

**BLUE TORCH CAPITAL LP  
PART 2A OF FORM ADV  
THE BROCHURE**

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This brochure provides information about the qualifications and business practices of Blue Torch Capital LP (“Blue Torch” or the “Firm”). If you have any questions about the contents of this brochure, please contact us at 212-503-5850. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.

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

Registration with the United States Securities and Exchange Commission does not imply a certain level of skill or training. In addition, the information in this Brochure has not been approved or verified by the SEC or by any state securities authority.

## **Item 2.     Material Changes**

The Firm is filing under the 120 day provision for registration and has not yet begun to conduct advisory business. This brochure describes the advisory business of Blue Torch as it is anticipated to operate upon the effectiveness of its registration. A full update of Form ADV will be filed by the Firm within 120 days of the effectiveness of its registration.

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## **Item 4. Advisory Business**

Blue Torch is organized as a Delaware Limited Partnership and expects to commence advisory operations upon the effective date of SEC registration. The Firm is located in New York, New York and is primarily owned indirectly by Kevin Genda. The Firm will provide discretionary investment management to privately placed pooled investment vehicles (“Private Funds”), special purpose investment vehicles (“SPVs”), and managed accounts (collectively with the Private Funds, the “Clients”) based on their respective investment objectives. The Firm’s primary investment focus is the debt assets of middle market companies, in particular “companies in transition”. Blue Torch defines “companies in transition” as companies that may require a solutions-oriented lender with experience underwriting complex situations, be undergoing operational, financial, legal or regulatory transformations or hurdles, or require financing solutions within an accelerated time period.

As of the date of this Brochure, Blue Torch does not have any assets under management.

Blue Torch does not participate in any wrap fee programs.

## **Item 5. Fees and Compensation**

### **Separate Account Management**

Separately managed account fees will be negotiable on a case by case basis and will be charged as outlined in the relevant investment management agreement with the applicable Client. Separate account fees are expected to consist of both asset based and a performance based component.

### **Private Funds**

#### Management Fees

Investors in the Private Funds are expected to pay a 1.0% *per annum* of such investor’s pro rata share of total assets under management, calculated and payable quarterly in advance on the first day of each calendar quarter based on assets under management as of the last day of the prior calendar quarter. Management Fees will accrue daily and will be pro-rated for any partial period.

Blue Torch and/or its affiliates may receive transaction, directors’, consulting, advisory, management, monitoring, closing, break-up, servicing, disposition or administration fees and other similar fees in connection with the investments and potential investments (“Other Fees”). 100% of such Other Fees will be applied to reduce the management fee for the quarterly period (net of certain expenses). To the extent such offsets would reduce the management fee for a given quarterly period below zero, such offsets will be carried forward and reduce future instalments of the management fee.

#### Performance-Based Allocations or Fees

For the Private Funds it is anticipated that an affiliate of the Firm will receive a performance-based allocation or fee of 15% of the proceeds realized upon the disposition of the assets of such Private Fund; subject to the return of capital contributions to investors and subject to a preferred return to investors of 6%, catch-up distributions to the affiliate and/or other performance hurdles.

Compensation to the Firm is negotiable, and is set forth and described in each Client’s offering

documents, organizational documents and/or investment management agreement. Certain investors in the Private Funds may negotiate for and pay reduced performance based allocations or fees and/or reduced management fees

#### Additional Expenses and Fees

Clients and investors are anticipated to bear some or all of the following costs and expenses, which will be outlined in full in the relevant offering document, organizational document or investment management agreement:

- (i) all fees, costs and expenses incurred in connection with the organization and startup of a Private Fund, Blue Torch, a general partner of a Private Fund, including legal and accounting fees, printing costs, travel and out-of-pocket expenses, and all costs and expenses incurred in connection with the offering of interests in a Private Fund, including compliance with any blue sky laws and AIFMD and costs and expenses incurred in connection with the preparation, distribution, printing and negotiation of any offering document, any other marketing documents and organizational documents; .
- (ii) all expenses attributable to the investment activities, operations and administration of a Private Fund, or of a general partner of a Private Fund and Blue Torch on behalf of a Private Fund.
- (iii) any and all fees, costs and expenses incurred in connection with the evaluation, diligence, discovery, sourcing, investigation, development, researching, negotiation, financing, structuring, acquisition, consummation, monitoring, holding, maintaining, hedging, management or disposition of investments (whether or not consummated) and temporary investments, including (A) sales commissions and fees, non-refundable deposits and costs and expenses, loan fees, syndication fees, private placement fees, brokerage and sales fees and commissions, appraisal fees, research fees, dealer spreads, interest and clearing and settlement charges, bank charges, commitment fees, transfer taxes and premiums, underwriting commissions and discounts, expenses relating to short sales, break up fees; (B) fees and expenses related to market data (including, without limitation, expenses incurred in connection with any multimedia, analytical, database, news or third-party research or information services, systems, reports and subscriptions and similar items); (C) professional fees and expenses, including legal (including costs of specialist internal counsel where a Private Fund would otherwise engage external counsel), accounting, auditing, investment banking, third-party industry and due diligence experts (including, without limitation, for asset, credit and risk analytics, and loss mitigation), valuation and appraisal fees, finders, originators, consulting (including fixed and/or performance fees and/or joint venture or other revenue share arrangements and expenses (including travel expenses) of consultants, advisors and insurance consultants), oversight servicer and asset servicer fees and expenses (including fixed and/or performance fees and/or joint venture or other revenue share arrangements); (D) filing, compliance and other related fees, interest and related expenses and custodial (if required by applicable law), depository, trustee, record keeping and other administration fees and expenses, operations fees and expenses and reconciliation expenses; (E) travel, lodging and related expenses; and (F) all other fees, costs and expenses related to the evaluation, discovery, investigation, development, acquisition, monitoring, maintenance or disposition of potential or actual investments (whether or not consummated), or short-term investments;

