



**Athyrium Capital Management, LP**

**February 9, 2015**

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**This *brochure* provides information about the qualifications and business practices of Athyrium Capital Management, LP (the “Adviser”), an investment adviser registered with the United States Securities and Exchange Commission (the “SEC”). If you have any questions about the contents of this *brochure*, please contact us at 212-402-6925. This information has not been approved or verified by the SEC or by any *state securities authority*.**

**Additional information about Athyrium Capital Management, LP also is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

*Registration with the SEC or with any state securities authority does not imply a certain level of skill or training.*

Athyrium Capital Management, LP  
530 Fifth Avenue, Floor 25  
New York, New York 10036  
Tel: 212-402-6925  
Fax: 212-419-0995  
Website: <http://www.athyrium.com/>

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## Item 2. Material Changes

The following summary only discloses material changes made to the *brochure* since the Adviser's previous *brochure*, which was filed in March 2013: the Adviser made general updates to its *brochure*, including updates to the Adviser's address. In Item 5, we have updated the description of expenses that are applicable to *client* accounts that are pooled investment vehicles. These changes are reflective of the expenses that are to be borne by the pooled investment vehicles pursuant to their respective limited partnership agreements or limited liability company agreements (or equivalent organizational documents). In Item 15, we have disclosed that we have custody of certain *client* assets, though *client* funds and securities are held with a *qualified custodian* other than the Adviser. In addition, in an other-than-annual amendment filed in February, 2015, the Adviser updated the cover page of the brochure and Item 4 to reflect the conversion of the Adviser from a limited liability company to a limited partnership and the addition of a new Limited Partner in the Adviser, Jeremy D. Lack.

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#### Item 4. Advisory Business

Athyrium Capital Management, LP (“ACM” or the “Adviser”) is a limited partnership under the Delaware Revised Uniform Limited Partnership Act. ACM commenced operations as an investment adviser on December 9, 2008 and its principal place of business is in New York, New York. ACM began its operations as Athyrium Capital Management, LLC, which converted from a Delaware limited liability company to a Delaware limited partnership pursuant to a Certificate of Conversion filed with the Delaware Division of Corporations on January 13, 2015. Jeffrey A. Ferrell and Jeremy D. Lack are the principal owners of ACM.

The Adviser provides advisory services both on a *discretionary* and non-*discretionary basis* to its *clients*, which include separately managed accounts and pooled investment vehicles intended for sophisticated investors and institutional investors. The Adviser provides a full range of private equity style services including sourcing, due diligence, negotiation, structuring, monitoring and valuation.

The Adviser specializes in the healthcare sector and is primarily focused on longer term investments including private equity, public equity and structured investments. Structured investments are investments composed of one or more of the following instruments: convertibles, loans, bonds, preferred stock, warrants, and royalties. The Adviser will engage in primary and secondary transactions on behalf of its *clients*.

The Adviser provides advice to *client* accounts based on specific investment objectives and strategies. Under certain circumstances, the Adviser may agree to tailor advisory services to the individual needs of *clients*. Currently, the Adviser tailors its advisory services in the following manner: providing only a subset of services or by providing recommendations to *clients* who maintain discretion and control over their assets.

*Clients* may impose restrictions on investing in certain securities or certain types of securities.

As of December 31, 2014 the Adviser had approximately \$1191.8 million of *client* assets under management. The Adviser has calculated this number in the same manner as it calculates regulatory assets under management for purposes of Part 1 of this Form ADV and includes the aggregate amount of capital commitments to pooled investment vehicle *clients* that were contractually callable as of such date and amounts outstanding under credit facilities of pooled investment vehicle *clients* as of such date. As of December 31, 2014, the Adviser managed approximately \$1163.3 million on a *discretionary basis* and \$28.5 million on a non-*discretionary basis*. The Adviser considers its management of such \$1163.3 million to be on a *discretionary basis* because the Adviser has the authority to determine the securities and other assets to be purchased and sold for its *client* accounts (subject to restrictions on its activities set forth in the applicable investment management agreement or sub-advisory agreement, including the requirement of approval by one or more investment committees, and any written investment guidelines).

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#### Item 5. Fees and Compensation

The Adviser usually charges each *client* an investment management fee based on the value of the *client's* assets under management. Management fees are negotiated on an account by account basis and generally relate to the services provided by the Adviser. Management fees are generally in the range of 1 percent to 2 percent per annum. From time to time, and particularly for smaller investments, the Adviser can charge a flat fee independent of the *client's* assets under management.

