends in the overall economy or particular industrial or other economic sectors. Government actions, especially those of the Federal Reserve Board, have a profound effect on interest rates, which, in turn, affect the price of investments. In addition, a variety of other factors which are inherently difficult to predict, such as domestic and international political developments, governmental trade and fiscal policies, patterns of trade and war or other military conflict can also have significant effects on such markets. Force may have only limited ability to vary a Client's investment portfolio in response to changing economic, financial and investment conditions. No assurance can be given as to when or whether adverse events might occur which could cause significant and immediate loss in the value of a Client's portfolio. Even in the absence of such events, investing in and trading securities can quickly lead to large losses.
- *Dependence on Robert S. Jaffe* – The execution of Force's investment strategies is dependent on the continued service and active advisory efforts of Robert S. Jaffe. If the services provided by Mr. Jaffe were to discontinue or lapse for any reason, Client portfolios could be adversely affected. Therefore, if Mr. Jaffe ceases to be involved in the investment activities of Force for 90 consecutive days, investors/Clients will be promptly notified and provided with the right to withdraw their interests, including any interests subject to Lock-Up, by delivering a written notice to the Company of such intent within 15 days of receiving the notice ("Notice Deadline"). Such withdrawals would be effective on the last Business Day of the calendar month ending on or after the Notice Deadline.
- *Concentration* – Certain Clients have no concentration limits and Force may decide to concentrate Client investments in terms of issuers, industries, market sectors and/or geographic sectors. As a result, those Clients may hold a few, relatively large positions (in relation to their capital), or positions that are highly concentrated within an industry, market sectors and/or geographic sectors. A Client's lack of diversification increases investment risk because a loss in a single position or a decline in an industry or sector could have a material adverse impact on the Client.

- *Leverage* – Force may employ leverage in managing Client assets. The use of leverage will enhance a Client's ability to acquire assets, but, as a result of the use of leverage, fluctuations in the market value of a Client portfolio may have a significant effect in relation to Client capital. The risk of loss and the possibility of gain are therefore increased. The amount of borrowings which a Client may have outstanding at any time may be large in relation to its capital. In addition, the level of interest rates generally, and the rates at which a Client can borrow in particular, will be an expense of the Client and therefore affect the operating results of the Client. If the interest expense on a Client's borrowings were to exceed the net return on the investments made with borrowed funds, a Client's use of leverage would result in a lower rate of return than if a Client was not leveraged. Force may also leverage Client trading through the use of derivatives. A Client's access to capital could be impaired by many factors, including market forces or regulatory changes. If a Client was unable to borrow capital, it might need to liquidate assets in order to meet its liabilities. Any restriction on the availability of credit could adversely affect a Client's performance. There can be no assurance that a Client will be able to secure or maintain adequate financing.
- *Portfolio Turnover* – Clients are expected to have a high portfolio turnover rate compared to other, less leveraged and less actively traded accounts. Therefore, the brokerage commissions and other transaction costs incurred by Clients are expected to be higher than those incurred by accounts that do not apply leverage to the same extent as Force's Clients or have a lower portfolio turnover rate, all of which may affect a Client's investment performance. High portfolio turnover may also affect a Client's investment performance by resulting in events that give rise to increased taxes.
- *Markets Traded May Be Illiquid* – At various times, the markets for investments purchased or sold for a Client may be "thin" or illiquid, making purchases or sales at desired prices or in desired quantities difficult or impossible. In addition, it may not always be possible to execute a buy or sell at the desired price or to close out an open position, either due to market conditions or regulatory requirements.
- *Short Sales* – 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. Any gain will be decreased, and any loss will be increased, by the amount of any payment, dividend or interest that the Client may be required to pay with respect to the borrowed securities, offset (wholly or partly) by short interest credits. In a generally rising market, short positions may be more likely to result in losses because the securities sold short may increase in value. A short sale involves a finite opportunity for appreciation, but a theoretically unlimited risk of loss. In addition, there can be no assurance that securities necessary to cover a short position will be available for purchase.
- *Options Trading* – The trading in stock options and in stock index options involves risks. The purchaser of put or call options runs the risk of losing the entire investment in the option in a relatively short period of time. The uncovered writer of a call option (i.e., the seller of a call option who does not own the underlying security) is subject to loss if the price of the underlying security rises above the option's strike price. Similarly, the uncovered writer of a put option is subject to loss if the price of the underlying security declines below the option's strike price. The writer of a call option who owns the underlying security is subject to the full risk of the position in the underlying security in exchange for the option premium received when the option is sold. In addition, such an investor has given up the opportunity for gain in the underlying security above the option exercise price, in exchange for the option premium received. The writer of a put option with a short position in the underlying security is subject to the converse risks. Stock options and



stock index options are volatile in price, and the market for such options may be subject to distorted pricing at times of stress in financial markets. Government and exchange regulation of equity options and intervention in equity options transactions pose additional risks. Such actions may cause rapid price movements or may restrict liquidity in certain instruments.