- (iv) any and all fees, costs and expenses incurred in implementing or maintaining third-party software tools, programs or other technology for the benefit of a Client (including, without limitation, any and all costs and expenses of any investment, books and records, portfolio or side letter compliance and reporting systems, including, without limitation, consultant, software licensing, data management and recovery services fees and expenses and Bloomberg subscription service fees);
- (v) any and all costs and expenses and any other payments incurred in connection with the incurrence of leverage and indebtedness, including payments of, or in relation to, borrowings, rolls, reverse purchase agreements, credit facilities, transfer agreements used in connection with “season and sell” activities, securitizations, margin financing and derivatives and swaps, and including payments of, or in relation to, any principal or interest on client borrowings and indebtedness (including, without limitation, any fees, costs, and expenses incurred in obtaining lines of credit, loan commitments, and letters of credit for Client accounts and in guaranteeing the obligations of any issuers or their affiliates, including legal fees and expenses);
- (vi) any and all fees, costs and expenses incurred in connection with a Private Fund’s financial statements, reports, notices, tax returns, any tax filings and Schedule K-1s (or similar schedules), including the costs of creating, printing and distributing such financial statements, notices, reports, tax returns and Schedule K-1s (or similar schedules) and the costs of implementing or maintaining client reporting and management software;
- (vii) any and all taxes and other governmental charges that may be incurred or payable by a Client (including transfer taxes and premiums and entity-level taxes and fees associated with corporate licensing);
- (ix) any and all fees and expenses of a Private Fund “tax matters partners” or “partnership representatives”;
- (x) any and all fees, costs and expenses relating to the maintenance of registered offices, corporate licensing and similar expenses;
- (xi) regulatory and compliances fees, costs and expenses directly related to Clients (including fees, costs and expenses related to the registration, qualification and or exemption under any applicable U.S. federal, state, or local laws, rules or regulations such as blue sky fees and a Private Fund’s reasonable share of Blue Torch’s reporting obligations directly related to a Private Fund such as Form PF);
- (xii) any and all insurance premiums, fees or expenses in connection with insuring the activities of a Client, a general partner of a Private Fund, or Blue Torch including cybersecurity, errors and omissions, fidelity bonds, general partner liability, directors’ and officers’ liability and similar coverage for any person acting on behalf of a Client, a general partner of a Private Fund, Blue Torch, and/or their respective affiliates;
- (xiii) any and all costs and expenses (including accounting, legal or regulatory fees and expenses) incurred to comply with any law or regulation related to Client activities;

- (xiv) any and all costs and expenses incurred in connection with communications and reports (including the delivery thereof) and distributions to investors and to provide access to a database;
- (xv) any and all costs and expenses incurred in connection with the distribution of proceeds to the investors as provided in the fund agreements;
- (xvi) any and all costs and expenses incurred in connection with any meeting of investors or advisory committees, including, without limitation, travel, meal, and lodging expenses;
- (xvii) out-of-pocket expenses incurred by members of advisory committees and their representatives in connection with the fulfillment of their duties pursuant to fund agreements;
- (xviii) any and all fees, costs and expenses incurred in connection with the formation and organization and operation of any investment holding entity or SPV, including, without limitation, legal, administration, compliance and accounting expenses;
- (xix) any and all administrative fees, costs and expenses, including the costs of middle-office and back-office support provided by an administrator, the fees, costs and expenses of negotiating an administrative services agreement with an administrator, expenses associated with data fees from an administrator and fees, costs and expenses associated with maintaining and reviewing books and records and any duplicate copies maintained by a third-party firm;
- (xx) any fees, costs and expenses of any professionals and advisors who provide services to, or for the benefit of, a Client, including the fees of any accountants, counsel, valuation experts;
- (xxi) any fees, costs and expenses in connection with claims relating to investments, and collecting monies due to a Client;
- (xxii) any and all fees, costs and expenses incurred in connection with the dissolution, winding up or termination of a Private Fund, a general partner of a Private Fund or any special purpose entity;
- (xxiii) any and all fees, costs and expenses incurred in connection with any amendments, modifications, revisions or restatements to the constituent documents of funds or any special purpose entity set up for the purpose of pursuing a Clients' investment policy;
- (xxiv) any and all fees, costs and expenses incurred in connection with computing value and attributes of assets;
- (xxv) any and all litigation costs and expenses (including costs and expenses incurred in connection with, as well as the amount of where applicable, the investigation, prosecution, defense, judgment or settlement of litigation and other extraordinary expenses including, costs and expenses related to, and the amount of, a Client's indemnification obligations);
- (xxvi) any and all fees, costs and expenses related to or in connection with any governmental inquiry, investigation or proceeding involving a Client, including the amount of any judgments, settlements or fines paid in connection therewith;

- (xxvii) any and all fees, costs and expenses incurred by the Clients, Blue Torch or affiliates or employees, or any service provider for, or resulting from, any hedging transactions;
- (xxviii) fees, costs and expenses related to any sale, assignment, transfer or pledge of interests, unless otherwise charged to or borne by the applicable investor or transferee;
- (xxix) costs and expenses incurred in connection with the performance of loan origination, servicing, management, agencing, closing, settlement and due diligence services for a Client; and
- (xxx) any other fees, costs and expenses incurred by a general partner, Blue Torch, a Client or any of their respective affiliates relating specifically to a Client or any entity that directly or indirectly holds any investment.

Expenses allocated to a managed account are negotiated individually with respect to each managed account.

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

Blue Torch and/or advisory affiliates expect to receive performance-based compensation in the form of an incentive allocation, an incentive fee and/or performance distributions with respect to most Clients. Performance-based fee/allocation arrangements may create an incentive for Blue Torch to make riskier investments than would otherwise be the case in the absence of such arrangements. In addition, it may create an incentive for Blue Torch to favor Clients that have greater performance fee/allocation arrangements over other Clients that have lesser or no performance fee/allocation arrangements in the allocation of investment opportunities. To mitigate this conflict, all investment decisions and allocations will be made in accordance with the Firm's Investment Allocation Policy and Procedures discussed under Item 11 below, which are designed to ensure that all Clients are treated fairly and equitably in the allocation of investments.