*Clients* that are pooled investment vehicles are generally charged a management fee payable quarterly in advance which is based upon committed capital during the investment period. After the end of the

investment period, the management fee is generally a function of remaining cost or remaining net asset value.

Some *clients* have entered into pledge fund-like arrangements with the Adviser where no management fee is charged until an investment is completed by the *client*. Once an investment is completed, fees are charged six months in arrears usually based on net asset value or investment cost remaining at the end of the six month period.

Generally speaking, with illiquid assets funds exist for fixed terms, and accordingly the Adviser's advisory contract with a fund can only be terminated by the fund *client* under a limited number of circumstances including fraud, gross negligence or bankruptcy of the Adviser. Agreements may include the ability for a fund *client* to terminate the advisory contract without cause. Termination provisions are described in the partnership agreements and are generally subject to a vote of the limited partners of a fund.

The Adviser does not deduct the investment management fee from *client* accounts. Rather, the Adviser bills *clients*.

The Adviser may also be paid a *performance-based fee*, which is compensation that is based on a share of capital gains on or capital appreciation of the assets of a *client* (such as a *client* that is a hedge fund or other pooled investment vehicle). This compensation may be paid to the Adviser or to a *related person* of the Adviser and range from 10 percent to 20 percent. Under certain circumstances, receipt of performance-based compensation may be subject to a hurdle rate.

Carried interest and hurdle rates are negotiated on an account-by-account basis.

In addition, certain *client* accounts have agreed to allow the Adviser and its co-adviser to retain 20 percent of any arrangement fees generated as a result of structuring a transaction. In these situations, the remaining 80 percent of the arrangement fee is held and applied to reduce management fees payable to the Adviser and co-adviser. These fees are generally the result of the Adviser arranging a loan or loan syndication.

In addition to paying investment management fees and, if applicable, *performance-based fees* or other compensation, *client* accounts will also be subject to other investment expenses, such as custodial charges, brokerage fees, commissions and related costs; expenses relating to investigating, acquiring, monitoring, distributing and disposing of the *client's* investments; placement fees; expenses incurred in connection with potential investments or dispositions that are not consummated; interest expenses; taxes, duties and other governmental charges; fees and expenses of outside auditors, attorneys, consultants, accountants, third party appraisers and other professionals; litigation expenses and amounts required to be paid to certain indemnitees; insurance premiums; expenses relating to the preparation, printing and distribution of reports; costs of maintaining books and records; transfer and registration fees or similar expenses; costs associated with foreign exchange transactions; other portfolio expenses; costs, expenses and fees (including investment advisory and other fees charged by investment advisers with, or funds in, which the *client's* account invests) associated with products or services that may be necessary or incidental to such investments or accounts; and other expenses approved by the *client*. In addition to the expenses listed above, *clients* that are pooled investment vehicles may also bear expenses such as costs of third party fund administrators retained by the Adviser; the cost of fund accounting, fund administration and other services performed by affiliates of the Adviser on arm's length terms; expenses of members of the *client's* advisory committee; expenses incurred in connection with meetings of the *client's* partners; and organizational or winding-up expenses.

*Client* assets may be invested in pooled investment vehicles. In these cases, *clients* will bear their pro rata share of the underlying fund's operating and other expenses including, in addition to those listed above: sales expenses; legal expenses; internal and external accounting, audit and tax preparation expenses; and organizational or winding-up expenses. *Client* assets may be invested in money market mutual funds, ETFs or other registered investment companies. In these cases, the *client* will bear its pro rata share of the investment management fee and other fees of the fund, which are in addition to the

investment management fee paid to the Adviser. *Client* assets may be invested in a master-feeder structure. Feeder funds bear a pro rata share of the expenses associated with the related master fund. In addition, *clients* will incur brokerage and other transaction costs. Please refer to Item 12 of this *brochure* for a discussion of the Adviser's brokerage practices.

Some *clients* may be required to pay the Adviser's fees in advance. Carried interest fees are not generally paid in advance, except that, in certain circumstances, the Adviser may receive an advance in an amount sufficient to allow it to discharge its and its *related persons'* tax liabilities with respect to such carried interest. The *client* may obtain a refund of a pre-paid fee if the advisory contract is terminated. The Adviser will determine the amount of the relevant refund on a pro rata basis using the actual duration of the investment or monitoring period.

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

The Adviser and its investment personnel provide investment management services to multiple portfolios for multiple *clients*. The Adviser is entitled to be paid performance-based compensation by its private pooled investment vehicle *clients* and certain other *client* accounts. In addition, the Adviser's investment personnel are typically compensated on a basis that includes a performance-based component.