- *Over-the-Counter Derivatives* – In addition, the Investment Manager may choose to leverage a portion of a Client's trading and investments through the use of derivatives. Clients may invest in over-the-counter (OTC) options, structured notes and other complex derivative instruments which seek to modify or replace the investment performance of the Client or particular securities on a leveraged basis. Derivative instruments are subject to additional risks that include interest rate and credit risk, volatility, world and local market price and demand, and general economic factors and activity. Derivative instruments also have counterparty risk and may not perform in the manner expected by the Client or the counterparty, thereby resulting in greater loss or gain to the Client. There is no established secondary trading market, and it is unlikely that a secondary market will develop, for structured OTC options and other similar derivatives. There also may be restrictions on transfer, as well as termination fees.
- *Use of Swap Agreements* – The Investment Manager may use swap agreements. The use of swaps is a highly specialized activity that involves investment techniques and risks different from those associated with ordinary investment transactions. When swap agreements require one party's payments to be up-front and timed differently than the other party's payments (such as is often the case with currency swaps), the entire principal value of the swap may be subject to the risk that the other party to the swap will default on its contractual delivery obligations. If there is a default by the counterparty, the Client may have contractual remedies pursuant to the agreements related to the transaction. The investment performance of a Client, however, may be adversely affected by the use of swaps if the Investment Manager's forecasts of market values, interest rates or currency exchange rates are inaccurate.
- *Trading in Small Capitalization Markets* – Force may invest a portion of Client's assets in securities of companies with small market capitalizations that may not be well known to the general public and have limited trading volumes. Some of these companies will have been in operation for fewer than three years. This trading may entail more risk than investments in companies with higher market capitalizations because of increased volatility and trading liquidity.
- *Risk Arbitrage Transactions* – Force may engage in risk arbitrage transactions for Clients where Force will purchase securities at prices that may be only slightly below the anticipated value of the cash, securities or other consideration to be paid or exchanged for such securities at the time of a proposed merger, exchange offer, tender offer or other similar transaction. Such purchase prices may be substantially in excess of the market price of the securities prior to such time. If the proposed merger, exchange offer, tender offer or other similar transaction later appears likely not to be consummated or in fact is not consummated or is delayed, the market price of the security purchased by a Client may decline sharply and result in losses to the Client.
- *Bond Trading* – To the extent that Force engages in transactions in individual debt instruments for Clients, the Clients will be subject to the risk of issuer default. Force may invest Client's accounts in bonds that are highly rated and/or that have insurance features in order to minimize this risk, however, certain bonds with high coupons may have early redemption features; and to the extent that they get called away prior to maturity, Clients will be deprived of the benefits thereof. In addition, the market value of debt instruments is a function of current interest rates and maturity.

- *Compliance; Regulatory Risks for Hedge Funds* – The Funds must comply with various legal requirements, including requirements imposed by the securities laws, tax laws and pension laws in various jurisdictions. Should any of those laws change, the legal requirements to which the Funds and their investors may be subject could differ materially from current requirements.

Regulatory changes could adversely affect the Funds by restricting their trading activities and/or increasing the costs or taxes to which the Funds and/or their investors are subject. On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Reform Act”) was enacted. Among other things, the Reform Act includes additional regulation of investment funds and their managers, including registration requirements as well as additional compliance, reporting and disclosure requirements. In addition, the Reform Act grants the SEC broad rulemaking authority to implement various provisions of the Reform Act including comprehensive regulation of the OTC derivatives market. These regulations include derivatives exchange trading and clearing requirements as well as requiring OTC derivatives dealers and major OTC derivatives market participants to register with the SEC and/or Commodity Futures Trading Commission. The implementation of the Reform Act could adversely affect the Funds by increasing transaction and/or regulatory compliance costs and imposing restrictions on the investment or other operations of the Funds and the Investment Manager.

Other potentially adverse regulatory initiatives could develop suddenly and without notice.

## **Disciplinary Information**

Force and its employees have not been involved in any legal or disciplinary events that would be material to a Client’s evaluation of the company or its personnel.