## **Item 7. Types of Clients**

Blue Torch expects to provide discretionary investment management to Private Funds, SPVs and separately managed accounts. For separately managed accounts, the Firm will tailor their advisory services as described in the investment program of the relevant Client's investment management agreement. Clients may terminate a separately managed account in accordance with the termination provisions outlined in the investment management agreement. Underlying investors in Clients may include high net-worth individuals, family offices, financial institutions, insurance companies, corporations, sovereign wealth funds, endowment funds, charitable organizations, public and private pension funds and other investment funds.

For the Private Funds, each underlying investor will be an "accredited investor" as defined in Regulation D under the Securities Act of 1933, as amended, and a "qualified purchaser" as defined in the 1940 Act. Certain employees of Blue Torch who qualify as "knowledgeable employees" under Rule 3c-5 of the 1940 Act may be permitted to invest directly or indirectly in the Private Funds. The offering and organizational documents of each Private Fund will set forth the termination provisions



and minimum amounts required for investment by prospective investors in such Private Funds. These minimum amounts may be waived by Blue Torch or an affiliate. Investors should read the offering and organizational documents in full and consult with their advisors prior to making an investment.

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

Blue Torch's primary investment focus is the debt assets of middle market companies. Blue Torch expects to consider a wide variety of transactions, including recapitalizations, refinancings, restructurings, rescue financings, debtor-in-possession loans, exit financings, growth, leveraged buyouts and acquisitions. While the primary focus will be internally-generated loans to middle market businesses, Blue Torch will also pursue investments in: (a) the participation and secondary markets; (b) loans to borrowers in conjunction with buyouts or recapitalizations by private equity firms; and (c) bank backlogs.

The Fund's investments in debt assets may take the form of: loans, notes, corporate debt securities, bridge loans, assignments, loan participations, total return swaps and other derivatives and other debt instruments or obligations; unsecured debt, mezzanine debt, asset backed securities, convertible debt, debtor-in-possession financings and equity and equity like securities. It is expected that the loans in which Blue Torch Clients' will invest will primarily be term loans (whether as a part of single-tranche financing or a multi-tranche financing, including as a "unitranche financing"), but Blue Torch, on behalf of its Clients, may also originate or invest in revolving credit facilities. While debt assets generally will be senior and secured by first liens on a substantial majority of a borrower's assets, they also may be junior and may be collateralized by a variety of assets across all industries. In addition, Blue Torch, on behalf of its Clients, may acquire equity and equity related securities in connection with a debt asset, including as a result of a reorganization, workout or as a consequence of a loan foreclosure or foreclosure on the collateral securing such investment. Blue Torch will employ leverage and hedging strategies as it deems appropriate.

While Blue Torch intends to generally to apply the investment strategy and process set forth herein to Clients' investments, Blue Torch may pursue a wide variety of strategies and may modify or depart from such investment process, approach, techniques and procedures as Blue Torch determines appropriate to accomplish the Client's investment objectives.

### **Risk of Loss**

The descriptions contained herein of specific strategies that are or may be engaged in by the Clients should not be understood as in any way limiting the Clients' investment activities. The investment strategy employed by Blue Torch on behalf of Clients involves a substantial degree of risk. Clients and investors in a Private Fund may lose a substantial part of, or their entire investment. The Firm has listed certain risks below; however, this list of risks is not comprehensive or complete. Clients and investors are strongly encouraged to review the complete list of risks outlined in the offering and organizational documents for the Private Funds, or as set forth in the Client's investment management agreement.

**Loss of Invested Capital.** Investments recommendations are speculative. Their value will fluctuate based upon a multitude of factors, including the financial condition, results of operations and prospects of the issuers of the underlying securities acquired, governmental intervention, market conditions, and local, regional, national and global economic conditions. Therefore, Clients and investors may lose all or a portion of their investment if Blue Torch's trading and investment strategies are not successful.

**No Operating History.** Blue Torch is relatively newly formed and has no operating history. There can be no assurance that investment returns will be comparable to any past performance achieved by Mr. Genda or that Clients will achieve their investment or return objectives.

**Substantial Costs.** Client accounts will be subject to fees (including a management fee), transactional and operating costs and expenses irrespective of its performance which, in the aggregate, may be substantial. If the investment income of Client accounts do not exceed these fees, costs and expenses are not offset by investment gains, then the Client accounts will not achieve their investment objective.

**Illiquid Assets.** It is anticipated that a substantial portion of Client account positions will be or become relatively or entirely illiquid or may cease to be traded after investment. In such cases, and in the event of extreme market volatility, Client accounts may not be able to liquidate positions promptly if the need should arise. In addition, Client account sales of some securities could depress the market value of such securities and thereby reduce Client account profitability or increase its losses. Finally, a Client's receipt of distribution proceeds is dependent on how rapidly the Client account liquidates its underlying positions. As a result, the illiquidity of the assets could mean that Client accounts are obligated to wait a significant time before receiving any distributions.

**Portfolio Concentration; Lack of Diversification.** While diversification is generally an objective of Blue Torch, there can be no assurance as to the degree of diversification, if any, that will be achieved across Blue Torch's investments. Difficult market conditions or slowdowns affecting a particular asset class, geographic region or other category of investment could have a significant adverse impact on investments are concentrated in that area, which may result in lower investment returns. This lack of diversification may expose Clients to losses disproportionate to market declines in general if there are disproportionately greater adverse price movements in the particular investments. If a Client holds loans whose borrowers are concentrated in a particular industry or geographic region, a Client may be more susceptible than a more widely diversified investment partnership to the negative consequences of a single corporate, economic, political or regulatory event affecting such industry or region. Accordingly, a lack of diversification could adversely affect a Client's performance.