Examples of *performance-based fees* include, but are not necessarily limited to:

- an incentive fee where the fee is calculated as a percentage of a fund's profits, taking into consideration both realized and unrealized profits (sometimes referred to as an incentive allocation or carried interest);
- a high water mark where the manager receives performance fees only on increases in the net asset value of a fund in excess of the highest net asset value it has previously achieved; and
- hurdle rates where a manager does not charge a performance fee until the fund's annualized performance exceeds a benchmark rate, such as T-bill yield, LIBOR or a fixed percentage.

The Adviser and its investment personnel, including investment personnel that share in performance-based compensation, manage multiple *client* accounts that are charged performance-based compensation which could cause one *client* account to be favored over another *client* account.

In addition, certain *client* accounts may have higher asset-based fees or more favorable performance-based compensation arrangements than other accounts. When the Adviser and its investment personnel manage more than one *client* account a potential exists for one *client* account to be favored over another *client* account. The Adviser and its investment personnel have a greater incentive to favor *client* accounts that pay the Adviser (and indirectly the portfolio manager) performance-based compensation or higher fees.

The Adviser has adopted and implemented policies and procedures intended to address conflicts of interest relating to the management of multiple accounts, including accounts with multiple fee arrangements, and the allocation of investment opportunities. The Adviser reviews investment decisions for the purpose of ensuring that all accounts with substantially similar investment objectives are treated equitably. The performance of similarly managed accounts is also regularly compared to determine whether there are any unexplained significant discrepancies.

In addition, the Adviser has procedures relating to the allocation of investment opportunities, which require that, to the extent orders are aggregated, the *client* orders are price-averaged. The Adviser may take the following factors into account in allocating securities among investment advisory *clients*:

- *client's* investment objective and strategies;
- *client's* risk profile;
- *client's* tax status;
- any restrictions placed on a *client's* portfolio by the *client* or by virtue of federal or state law (such as the Employee Retirement Income Security Act of 1974, as amended);
- size of *client* account;
- total portfolio invested position;
- nature of the security to be allocated;
- size of available position;
- supply or demand for a security at a given price level;
- current market conditions;
- timing of cash flows and account liquidity;
- any other information determined to be relevant to the fair allocation of securities.

Finally, the Adviser's procedures also require the objective allocation for limited opportunities (such as initial public offerings and private placements) to ensure fair and equitable allocation among accounts. These areas are monitored by the Adviser's Chief Compliance Officer.

An aggregated order may be allocated following execution on a basis different from that specified in the allocation statement prepared for the particular order, if the reason for the different allocation is explained in writing and approved by the Adviser's Chief Compliance Officer no later than the close of trading on the day on which the order was executed. Reasons for allocation on a basis different from that specified in the allocation statement may include: a client's investment guidelines and restrictions; available cash; liquidity requirements; legal regulatory reasons; and to avoid odd lots.

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## Item 7. Types of *Clients*

The Adviser's *clients* may consist of individuals, banks and thrift institutions, private funds, pension and profit sharing plans, trusts, estates, charitable organizations, endowments, corporations and other business entities.

With respect to any *client* that is a pooled investment vehicle, any initial and additional subscription minimums are disclosed in the offering memorandum for the pooled investment vehicle.

Set forth below are the minimum accounts requirements for ACM's accounts:

### Pooled Investment Vehicles

Investors that are U.S. *persons* must be "accredited investors" under Regulation D of the Securities Act of 1933, "qualified purchasers" under the Investment Company Act of 1940 and "qualified clients" eligible to be charged performance fees under the Investment Advisers Act of 1940 (the "Advisers Act"). The minimum investment required by an investor varies depending on the private fund and in each case is subject to waiver by ACM. Investors should review the offering memorandum for each relevant private fund for further information with respect to minimum requirements for investment.

### Separate Accounts

ACM generally creates separate accounts for accounts in excess of \$50 million, but may consider accounts with lesser commitment amounts. These customized portfolios are designed to meet the specific risk and return goals, liquidity restraints, factor sensitivity targets and other requirements of its *clients*.

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

The Adviser is focused primarily on structured investments in the life sciences sector. The methods of analysis are all fundamental in nature and are based on a variety of factors including, among others: market opportunity, downside risk, quality of management, collateral value, entry valuation, regulatory risk, clinical data, competition / market dynamic, intellectual property, and exit prospects.