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

Force, or a related person, organizes and sponsors the Funds, which are private investment funds. As described in the *Advisory Business* section above, JL Advisors II LLC acts as the GP to each of the domestic funds. The offshore funds have a majority of independent directors; however, Force hires and retains the directors. The Funds are managed by Force and the domestic funds are controlled by the GP. Both Force and the GP are under the control of Mr. Jaffe. Force and/or the GP will be responsible for all decisions regarding portfolio transactions of the Funds and have full discretion over the management of the Funds’ investment activities. While the GP is not separately registered as an investment adviser with the SEC, all of its investment advisory activities are subject to the Advisers Act and the rules and regulations of the SEC thereunder. In addition, employees and persons acting on behalf of the GP are subject to the supervision and control of Force. Thus, the GP, all of its employees and the persons acting on its behalf would be “persons associated with” the registered investment adviser so that the SEC could enforce the requirements of the Advisers Act on the GP.

Each of the following entities, which serve as investment advisors to private investment funds, are directly or indirectly controlled by Mr. Jaffe, but otherwise have no operational or other relationship with Force or any Client: JL Associates II, LLC and JL Associates LLC.

Certain inherent conflicts of interest arise from the fact that Force and its affiliates provide investment management services to many Clients with different strategies that hold similar or the same securities. For example, Force has a conflict of interest to favor Clients managed by Force or affiliates that pay more in fees. Also, an investment adviser has an inherent conflict of interest to allocate better investment opportunities to accounts where an adviser or a related person has an interest. To mitigate such conflicts, Force has adopted and implemented written compliance policies and procedures that are designed to

address the conflicts of interest associated with affiliates. For example, Force has adopted a Code of Ethics (the "Code"), which is described in more detail below, that governs personal securities transactions and holdings of Force's Access Persons (as defined below). Further, it is the policy of Force to allocate investment opportunities fairly and equitably to all Clients, to the extent possible, over a period of time. Force has a fiduciary duty to act in the best interests of the Funds and Separately Managed Accounts.

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

As previously mentioned, Force has adopted the Code. The Code contains policies and procedures that are designed to foster compliance with applicable federal statutes and regulatory requirements, prevent circumstances that may lead to or give the appearance of conflicts of interest with Clients, insider trading, or unethical business conduct as well as promote a culture of high ethical standards. The Code applies to all supervised persons at Force. The Code also governs personal securities transactions and holdings of Force's access persons, as defined by Rule 204A-1 under the Advisers Act, and include Force's employees and their related accounts ("Access Persons"). Access Persons do not purchase or sell any securities for their own accounts to or from the Clients. Access Persons are permitted to maintain personal securities accounts provided that such accounts are disclosed to the Investment Manager and that any personal trading is consistent with applicable law and with the Code.

Force, and Force employees and/or Access Persons (collectively "Related Persons"), have maintained an investment, and in certain instances all or nearly all of the interests, in the Funds managed by Force. As a result, Related Persons have an interest in an investment that may also be recommended to investors. Subject to compliance with the Code, including pre-clearance, Access Persons may buy, sell or hold for their own personal accounts, securities that the Investment Manager also may buy, sell or hold for its Clients. Such transactions may create a conflict of interest for Access Persons to favor their own investment transactions over Client transactions. The Code is designed to mitigate (potential) conflicts of interest associated with Access Persons' personal trading. Among other things, the Code:

- prohibits Access Persons from taking personal advantage of opportunities belonging to Clients;
- prohibits trading on the basis of material nonpublic information;
- places limitations on personal trading by Access Persons and imposes preclearance and reporting obligations with respect to trading; and
- requires initial and annual reports of all personal securities accounts that hold, or can hold, reportable securities, all securities holdings in such accounts, as well as quarterly transaction reports by Access Persons.

The Code also includes policies designed to impose limitations with respect to the giving or receiving of gifts and entertainment, and monitor Supervised Persons' participation in outside business activities. Further, the Code requires Force and its Supervised Persons to pre-clear certain political donations. Policies and procedures for reporting, investigating, and treating violations are included in the Code.

The Code is available to Clients and prospective Clients upon request by contacting the Investment Manager's Chief Operations Officer and Chief Compliance Officer, Thurston Towle, at (212) 451-9160.