**Risks Associated with Anticipated Loan Transfers.** A Client may transfer a portion of its loans to another Blue Torch Client and unaffiliated parties. If a Client cannot make such transfer, as a result of an inability to value a loan properly or an inability to agree upon an assigned value with a potential transferee, a Client may be obligated to hold a larger piece of such loan than originally anticipated, thereby making the Client's portfolio even more concentrated, even if significant costs have already been incurred in connection with the valuation and anticipated transfer of such loan investments.

**Leverage and Borrowing Risks.** Clients may borrow funds when deemed appropriate by Blue Torch or an affiliate, including to enhance Clients' returns. A Client may borrow funds from brokers,

banks and other lenders to finance investment operations, which borrowings may be secured by assets of the Client. Leverage may be obtained, directly or indirectly through one or more SPVs or other structures, through one or more lines of credit or credit facilities (including, without limitation, subscription facilities) secured by assets of the Client, which may include, without limitation, through the issuance of Collateralized Loan Obligations (“CLOs”), or through such other means, forms or structures as may be determined by Blue Torch from time to time, in its sole discretion. The activities and investments of such SPVs may be more restricted or limited than the activities of the Client as a whole due to limitations of the terms of such leverage and applicable regulatory restrictions. The use of such leverage can, in certain circumstances, maximize the losses to which a Client’s investment portfolio may be subject. Any event that adversely affects the value of an investment would be magnified to the extent that asset or Client is leveraged. The cumulative effect of the use of leverage by a Client in a market that moves adversely to the Client’s investments could result in a substantial loss to the Client, which would be greater than if the Client were not leveraged. Conversely, the use of leverage can exaggerate positive upswings in a Client’s performance, even though such interim gains may not ultimately be realized by the Client.

Leverage may be achieved through, among other methods, direct borrowing, purchases of securities on margin and the use of swaps. A Client’s access to capital through leverage and borrowing could be impaired by market forces and regulatory changes, including as a result of the final credit risk retention rules recently adopted pursuant to the Dodd-Frank Act, as described below.

**Regulatory Risks Associated with Leverage.** Clients may implement CLOs in order to secure leverage. The Risk Retention Rules require a sponsor or a “majority-owned affiliate” thereof of a securitization transaction, such as a CLO, to retain at least 5% of the economic interest in the credit risk of the securitized assets (the “Retention Interests”). As asset manager or sponsor of the CLOs, Blue Torch or one of its “majority-owned affiliates” expect to retain Retention Interests in such CLOs. There has been no explicit guidance regarding how entities may be structured for this purpose and therefore the regulatory environment in which the CLOs intend to operate is highly uncertain. There can be no assurance that applicable governmental authorities will agree that any of the transactions, structures or arrangements entered into by Blue Torch or a Client, and the manner in which it expects to hold Retention Interests, will satisfy the Risk Retention Rules. If such transactions, structures or arrangements are determined not to comply with the Risk Retention Rules, Blue Torch and the Clients could become subject to regulatory action. The impact of the Risk Retention Rules on the securitization market is also unclear and such rules may negatively impact the value of the CLOs and their underlying assets.

**Risk of Highly Leveraged Borrowers.** The issuers of debt in which the Clients may invest may likely to be highly leveraged, which may have adverse consequences to these companies and to the Clients. These companies may be subject to restrictive financial and operating covenants and the leverage may impair these companies’ ability to finance their future operations and capital needs. As a result, these companies’ flexibility to respond to changing business and economic conditions and to take advantage of business opportunities may be limited. Further, a leveraged company’s income and net assets will tend to increase or decrease at a greater rate than if borrowed money were not used. A borrower’s leverage may adversely impact the Clients in a number of ways, such as creating a greater possibility of default or bankruptcy of the borrower. It is also possible that the pledging of collateral (if any) to secure debt could be found to constitute a fraudulent conveyance or preferential transfer which would be nullified or subordinated to the rights of other creditors of the borrower under applicable law.

**Risk of Inability to Identify Sufficient Number of Investment Opportunities.** There can be no assurance that Blue Torch will be able to find suitable opportunities consistent with its investment approach. Blue Torch may be unable to find a sufficient number of attractive opportunities to meet its investment objectives. Among other things, market conditions may limit the availability of investment opportunities. Such limitations may cause delays in deploying Client capital and may negatively impact the Client returns.

**Credit Opportunities Generally.** Blue Torch, on behalf of the Clients, may originate loans to, or purchase the assignment of or participations in loans made to, middle-market companies. Such investments may include (i) secured debt assets that may be senior or junior, and may be collateralized by a variety of assets, including secured loans (both asset-based and cash flow loans) for working capital, refinancing, acquisitions, bridge capital, restructuring, recapitalization, exit financings and debtor-in possession financing, (ii) first priority, senior secured debt assets, which may include loans offered at lesser borrower leverage levels and commensurately reduced target yields and (iii) investments in distressed companies or assets. Blue Torch may seek to make investments that provide acquisition financing to private equity funds and other companies seeking acquisition financing and will also lend to, or purchase secured and unsecured debt obligations of, companies that (a) are likely to become subject to U.S. bankruptcy proceedings, (b) are seeking to avoid restructuring, (c) are not distressed, but have lost the support of their financial lenders, (d) do not have sufficient capital to manage their operations and/or (e) are seeking terms for their debt that are more flexible or appropriate for their current circumstances. The types of investments in this strategy include, but are not limited to, investments in loans, debt instruments issued in connection with acquisition financing and refinancing of existing company debt, publicly traded bonds, high yield bonds, bank debt, term loans (including as part of a single-tranche or multi-tranche financing, including unitranche financing), bridge loans, debtor-in possession and exit loans, mortgages and other fixed-income securities.

In addition, Blue Torch may make investments on behalf of Clients in debt of distressed companies, including debt with varying terms with respect to collateral, relative seniority or subordination, purchase price, convertibility, interest requirements and maturity (*e.g.*, bonds, debentures and notes, trust certificates, commercial paper and trade claims) and publicly-traded equity and equity-related securities of distressed companies, including preferred stock, convertible preferred stock, common stock and warrants.