The Adviser will frequently engage outside consultants or experts to assist in the evaluation of any opportunity including: reimbursement consultants, intellectual property attorneys, regulatory consultants and other scientific or medical experts.

The Adviser is focused on structured investment in the life sciences sector which is a fundamental buy and hold strategy. Frequently the investments will generate meaningful current income as part of the investment structure.

The Adviser's approach to analysis is private equity-like in nature and includes: sourcing, due diligence, structuring and negotiating transactions, and actively monitoring portfolio investments.

The Adviser occasionally will engage in hedging transactions designed to reduce interest rate risk or foreign currency risk or to otherwise reduce risk in certain investments.

The Adviser's investment program may utilize leverage which involves the borrowing of funds from brokerage firms, banks and other institutions in order to be able to increase the amount of capital available for investments and to facilitate the acquisition and disposal of investments (e.g. line of credit, bridge loans, etc.)

The Adviser's strategy and investments involve risk of loss to *clients* and *clients* must be prepared to bear the loss of their entire investment.

*Small Adviser with Limited Resources.* ACM is a small, specialized adviser with more limited resources and a smaller investment team than some of its investment manager competitors. Any loss or departure of some of the Adviser's *employees* could be material and potentially negatively impact *client* accounts.

*Lack of Diversification.* *Client* accounts will not be diversified among a wide range of types of securities, countries or industry sectors. Accordingly, *client* portfolios are subject to more rapid change in value than would be the case if the Adviser were required to maintain a wider diversification among types of securities and other instruments.

*Sector Specific Risk.* As most of the Adviser's investments are focused on the life sciences sector, there are a number of risks that are specific to the sector including: regulatory risk, intellectual property risk, clinical trial risk, product development risk, manufacturing and supply risk, reimbursement risk, among others. These risks could have a significant negative impact on investments.

*Distressed Situation Risk.* Investment in distressed situations exposes the *client* to significant risks, including: the difficulty in obtaining information as to the issuer's true condition; regulatory risk, including

laws relating to fraudulent conveyances, voidable preferences, lender liability and bankruptcy; litigation risk; liquidity risk; and collection risk.

*Duration Risk.* ACM's investment strategy is primarily focused on investments with maturity or exit timing greater than one year and in most cases greater than three years. A longer-term holding period exposes investors to illiquidity risk as well as projection risk, with a potential negative event being magnified by the anticipated holding period.

*Hedging.* There can be no assurances that a particular hedge is appropriate, or that certain risk is measured properly. Further, while the Adviser may enter into hedging transactions to seek to reduce risk, such transactions may result in poorer overall performance and increased (rather than reduced) risk for the Adviser's investment portfolios than if the Adviser did not engage in any such hedging transactions.

*Interest Rate Risks.* Generally, the value of fixed-income securities changes inversely with changes in interest rates. As interest rates rise, the market value of fixed-income securities tends to decrease. Conversely, as interest rates fall, the market value of fixed-income securities tends to increase. This risk is greater for long-term securities than for short-term securities.

*Issuer-Specific Changes.* Changes in the financial condition of an issuer or counterparty, changes in specific economic or political conditions that affect a particular type of security or issuer, and changes in general economic or political conditions can increase the risk of default by an issuer or counterparty, which can affect a security's or instrument's value. The value of securities of smaller, less well-known issuers can be more volatile than that of larger issuers. Smaller issuers can have more limited product lines, markets or financial resources.

*Leverage.* Performance may be more volatile if a *client's* account employs leverage.

*Competitive Market for Investment Opportunities.* Although ACM believes there are currently a limited number of competitors focused on making investments in the targeted sector, the activity of identifying, completing and realizing on attractive investments is still a highly competitive one (and may become more competitive over time) and involves a high degree of uncertainty. ACM will be competing for investment opportunities with, among other entities, other private investment vehicles and institutional investors. There can be no assurance that ACM will be able to source an adequate number of attractive investment opportunities or that it will be able to fully invest its committed capital.

The following is a summary of the principal risks associated with investments by *clients*. This is a summary only.

*Illiquid Instruments.* Certain instruments may have no readily available market or third-party pricing. Reduced liquidity may have an adverse impact on market price and the Adviser's ability to sell particular securities when necessary to meet liquidity needs or in response to a specific economic event, such as the deterioration of creditworthiness of an issuer. Reduced liquidity in the secondary market for certain securities may also make it more difficult for the Adviser to obtain market quotations based on actual trades for the purpose of valuing a fund's portfolio.