Section 206(3) of the Advisers Act makes it unlawful for any investment adviser, directly or indirectly, acting as principal for its own account, knowingly to sell any security to or purchase any security from a Client without disclosing to the Client in writing the capacity in which the adviser is acting and obtaining the Client's consent to the transaction. The SEC has indicated that when an investment adviser and/or its controlling persons own more than 25% of a fund's outstanding securities, a trade with another Client

account or fund should be treated as a principal transaction. Force does not anticipate engaging in principal transactions with Clients. However, Force has adopted specific policies and procedures for monitoring the level of proprietary ownership in each Fund. Should Force decide to engage in a principal transaction with a Client, Force will affect the transaction in compliance with Section 206(3) of the Advisers Act.

## **Brokerage Practices**

All decisions with respect to Client trading activities (which securities are to be bought or sold, the total amount of securities to be bought or sold, the broker-dealer through which the securities trades are to be effected, the commission rates, if any, and the prime brokers, custodians and sub-custodians for the Funds) are made exclusively by the Investment Manager. In selecting broker-dealers (öBrokersö) to execute transactions, the Investment Manager need not solicit competitive bids and does not have an obligation to seek the lowest available commission cost. It is not the Investment Manager's practice to negotiate öexecution onlyö commission rates, although it may do so. In recognition of the value of products and services provided by a Broker, the Investment Manager may affect securities transactions that cause Clients to pay the Broker a commission in excess of the amount of commission another Broker would have charged. Thus, Clients may be deemed to be paying for other products and services provided by the Broker that are included in the commission rate.

The Investment Manager's brokerage discretion is guided and/or limited by: (i) its responsibility to act as a fiduciary when handling Clients' accounts, (ii) its obligation, to the extent applicable, to select Brokers who offer overall best execution on Clients' trades, and (iii) with respect to the Funds and Separately Managed Accounts, each Fund's offering documents or Separately Managed Account's investment management agreement, as applicable. The Investment Manager seeks best execution in Clients' transactions and will direct brokerage to firms that provide products and services contingent upon its duties to seek best execution. In selecting and approving brokers to effect portfolio transactions for Clients, the factors that Force considers include, but are not limited to, the following: quality of execution, reputation, financial strength, stability, block trading and block positioning capabilities, willingness to execute difficult transactions, willingness and ability to commit capital, access to underwritten offerings and secondary markets, ongoing reliability and financial responsibility, overall costs of a trade, nature of the security and the available market-makers, desired timing of the transaction and size of the trade, confidentiality of trading activity, market intelligence regarding trading activity, idea generation, conferences, the receipt of brokerage or research services, and the brokers' facilities. In addition, Force has the authority to, and may, allocate portfolio transactions to Brokers based on their willingness to recommend an investment in the Funds to their customers. Force will not adhere to any rigid formulas in making the selection of Brokers, but will weigh a combination of the criteria and factors described above. Force's relationship with Brokers that provide additional services beyond execution potentially could affect its ability to seek best execution. Force assesses the quality of products and services received from brokers as part of its best execution review processes. Force conducts periodic best execution reviews, including testing, in an effort to identify and mitigate this compliance risk.

### Soft Dollars

The Investment Manager has not entered into formal soft dollar arrangements, but may receive products or services from Brokers that, to the best of the Investment Manager's knowledge, are generally made available to all institutional clients doing business with these Brokers. Brokerage and research services provided to the Investment Manager by the Brokers may include, without limitation, proprietary or third-party research, special execution capabilities, electronic connectivity services, clearance, settlement, net pricing, online pricing, block trading and block positioning capabilities, consultations, economic and market information, portfolio strategy advice, industry and company comments, technical data,

recommendations, general reports, quotation services, the availability of stocks to borrow for short sales, custody, trade recordkeeping and similar services.

To the extent the Investment Manager can obtain products and services from, or to be paid for by, Brokers at a commission rate that is not higher than the rate it customarily pays for brokerage services alone (although the Investment Manager may have to allocate more commission business to Brokers who also provide products and services), the Investment Manager may do so. Brokerage is directed to Brokers, subject to Force meeting its obligations to seek best execution on Clients' securities transactions. In conjunction with Force's periodic best execution analyses, Force will review products and services received from broker-dealers to ensure Force is in compliance with the safe harbor of Section 28(e) of the Securities Exchange Act of 1934, as amended. Further, Force will make a good faith determination that the value of the brokerage and research services obtained is reasonable in relation to the amount of the commissions paid.

Products and services may be used by the Investment Manager in servicing some or all of its Clients (including the Funds) and the Clients of its affiliates. In addition, some products and services may not necessarily be used by a Client, even though its commission dollars were used to purchase the specific products and services. Clients, therefore, may not, in a particular instance, be the direct or indirect beneficiary of the products or services provided.