Blue Torch may also make investments on behalf of Clients in non-performing loans (“NPLs”) and pools of NPLs that have varying terms with respect to collateral, relative seniority or subordination, purchase price, convertibility, interest requirements and maturity. NPLs and pools of NPLs may consist of a large and diverse spectrum of loans, including, but not limited to (i) small to medium enterprise and other corporate loans, (ii) real estate secured loans (including residential, commercial and multi-family loans), (iii) unsecured loans and (iv) consumer loans.

**Investments in Private Middle-Market Companies.** Clients will often invest directly or indirectly in U.S. middle market companies through its loan issuances. In addition to limited liquidity, investments in loans issued to, and debt instruments of, private middle-market companies may involve a significant number of additional risks. Generally, little public information exists about such companies, and Clients will rely on the ability of Blue Torch to obtain adequate information to evaluate the potential returns from investing in such loans or debt instruments. If Clients are unable to uncover all material information about such companies, they may not make a fully-informed

investment decision, and may lose money. Private middle-market companies typically have shorter operating histories, less predictable operating results, narrower product lines, and smaller market shares than larger businesses, which characteristics tend to render them more vulnerable to competitors' actions and market conditions, as well as general economic downturns. Private middle-market companies are also more likely to depend on the management talents and efforts of a small group of persons, the loss of which could have a material adverse impact. In addition, private middle-market companies may be engaged in rapidly changing businesses with products subject to a substantial risk of obsolescence, and may require substantial additional capital to support their operations, finance expansion or maintain their competitive position and they may have a more difficult time acquiring additional capital than larger companies. As a consequence, certain loans invested in by Clients could be or become nonperforming loans and borrowers could default with respect to such loans.

**Dependence on Private Equity Sponsors.** Blue Torch may at times be dependent on relationships with private equity sponsors. If such sponsors find new sources of debt capital that are more advantageous to them, or if Blue Torch suffers reputational harm such that sponsors do not want to work with Blue Torch, Blue Torch could have difficulty finding and sourcing new middle market debt investments. Private equity sponsors may experience financial distress, which may be related or unrelated to the portfolio companies in which Clients invests. Once in financial distress, such sponsors may be unable to provide the same level of managerial, operating or financial support to such portfolio companies, resulting in an increased risk of default or inability to repay remaining principal at maturity.

Clients may have exposure to companies controlled by private equity sponsors in which the sponsors have completed one or more dividend recapitalizations, thereby allowing a sponsor to substantially reduce or eliminate their net investment in underlying portfolio companies. These investments may present different investment characteristics than investments where a private equity sponsor retains a significant net contributed capital position in the company. These investments may experience a higher rate of default. Even when a default does not occur, a private equity sponsor may be less willing to provide ongoing financial support to a portfolio company after it has received one or more capital distributions on its investment.

**Syndication and/or Transfer of Debt Instruments.** Clients, directly or through the use of one or more SPVs, may originate and/or purchase secured debt assets. Clients may also purchase secured debt assets (including, participation interests or other indirect economic interests) that have been originated by Clients or from other parties and/or trading on the secondary market. Clients may, in certain circumstances, originate or purchase such secured debt assets with the intent of syndicating and/or otherwise transferring a significant portion thereof. In such instances, Clients will bear the risk of any decline in value prior to such syndication and/or other transfer. In addition, Clients will also bear the risk of any inability to syndicate or otherwise transfer such secured debt assets or such amount thereof as originally intended, which could result in Clients owning a greater interest therein than anticipated.

**Distressed Borrowers.** Clients may invest in loans and debt instruments of companies that are experiencing significant financial or business difficulties, including companies involved in bankruptcy or other reorganization and liquidation proceedings. Although such investments may result in significant returns to Clients, they involve a substantial degree of risk. Distressed borrowers may be less likely to meet their obligations in connection with such loans or debt instruments, and the

inability to meet such obligations may result in certain loans of Clients becoming nonperforming. The level of legal and financial sophistication necessary for successful investment in the loans issued to, or the debt instruments of, companies experiencing significant business and financial difficulties is unusually high. There is no assurance that Blue Torch will correctly evaluate the value of the assets collateralizing the loans invested in by Clients or the prospects for a successful reorganization or similar action, if any, or the general performance of such loans. In addition, to the extent that Clients invests in loans or debt instruments with respect to companies that subsequently undergo bankruptcy or similar liquidation proceedings, such investments may be subject to additional risks. Many of the events within a bankruptcy case are adversarial and often beyond the control of creditors. Although creditors generally are afforded an opportunity to object to significant actions, there is the possibility that a bankruptcy court could approve actions that may be contrary to the interests of Clients. The duration of bankruptcy proceedings is often difficult to accurately predict, and such proceedings may be lengthy. The administrative costs in connection with bankruptcy proceedings are frequently high and will be paid out of the debtor's estate (other than out of assets or proceeds thereof that are subject to valid and enforceable liens and other security interests) prior to any return to unsecured creditors and equity holders. In connection with a bankruptcy proceeding, Blue Torch, on behalf of Clients, may seek representation on creditors' committees or other groups to ensure preservation or enhancement of the Clients' position as a creditor. If Clients are represented on a committee or group, it may be restricted or prohibited under applicable law from disposing of its investments in such company while it continues to be represented on such committee or group. In addition, Clients' return on investment can be adversely affected by the passage of time during which the plan of reorganization of a bankrupt debtor is being negotiated, approved by the creditors and confirmed by the bankruptcy court. Reorganizations outside of bankruptcy are also subject to unpredictable and potentially lengthy delays.