*Distressed Securities.* Investments in unrated or low grade debt securities of distressed companies are subject to greater risk of loss of principal and interest than higher-rated debt securities. Also, securities of distressed companies are generally more likely to become worthless than the securities of more financially stable companies.

*Equity Securities.* The value of equity securities fluctuates in response to issuer, political, market, and economic developments. Derivatives of equity securities, including warrants, may magnify these fluctuations through leverage. The Adviser will also invest in preferred stocks which may have some characteristics of equity securities and some fixed income characteristics.



*Fixed-Income, Debt Securities and Royalties.* Investment in fixed-income and debt securities (such as bonds, notes and asset-backed securities) and royalties, subject a *client's* portfolios to the risk that the value of these securities overall will decline because of rising interest rates. Similarly, portfolios that hold such securities are subject to the risk that the portfolio's income will decline because of falling interest rates. Investments in these types of securities will also be subject to the credit risk created when a debt issuer fails to pay interest and principal in a timely manner, or that negative perceptions of the issuer's ability to make such payments will cause the price of that debt to decline. Lastly, investments in lower-rated debt securities will also subject the investments to the risk that the securities may fluctuate more in price, and are less liquid than higher-rated securities because issuers of such lower-rated debt securities are not as strong financially, and are more likely to encounter financial difficulties and be more vulnerable to adverse changes in the economy. Royalties are subject to fluctuations in the sales of an underlying product or service and could be substantially impaired if the product or service were to be withdrawn from the market.

*Non-U.S. Securities.* Foreign securities, foreign currencies, and securities issued by U.S. entities with substantial foreign operations can involve additional risks relating to political, economic, or regulatory conditions in foreign countries. These risks include fluctuations in foreign currencies; withholding or other taxes; trading, settlement, custodial, and other operational risks; and the less stringent investor protection and disclosure standards of some foreign markets. All of these factors can make foreign investments, especially those in emerging markets, more volatile and potentially less liquid than U.S. investments. In addition, foreign markets can perform differently from the U.S. market.

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#### **Item 9. Disciplinary Information**

This Item is not applicable.

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

Each of the limited partnerships or private funds for which the Adviser or its *related persons* serves as general partner or investment manager has and may in the future enter into agreements, or "side letters," with certain prospective or existing limited partners or shareholders whereby such limited partners or shareholders may be subject to terms and conditions that are more advantageous than those set forth in the offering memorandum for the partnership or fund. For example, such terms and conditions may provide for special rights to make future investments in the partnership, other investment vehicles or managed accounts; special redemption rights, relating to frequency or notice; a waiver or rebate in fees or redemption penalties to be paid by the limited partner or shareholder and/or other terms; rights to receive reports from the partnership on a more frequent basis or that include information not provided to other limited partners or shareholders (including, without limitation, more detailed information regarding portfolio positions) and such other rights as may be negotiated by the partnership or fund and such limited partners or shareholders. The modifications are solely at the discretion of the partnership or fund and may, among other things, be based on the size of the limited partner's or shareholder's investment in the partnership or fund or affiliated investment entity, an agreement by a limited partner or shareholder to maintain such investment in the partnership or fund for a significant period of time, or other similar commitment by a limited partner or shareholder to the partnership or fund.

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

The Adviser has adopted a Code of Ethics (the "Code") that obligates the Adviser and its *related persons* to put the interests of the Adviser's *clients* before their own interests and to act honestly and fairly in all respects in their dealings with *clients*. All of the Adviser's personnel are also required to comply with applicable federal securities laws. *Clients* or prospective *clients* may obtain a copy of the Code by contacting Andrew C. Hyman (Chief Compliance Officer) by email at [ahyman@athyrium.com](mailto:ahyman@athyrium.com), or by telephone at 212-402-6925. See below for further provisions of the Code as they relate to the preclearing and reporting of securities transactions by *related persons*.

The Adviser, in the course of its investment management and other activities (e.g., board or creditor committee service), may come into possession of confidential or material nonpublic information about issuers, including issuers in which the Adviser or its *related persons* have invested or seek to invest on behalf of *clients*. The Adviser is prohibited from improperly disclosing or using such information for its own benefit or for the benefit of any other *person*, regardless of whether such other *person* is a *client*. The Adviser maintains and enforces written policies and procedures that prohibit the communication of such information to *persons* who do not have a legitimate need to know such information and to assure that the Adviser is meeting its obligations to *clients* and remains in compliance with applicable law. In certain circumstances, the Adviser may possess certain confidential or material, nonpublic information that, if disclosed, might be material to a decision to buy, sell or hold a security, but the Adviser will be prohibited from communicating such information to the *client* or using such information for the *client's* benefit. In such circumstances, the Adviser will have no responsibility or liability to the *client* for not disclosing such information to the *client* (or the fact that the Adviser possesses such information), or not using such information for the *client's* benefit, as a result of following the Adviser's policies and procedures designed to provide reasonable assurances that it is complying with applicable law.