When Force uses Client brokerage commissions to obtain research or other products or services, Force receives a benefit because it does not have to produce or pay for the research, products or services. Force may have a conflict and incentive to select or recommend a Broker based on its interest in receiving research, brokerage services, or other products and services, as disclosed above, rather than on its Clients' interest in receiving most favorable execution. The Investment Manager may receive incidental economic benefits from the Brokers it uses, including free attendance at conferences or seminars sponsored by such Brokers. Although Brokers are represented as not reflecting any such additional benefits, the commission rates charged by such Brokers may be higher or lower than other Brokers. The Investment Manager may have a potential conflict of interest between its duty to seek best execution for a Client and its interest in receiving such economic benefits in the future.

The Investment Manager utilizes Goldman Sachs & Co. ("Goldman") and Barclays Prime Services ("Barclays") as prime brokers/custodians and executing brokers for many of its Clients' accounts. Goldman and Barclays are compensated by custodial fees, commissions and other transaction-related fees, which are directly or indirectly borne by the Clients. Goldman and Barclays makes available, at no charge to the Investment Manager, other products or services that benefit the Clients' accounts. Some of these include items that assist the Investment Manager in managing or administering Client accounts or the introduction of prospective investors or Clients to the Manager through Goldman's and Barclays' Capital Introduction Services. These products and services may present an inherent conflict of interest since they may provide incentives for the Investment Manager to continue to utilize Goldman and Barclays to service its Clients.

#### Trade Allocation and Aggregation Policies and Procedures

Force will generally execute transactions for Clients on an aggregated basis when Force believes that doing so will allow it to obtain best execution and to negotiate more favorable commission rates or other transaction costs that might have otherwise been paid had such orders been placed separately. Instances in which Client orders will not be aggregated include, but are not limited to, the following:

- clients directing Force to use certain broker/dealers, in which case such orders shall be separately effected;

- traders and/or the CIO determining that the aggregation is not appropriate because of market conditions;
- situations where the traders and/or the CIO must effect the transactions at different times or prices, making aggregation unfeasible; and
- a determination by the CIO not to aggregate orders because of tax, legal, regulatory or administrative reasons.
- accounts that are not managed pari passu to the Force Capital II strategy, e.g., Force Select, (or, if applicable, a separately managed account), which due to the concentrated nature of this strategy, and in an effort to achieve their investment objectives will often hold securities over a longer period and in different proportions relative to the Force Capital II strategy.

When aggregating orders, all Clients will be treated in a fair and equitable manner. Force will not aggregate orders unless aggregation is consistent with its duty to obtain best execution. Each account that participates in an aggregated order will participate at the average price, with transaction costs shared pro rata based on each account's participation in the transaction. It is the policy of Force to allocate investment opportunities for the Clients fairly and equitably, to the extent possible, over a period of time. Force, however, will have no obligation to purchase, sell or exchange any security or financial instrument for one Client that Force may purchase, sell or exchange for another Client if Force believes in good faith at the time the investment decision is made that such transaction or investment would be unsuitable, impractical or undesirable for a particular Client. Force will follow procedures to ensure that allocations do not involve a practice of favoring or discriminating against any Client or group of Clients.

As is consistent with its duty to seek to obtain best execution, Force will utilize cross trades for Clients. A cross trade occurs when Force purchases and sells a particular security between two or more Clients under Force's management by instructing brokers to cross the trade. Force Capital generally utilizes cross trades as part of the rebalancing process to align client's capital with target position sizes determined by the Investment Manager. In no instance does Force receive additional compensation when crossing trades for Client accounts. Force will seek to ensure that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable, and the transactions is done for the sole benefit of the Clients. Given the restrictions imposed by ERISA on engaging in cross trades Force does not include ERISA accounts in cross trades even where Force could achieve reduced transaction costs for its Clients by doing so.

On occasion Force may participate in initial public offerings or new issues for its eligible Client accounts. In these cases, Force's general policy and practice is to allocate shares fairly and equitably among Client accounts according to a specific consistent basis so as not to advantage any one Client over another over time.

## **Review of Accounts**

Force performs various daily, weekly, monthly, quarterly and periodic reviews of each Fund's portfolio. The CIO (Robert Jaffe) is the primary reviewer for each account. Research analysts also monitor existing holdings. Force's CFO (Steven Fuchs), Controller (David Jesselson), and Chief Operating Officer (Thurston Towle, CCO and COO) also review the accounts regularly. These reviews are designed to monitor and analyze transactions, positions, exposure, valuations, and investment levels, among other things.