**Investment in Special Situations.** Clients may invest in the obligations of companies, including companies involved in (or the target of) acquisition attempts or tender offers or companies involved in work-outs, liquidations, spin-offs, reorganizations, bankruptcies and similar transactions. Investments in such companies are generally considered speculative. In any investment transaction involving any such type of business enterprise, there exists the risk that the transaction in which such business enterprise is involved either will be unsuccessful, will take considerable time or will result in a distribution of cash or a new security the value of which will may be materially less than the purchase price paid by Clients for the security or other financial instrument in respect of which such distribution is received. Similarly, if such an anticipated transaction does not in fact occur, Clients may lose all or a material portion of its investment.

**Credit Risk.** Credit risk refers to the likelihood that an obligor will default on the payment of principal, interest or other amounts owed on an instrument. Financial strength and solvency of an obligor are the primary factors influencing credit risk. In addition, lack or inadequacy of collateral or other assets expected to be the source of repayment or credit enhancement for a debt instrument may affect its credit risk. Credit risk may change over the life of an instrument and debt instruments that are rated by rating agencies are subject to downgrade at a later date.

Clients' investments may be secured by collateral. If securing first priority liens, collateral generally cannot be pledged, lent, re-hypothecated or otherwise re-used by the borrower. The value of this collateral may initially exceed the principal amount of such investments, but there can be no assurance that the liquidation of any such collateral would satisfy the borrower's obligation in the event of non-payment, or that such collateral could be readily liquidated. In addition, in the event of

bankruptcy of a borrower, Clients could experience delays or limitations with respect to their ability to realize the benefits of the collateral securing an investment.

Under certain circumstances, collateral securing an investment may be released without the consent of Clients. Moreover, Clients' security interest (with respect to investments in secured debt) may be unperfected for a variety of reasons, including the failure to make required filings by lenders and, as a result, Clients may not have priority over other creditors as anticipated. First priority lien investments made by Clients may, in certain cases, provide a first priority lien over some, but not all, of the assets of the relevant borrower. Clients may also invest in second-lien debt, unsecured debt, marketable and non-marketable common and preferred equity securities and other unsecured investments that involve a higher degree of risk than senior first-lien secured debt investments. Furthermore, Clients' right to payment and its security interest, if any, may be subordinated to the payment rights and security interests of senior lenders (with respect to some or all of the assets of a portfolio investment). Certain of these investments may have an interest-only payment schedule, with the principal amount remaining outstanding and at risk until the maturity of the investment. In such cases, the ability of the borrower to repay the principal of an investment may be dependent upon a liquidity event or the long-term success of the borrower, the occurrence of which is uncertain.

**Interest Rate Risk.** Interest rate risk refers to the risks associated with market changes in interest rates. Interest rate changes may affect the value of a debt instrument indirectly (especially in the case of fixed rate obligations) or directly (especially in the case of instruments whose rates are adjustable). In general, rising interest rates will negatively affect the price of a fixed rate debt instrument and falling interest rates will have a positive effect on the price of a fixed rate debt instrument. Adjustable rate instruments also react to interest rate changes in a similar manner although generally to a lesser degree (depending, however, on the characteristics of the reset terms, including the index chosen, frequency of reset and reset caps or floors, among other factors). Interest rate sensitivity is generally more pronounced and less predictable in instruments with uncertain payment or prepayment schedules.

**Need for Follow-up Funding.** Clients may be called upon to provide follow-up Funding for or may have the opportunity to increase their exposure to a borrower. There can be no assurance that Clients will wish to make such follow-on investments or have available capital to do so, and the inability to make such follow-on investments may have a substantial negative impact on a portfolio company or other issuer in need of capital or may diminish Clients' ability to influence the portfolio company's or other issuer's future development.

**Investments in Companies in Regulated Industries.** Clients (directly, or through an SPV, CLO or other subsidiary) may invest in companies that are subject to governmental and non-governmental regulation, including by federal and state regulators and various self-regulatory organizations. Companies participating in regulated activities may incur significant costs to comply with these laws and regulations. If a company in which a client invests fails to comply with an applicable regulatory regime, it may be subject to fines, injunctions, operating restrictions or criminal prosecution, any of which could materially and adversely affect the value of Clients' investments.

**Due Diligence; Reliance on Financial Projections Related to Investments.** Blue Torch will conduct, and may use third parties to conduct, due diligence on prospective investments. In conducting such due diligence, Blue Torch's investment professionals may use publicly available information as well as information from their relationships with former and current management

teams, consultants, competitors and investment bankers. Such level of due diligence may not, however, reveal all matters and issues, material or otherwise, relating to prospective investments.

Blue Torch generally will make investment decisions and establish the capital structure of companies, and/or the terms of financing for a company, on the basis of financial projections, including projections specific for such companies. There can be no assurance that financial or economic models used to determine investment decisions will be correct, accurate or appropriately reflect subsequent developments or all the other factors that could cause actual results to differ from such models or projections. Projected operating results will often be based on management judgments. In all cases, projections are only estimates of future results that are based upon assumptions made at the time that the projections are developed. There can be no assurance that the projected results will be obtained, and actual results may vary significantly from the projections. General economic conditions, which are not predictable, can have a material adverse impact on the reliability of such projections.

Moreover, Clients' investments, particularly investments in loans or other forms of indebtedness, may be subject to early redemption features, refinancing options, pre-payment options or similar provisions which, in each case, could result in the issuer or borrower repaying the principal on an obligation held by that Clients earlier than expected (which could result in Clients' investment return from such investment being less than that anticipated by Clients when it made the investment). As a consequence, Clients' ability to achieve its investment objective may be affected.

**Loan Origination.** Clients may seek to originate loans, including but not limited to, secured and unsecured notes, senior and second lien loans, mezzanine loans and other similar investments. Clients will retain all fees received in connection with originating or structuring the terms of any such investment. Clients may subsequently offer such investments for sale to third parties, which could include certain other Clients managed by Blue Torch. The decision by Clients to accept or reject the offer may be made by a third party independent of Clients, such as independent directors or an advisory or credit committee composed of individuals unaffiliated with Clients. In determining the target amount to allocate to such an investment, Clients may take into consideration the fact that it may sell, assign or offer participations in such investments to the third parties described above.