The Adviser requires its *related persons* to preclear certain securities transactions, limited offerings and initial public offerings in their personal accounts with the Chief Compliance Officer, who may deny permission to execute the transaction if such transaction will have any adverse economic impact on one of its *clients* or if the security is on the firm's restricted list. All of the Adviser's *related persons* are required to disclose their securities transactions on a monthly basis and holdings on an annual basis. Trading in *employee* accounts will be reviewed by the Chief Compliance Officer or his delegate and compared against the investments that have been precleared.

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#### Item 12. Brokerage Practices

The Adviser considers a number of factors in selecting a broker-dealer to execute transactions (or series of transactions) and determining the reasonableness of the broker-dealer's compensation. Such factors include net price, reputation, financial strength and stability, efficiency of execution and error resolution, offering to the Adviser on-line access to computerized data regarding a *client's* accounts. In selecting a broker-dealer to execute transactions (or series of transactions) and determining the reasonableness of the broker-dealer's compensation, the Adviser need not solicit competitive bids and does not have an obligation to seek the lowest available commission cost. It is not the Adviser's practice to negotiate "execution only" commission rates, thus a *client* may be deemed to be paying for research, brokerage or other services provided by a broker-dealer which are included in the commission rate. The Adviser's personnel meet at least annually to evaluate the broker-dealers used by the Adviser to execute *client* trades using the foregoing factors.

The Adviser's investment strategy is such that the Adviser does not anticipate that it will engage in securities transactions on behalf of its *clients* that would generate soft dollars. To the extent that the

Adviser does engage in securities transactions on behalf of *clients* that do generate soft dollars, the Adviser will limit the use of "soft dollars" to obtain research and brokerage services to services that constitute research and brokerage within the meaning of Section 28(e) of the Securities Exchange Act of 1934 ("Section 28(e)"). Research services within Section 28(e) may include, but are not limited to, research reports (including market research); certain financial newsletters and trade journals; software providing analysis of securities portfolios; corporate governance research and rating services; attendance at certain seminars and conferences; discussions with research analysts; meetings with corporate executives; consultants' advice on portfolio strategy; data services (including services providing market data, company financial data and economic data); advice from broker-dealers on order execution; and certain proxy services. Brokerage services within Section 28(e) may include, but are not limited to, services related to the execution, clearing and settlement of securities transactions and functions incidental thereto (i.e., connectivity services between an adviser and a broker-dealer and other relevant parties such as custodians); trading software operated by a broker-dealer to route orders; software that provides trade analytics and trading strategies; software used to transmit orders; clearance and settlement in connection with a trade; electronic communication of allocation instructions; routing settlement instructions; post trade matching of trade information; and services required by the SEC or a self regulatory organization such as comparison services, electronic confirms or trade affirmations.

If the Adviser uses *client* commissions to obtain Section 28(e) eligible research and brokerage products and services, the Adviser's Chief Compliance Officer, traders and portfolio managers/etc. will meet periodically to review and evaluate its soft dollar practices and to determine in good faith whether, with respect to any research or other products or services received from a broker-dealer, the commissions used to obtain those products and services were reasonable in relation to the value of the brokerage, research or other products or services provided by the broker-dealer. This determination will be viewed in terms of either the specific transaction or the Adviser's overall responsibilities to the accounts or portfolios over which the Adviser exercises investment discretion.

The use of *client* commissions (or markups or markdowns) to obtain research and brokerage products and services raises conflicts of interest. For example, the Adviser will not have to pay for the products and services itself. This would create an incentive for the Adviser to select or recommend a broker-dealer based on its interest in receiving those products and services.

In some instances, the Adviser may obtain a product or service that is used, in part, by the Adviser for Section 28(e) eligible purposes and, in part, for other purposes. In such instances, the Adviser will make a good faith effort to determine the relative proportion of the product or service used to assist the Adviser in carrying out its investment decision-making responsibilities and the relative proportion used for administrative or other purposes outside Section 28(e). Such determination will be based on its evaluation of the research and non-research uses of the product. The proportion of the product or service attributable to assisting the Adviser in carrying out its investment decision-making responsibilities will be paid through brokerage commissions generated by *client* transactions and the proportion attributable to administrative or other purposes outside Section 28(e) will be paid for by the Adviser from its own resources. The determination of the appropriate allocation of "mixed use" products and services creates a potential conflict of interest between the Adviser and *clients*.