Investors in the Funds typically receive written monthly performance reports, quarterly investor letters, and annual audited financial statements. Certain investors in the Funds may invest on terms that provide access to more frequent or detailed information that is not generally available to other investors. When

applicable, separately managed account receive daily reports of trading activity, written performance reports monthly, and letters quarterly.

## **Client Referrals and Other Compensation**

The Investment Manager may compensate related persons or third parties, including registered broker-dealers, for referring investors to the Funds. Such referral fees generally may be a fixed amount or percentage of the annual management fees and/or performance-based compensation earned by the Investment Manager. Such referral arrangements will be fully disclosed to investors and conform to Rule 206(4)-3 under the Advisers Act, if required.

## **Custody**

All Client assets are held in custody by unaffiliated broker/dealers or banks. However Force, or a related person, may have access to the Funds' assets since Force or its related person serves as the Managing Member for the domestic Funds and Investment Manager for the offshore Funds. Investors in the Funds will not receive fund-level custodial account statements from the custodian. Instead, to comply with the reporting requirements of the Custody Rule under the Advisers Act (Rule 206(4)-2) and to provide meaningful protection to investors, each Fund is subject to an annual audit conducted in accordance with US Generally Accepted Auditing Standards (US GAAS) and the audited financial statements are distributed to each Fund's investors within 120 days of the Fund's fiscal year end. The audited financial statements will be prepared in accordance with US Generally Accepted Accounting Principles (US GAAP) or other generally accepted accounting standards (e.g., International Financial Reporting Standards (IFRS)) and reconciled to US GAAP when provided to a US investor.

## **Investment Discretion**

The Investment Manager has full discretionary authority to manage the Clients' accounts, including authority to make decisions with respect to which investments are bought and sold. The Investment Manager's discretionary authority, and any limitations on such authority, are described in Fund offering documents, Fund and Separately Managed Account investment management agreements, investor side letters (if applicable), and/or the Investment Manager's internal compliance policies and procedures.

## **Voting Client Securities**

Proxy voting is an important right of Clients and reasonable care and diligence must be undertaken to ensure that such rights are properly and timely exercised. Exercising proxy discretion can have economic value for Clients and, therefore, the Investment Manager considers it to be its fiduciary duty to vote proxies for their exclusive benefit. The Investment Manager has adopted formal Proxy Voting Policies and Procedures (Policy) to address how it will vote proxies for portfolio investments. This Policy seeks to ensure that the Investment Manager votes proxies in the best interest of Clients. To that end, the Investment Manager endeavors to vote proxies in the manner that it determines in good faith to be most likely to enhance the value of the Clients' investments. Consideration is given to both the short and long-term implications of the proposal being voted on. There is no per se rule regarding what is a correct decision for a particular proxy vote. Accordingly, as in other areas relating to prudent investing, Force evaluates the particular facts and circumstances related to each proxy action. Force may take into account relevant factors, including among others: (i) the economic value of the proposal and how it relates to the securities that Force owns; (ii) the credibility of the proposal; and (iii) the credibility of company management and board. The Policy also requires that the Investment Manager identify and address material conflicts of interest between the Investment Manager and Clients. As necessary when a material conflict of interest exists, the Investment Manager will engage an outside proxy voting service or consultant to make a recommendation. (e.g., retain an independent third party to vote the proxy). The

Funds may not direct Force's vote in a particular solicitation, while separately managed accounts may direct proxy voting for particular solicitations. A separately managed account may contact the Investment Manager's Chief Compliance Officer to revoke the Investment Manager's discretionary voting authority for a particular proxy solicitation. The Investment Manager's Policy is available upon request. A Client may obtain a copy of the Policy or a record of the Investment Manager's voting for such Client by contacting the Investment Manager's Chief Operating Officer and Chief Compliance Officer, Thurston Towle, at (212) 451-9160. Barring a contractual obligation we refrain from participating in class actions where we believe that either the recovery amounts are likely to be de minimis or we have reservations on the security measures to protect our data submission in connection with the proof of claim. Consequently, we generally do not participate in class action on behalf of Clients. If we do participate and later receive any recovery amounts, they will be distributed to the applicable Clients at the time the recovery amounts are received from the settlement agent.

## **Financial Information**

Force has never filed for bankruptcy and is not aware of any financial condition that is expected to affect its ability to manage Client accounts.