As a result of its investment activities, it is possible that Clients or the affiliated entities in which Clients invests could be deemed to be engaged in the origination of debt or debt-linked investments for purposes of the applicable regulatory or other laws in jurisdictions in which such activities take place. The laws regarding the origination of debt or debt-linked investments are frequently highly complex and may include licensing requirements. The licensing processes can be lengthy and can be expected to subject Clients or the affiliated entities in which it invests to increased regulatory oversight. In some instances, the process for obtaining a required license or exception certificate may require disclosure to regulators or to the public of information about Clients, its direct or indirect investors, its loans, its business activities, its management or controlling persons or other matters. Failure, even if unintentional, to comply fully with applicable laws may result in sanctions, fines, or limitations on the ability of Clients, Blue Torch or affiliates of the foregoing to do business in the relevant jurisdiction or to procure required licenses in other jurisdictions all of which could directly or indirectly have a material adverse effect on Clients. While Clients may make secured investments, losses may still occur as a result of default and recourse to the underlying collateral may not be sufficient to cover such losses. No guarantee exists with respect to the adequacy of Clients' security in respect of a loan investment.



**Licensing Requirements.** Certain federal and local banking and regulatory bodies or agencies may require Clients, a general partner of a Private Fund, Blue Torch and/or certain employees of Blue Torch to obtain licenses or authorizations to engage in many types of lending activities including the origination of loans. It may take a significant amount of time and expenses to obtain such licenses or authorizations and Clients will be required to bear the costs of obtaining such licenses and authorizations. There can be no assurance that any such licenses or authorizations will be granted or, if granted, whether any such licenses or authorizations would impose restrictions on Clients. Such licenses may require the disclosure of confidential information about Clients, investors or their respective affiliates, including financial information and/or information regarding officers and directors or certain significant Partners. Clients may not be willing or able to comply with these requirements. Alternatively, Blue Torch may be compelled to structure certain potential investments in a manner that would not require such licenses and authorizations, although such transactions may be inefficient or otherwise disadvantageous for Clients and/or any relevant borrower, including because of the risk that licensing authorities would not accept such structuring alternatives in lieu of obtaining a license. The inability of Clients, a general partner or Blue Torch to obtain necessary licenses or authorizations, the structuring of an investment in an inefficient or otherwise disadvantageous manner, or changes in licensing regulations, could adversely affect Clients' ability to implement their investment program and achieve their intended results.

**Ability to Lend on Advantageous Terms; Competition and Supply.** Clients may originate loans and may also invest in loans originated by other parties (including, without limitation, debt that trades on the secondary market). Success in this area will depend in part on the ability of Clients to originate and obtain loans on advantageous terms. In making loans, Clients will compete with a broad spectrum of lenders, some of which may be willing to lend money on terms more favorable to borrowers. Such competing lenders may include private investment funds, public funds, commercial and investment banks, commercial financing companies and other entities. Some competitors may have a lower cost of funds and/or access to funding sources that are not available to Clients. In addition, some competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of investments and establish more relationships than Clients. Clients may also choose not to compete for investment opportunities based on interest rates. Ultimately, increased competition for, or a diminution in the available supply of, qualifying borrowers may result in lower yields on loans to such borrowers, which could reduce returns to Clients.

**Fraud.** Of paramount concern in lending is the possibility of material misrepresentation or omission on the part of the borrower. Such inaccuracy or incompleteness may adversely affect the valuation of the collateral underlying the loans or may adversely affect the ability of Clients to perfect or effectuate a lien on the collateral securing the loan. Clients will rely upon the accuracy and completeness of representations made by borrowers to the extent reasonable, but cannot guarantee such accuracy or completeness.

**Bank Loans and Participations.** Clients' investment program may include bank loans and participations. These obligations are subject to unique risks, including: (i) the possible invalidation of an investment transaction as a "fraudulent conveyance" under relevant creditors' rights laws; (ii) so-called "lender liability" claims by the issuer of the obligations; (iii) environmental liabilities that may arise with respect to collateral securing the obligations; and (iv) limitations on the ability of Clients to directly enforce its rights with respect to participations. In analyzing each bank loan or participation, Blue Torch compares the relative significance of the risks against the expected benefits. Successful

claims by third parties arising from these and other risks, absent violation of the Standard of Care by Blue Torch or its affiliates, will be borne by Clients.

Clients may experience significant delays in the settlement of certain loan and/or bank debt transactions, particularly in the case of investments that are or become distressed. Until such transactions are settled, Clients are subject to counterparty insolvency risk. Pursuant to certain insolvency laws, a counterparty may have the ability to reject or terminate an unsettled loan transaction. If a counterparty rejects an unsettled transaction, Clients may lose any increase in value with respect to such loan that accrued while the transaction was unsettled.

Clients may also invest in loan participations where it will be subject to certain additional risks as a result of having no direct contractual relationship with the borrower of the underlying loan, such as the additional credit risk of the counterparty, the lack of voting rights and the lack of direct enforcement rights in connection with a loan default. In such circumstances, Clients generally would depend on the lender to enforce its rights and obligations under the loan arrangements in the event of a default by the borrower on the underlying loan and will generally have no voting rights with respect to the issuer, as such rights are typically retained by the lender. Such investments are subject to the credit risk of the lender (as well as the borrower) since they will depend upon the lender forwarding payments of principal and interest received on the underlying loan. There can be no assurance that the lender will not default on its obligations under such arrangements, resulting in substantial losses to Clients.

From time to time, Blue Torch may cause Clients to acquire certain assets through participation and sub-participation arrangements with unaffiliated third parties. Such arrangements may expose Clients to additional credit risk compared to acquiring the asset directly because, in addition to the underlying credit risk of the asset, Clients are exposed to the risk of the direct participant defaulting on its obligations to Clients under the participation or sub-participation arrangement.