The Adviser often purchases or sells the same security for many *clients* contemporaneously/at or near the same time. It is the Adviser's practice, where possible, to aggregate *client* orders for the purchase or sale of the same security submitted contemporaneously. The Adviser will also aggregate in the same transaction, the same securities for accounts where the Adviser has brokerage discretion. Such aggregation may enable the Adviser to obtain for *clients* a more favorable price or a better commission rate based upon the volume of a particular transaction. However, in cases where the *client* has negotiated the commission rate directly with the broker, the Adviser will not be able to obtain more favorable commission rates based on an aggregated trade. In such cases, the *client* will be precluded from receiving the benefit of any possible commission discounts that might otherwise be available as a result of the aggregated trade. In cases where trading or investment restrictions are placed on a *client's* account, the Adviser may be precluded from aggregating that *client's* transaction with others. In such a

case, the *client* may pay a higher commission rate and/or receive less favorable prices than *clients* who are able to participate in an aggregated order.

When an aggregated order is completely filled, the Adviser allocates the securities purchased or proceeds of sale pro rata among the participating accounts, based on the purchase or sale order. Adjustments or changes may be made under certain circumstances, such as to avoid odd lots or excessively small allocations. If the order at a particular broker is filled at several different prices, through multiple trades, generally all such participating accounts will receive the average price and pay the average commission, subject to odd lots, rounding, and market practice.

If an aggregated order is only partially filled, the Adviser's procedures provide that the securities or proceeds are to be allocated in a manner deemed fair and equitable to *clients*. Depending on the investment strategy pursued and the type of security, this may result in a pro rata allocation to all participating *clients*.

The Adviser or its *related persons* may also participate in an aggregated order.

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### Item 13. Review of Accounts

On a periodic basis, each *client* account is reviewed by the Adviser to determine whether securities and investment positions should be maintained in view of current market conditions.

Significant market events affecting the prices of one or more investments in *client* accounts, changes in the investment objectives or guidelines of a particular *client*, or specific arrangements with particular *clients* may trigger reviews of *client* accounts on other than a periodic basis.

Each *client* that is a separate account will receive quarterly reports providing valuations from the Adviser. Such reports may be delivered electronically to the *client* in accordance with the *client's* agreement with the Adviser.

A *client's* investors receive reports from the *client* pursuant to the terms of each *client's* offering memoranda or as otherwise described in the offering document of the *client*.

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

The Adviser makes cash payments to third-party solicitors for *client* referrals, provided that, to the extent required, each such solicitor has entered into a written agreement with the Adviser pursuant to which the solicitor will provide each prospective *client* with a copy of the Adviser's Form ADV Part 2, and a disclosure document setting forth the terms of the solicitation arrangement, including the nature of the relationship between the solicitor and Adviser and any fees to be paid to the solicitor. Where applicable, cash payments for *client* solicitations will be structured to comply fully with the requirements of Rule 206(4)-3 under the Advisers Act and related SEC staff interpretations.

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## Item 15. Custody

The Adviser has *custody* of certain *client* funds and securities, which are held by third party qualified custodians. *Clients* will receive periodic account statements directly from the applicable qualified custodian, and *clients* should review these statements carefully.

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## Item 16. Investment Discretion

The Adviser provides investment advisory services on a *discretionary basis* to *clients*. Please see Item 4 for a description of any limitations *clients* may place on the Adviser's *discretionary authority*.

Prior to assuming full/limited discretion in managing a *client's* assets, the Adviser enters into an investment management agreement or other agreement that sets forth the scope of the Adviser's discretion.

Unless otherwise instructed or directed by a discretionary *client*, the Adviser has the authority to determine (i) the securities to be purchased and sold for the *client* account (subject to restrictions on its activities set forth in the applicable investment management agreement and any written investment guidelines) (ii) the amount of securities to be purchased or sold for the *client* account. Because of the differences in *client* investment objectives and strategies, risk tolerances, tax status and other criteria, there may be differences among *clients* in invested positions and securities held. The Adviser submits an allocation statement to the trading desk describing the allocation of securities to (or from) *client* accounts for each trade/order submitted. The Adviser may consider the following factors, among others, in allocating securities among *clients*: (i) *client* investment objectives and strategies; (ii) *client* risk profiles; (iii) tax status and restrictions placed on a *client's* portfolio by the *client* or by applicable law; (iv) size of the *client* account; (v) nature and liquidity of the security to be allocated; (vi) size of available position; (vii) current market conditions; and (viii) account liquidity, account requirements for liquidity and timing of cash flows. Although it is the Adviser's policy to allocate investment opportunities to eligible *client* accounts on a pro rata basis (based on the value of the assets of each participating account relative to value of the assets of all participating accounts), these factors may lead the Adviser to allocate securities to *client* accounts in varying amounts. Even *client* accounts that are typically managed on a *pari passu* basis may from time to time receive differing allocations of securities based on total assets of each account eligible to invest in the particular investment type (e.g., equities) divided by the total assets of all accounts eligible to invest in the particular investment.

Securities acquired by the Adviser for its *clients* through initial public offerings (IPOs) and secondary offerings will be allocated pursuant to the procedures set forth in the Adviser's allocation policy. The policy provides that: (i) if the Adviser receives a full allocation of securities in an IPO, the securities will be allocated by the Adviser to eligible/participating *client* accounts in accordance with the proposed allocations provided by the Adviser, or (ii) if the Adviser receives less than a full allocation of securities in an IPO, the securities will be allocated by the Adviser to eligible/participating *client* accounts based upon the account size of each participating account. The Adviser will determine the proposed allocations of IPO securities after considering the factors described above with respect to general allocations of securities. Only those *client* accounts that have established their eligibility to participate in IPOs with the Adviser can participate in IPO allocations.

Securities acquired by the Adviser for its *clients* through a limited offering will be allocated pursuant to the procedures set forth in the Adviser's allocation policy. The policy provides that the Adviser will determine the proposed allocation of limited offering securities after considering the factors described above with respect to general allocations of securities and determining those *client* accounts eligible to hold such securities. Eligibility will be based on the legal status of the *client* and the *client's* investment objectives and strategies.

The Adviser may effect cross transactions between discretionary *client* accounts, except as otherwise noted below. Cross transactions enable the Adviser to effect a trade between two *clients* for the same security at a set price, thereby possibly avoiding an unfavorable price movement that may be created through entrance into the market and saving commission costs for both accounts. Cross transactions include rebalancing transactions that are undertaken so that, after withdrawals or contributions have occurred, the portfolio compositions of similarly managed accounts remain substantially similar. The Adviser has a potentially conflicting division of loyalties and responsibilities regarding both parties to cross transactions. Cross transactions between *client* accounts are not permitted if they would constitute principal trades or trades for which the Adviser or its affiliates are compensated as a broker unless *client* consent has been obtained based upon written disclosure to the *client* of the capacity in which the Adviser or its affiliates will act. In addition, cross transactions are not permitted for benefit plan or other similar accounts that are subject to ERISA.

If it appears that a trade error has occurred, the Adviser will review the relevant facts and circumstances to determine an appropriate course of action. To the extent that trade errors and breaches of investment guidelines and restrictions occur, the Adviser's error correction procedure is to ensure that *clients* are treated fairly. The Adviser has discretion to resolve a particular error in any appropriate manner that is consistent with the above stated policy. In the event that a *client* account incurs a trade error as a result of the Adviser's gross negligence, willful misconduct, or fraud, trade errors will be corrected by the Adviser as soon as practicable, in a manner such that the *client* incurs no loss. Trade errors that result other than by breach of the standard of care above are borne by the *client* account.

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

The Adviser's *clients* generally invest in instruments that do not have attached voting rights. However, the Adviser has been delegated proxy voting authority on behalf of its *clients* for any investments that may have attached voting rights. The Adviser complies with its proxy voting policies and procedures that are designed to ensure that in cases where the Adviser votes proxies with respect to *client* securities, such proxies are voted in the best interests of its *clients*.

If a material conflict of interest between the Adviser and a *client* exists, the Adviser will determine whether voting in accordance with the guidelines set forth in the proxy voting policies and procedures is in the best interests of the *client* or take some other appropriate action. The Adviser does not make any qualitative judgment regarding its *client's* investments.

*Clients* may obtain a copy of the Adviser's proxy voting policies and procedures and information about how the Adviser voted a *client's* proxies by contacting Andrew C. Hyman (Chief Compliance Officer) by email at [ahyman@athyrium.com](mailto:ahyman@athyrium.com) or by telephone at 212-402-6925.

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#### **Item 18. Financial Information**

This item is not applicable.

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#### **Item 19. Requirements for State-Registered Advisers**

This item is not applicable.