**Prepayment Risk; Fluctuation in Receipt of Proceeds.** The frequency at which prepayments (including voluntary prepayments by the obligors and liquidations due to default and foreclosures) occur on loans and other debt underlying certain of the Clients' investments will be affected by a variety of factors including, but not limited to, the prevailing level of interest rates as well as economic, demographic, tax, social, legal and other factors. In general, "premium" financial instruments (*i.e.*, financial instruments whose market values exceed their principal or par amounts) are adversely affected by faster than anticipated prepayments, and "discount" financial instruments (*i.e.*, financial instruments whose principal or par amounts exceed their market values) are adversely affected by slower than anticipated prepayments. Since Clients' investments may include discount financial instruments when interest rates are high, and may include premium financial instruments when interest rates are low, such investments may be adversely affected by prepayments in any interest rate environment. As a result of these factors, Blue Torch expects to experience fluctuations in the timing and amount of proceeds Clients may receive in the form of interest and fee income and in connection with the realization of investments. As a result of these factors, the amounts of distributions to investors may fluctuate substantially from one period to the next.

**Agency Provisions in Loan Documents.** Clients' investments may include agented loans or loans subject to agency provisions. Agency provisions in the loan agreements governing the loans acquired by Clients may undermine enforcement actions against the collateral and expose Clients to losses on the loans. Under the underlying loan agreement with respect to agented loans, the loan originator or

another financial institution may be designated as the administrative agent and/or collateral agent. Under these arrangements, the borrower grants a lien to such agent on behalf of the lenders and directs payments to such agent, which, in turn, will distribute payments to the lenders, including Clients. The agent is responsible for administering and enforcing the loan and generally may take actions only in accordance with the instructions from lenders holding a specified percentage in commitments or principal amount of the loan. In the case of loans that are part of a capital structure that includes both senior and subordinated loans, the agent may take such action in accordance with the instructions of one or more senior lenders without consultation with, or any right to vote (except in certain limited circumstances) by, the subordinated lenders. The loans held by Clients may represent less than the amount sufficient to compel such actions or may represent subordinated debt which is precluded from acting and, under such circumstances, Clients would only be able to direct such actions if instructions from Clients was made in conjunction with other lenders that together comprise the requisite percentage of lenders then entitled to take or direct the agent to take action. Conversely, if the required percentage of lenders other than Clients desire to take or direct the agent to take certain actions, such actions may be taken even if Clients did not support such actions.

Furthermore, if a loan held by Clients are subordinated to one or more senior loans made to the borrower, the ability of Clients to exercise such rights may be subordinated to the exercise of such rights by the senior lenders. However certain actions, such as amendments to the material payment terms of the loans, typically may not be taken without consent of all lenders, including Clients. If the loan is a syndicated revolving loan or delayed draw term loan, other lenders may fail to satisfy their full contractual funding commitments for such loan, which could create a breach of contract resulting in a lawsuit by the borrower against the lenders and adversely affect the fair market value of such loan.

There is a risk that an agent may become subject to insolvency proceedings. Such an event could delay, and possibly impair, the ability of the lenders for such agent loan to take any enforcement action against the related borrower or the collateral securing a loan and may require the lenders to take action in the agent's insolvency proceeding to realize on proceeds or payments made by borrowers that are in the possession or control of the agent.

In addition, it is expected that agent loans will allow for the agent to resign. Agent loans may or may not contain provisions for lenders to remove the agent. If an agent resigns or is removed, the lenders may be required to find, and the required percentage thereof agree to appoint, a successor agent that may be difficult to find or cost more than the predecessor agent.

**Cross-collateralization.** Certain of the loans may be cross-collateralized. Cross-collateralization arrangements may be subject to challenge, which could result in the subordination of Clients' interest in the collateral or the loan itself. Cross-collateralization arrangements involving more than one borrower could be challenged as fraudulent conveyances by creditors of the related borrower in an action brought outside a bankruptcy case or, if the borrower were to become a debtor in a bankruptcy case, by the borrower's representative (or the borrower as debtor-in-possession). If a court were to conclude that the granting of the liens to cross-collateralize a loan was a voidable fraudulent conveyance, such court could (a) subordinate all or part of the pertinent loan to existing or future indebtedness of that borrower, (b) recover payments made under that loan or (c) take other actions detrimental to Clients, including, under certain circumstances, invalidating the loan or Clients' interest in the collateral securing the cross-collateralized loan. Any of these actions could impair, delay or

eliminate payments by the borrower of a loan that is cross-collateralized, which would adversely affect the returns expected with respect to any such loan.

**Contingent Liabilities.** From time to time Clients may incur contingent liabilities in connection with an investment or loan. For example, Clients may invest in a revolving credit facility that has not yet been fully drawn. If a borrower subsequently draws on the facility, Clients would be obligated to fund the amounts due. Clients may also enter into agreements pursuant to which it agrees to assume responsibility for default risk prevented by a third party or, conversely, pursuant to which third parties offer default protection to Clients.

**Equitable Subordination.** Under common law principles that in some cases form the basis for lender liability claims, if a lender (i) intentionally takes an action that results in the undercapitalization of a borrower or issuer to the detriment of other creditors of such borrower or issuer, (ii) engages in other inequitable conduct to the detriment of such other creditors, (iii) engages in fraud with respect to, or makes misrepresentations to, such other creditors or (iv) uses its influence as a stockholder to dominate or control a borrower or issuer to the detriment of other creditors of such borrower or issuer, a court may elect to subordinate the claim of the offending lender or bondholder to the claims of the disadvantaged creditor or creditors (a remedy called “equitable subordination”). Clients do not intend to engage in conduct that would form the basis for a successful cause of action based upon the equitable subordination doctrine; however, because of the nature of the debt obligations, Clients may be subject to claims from creditors of an obligor that debt obligations of such obligor which are held by the issuer should be equitably subordinated.

**Recharacterization.** Under Title 11 of the U.S. Code, a court may use its equitable powers to “recharacterize” the claim of a lender, *i.e.*, notwithstanding the characterization by the lender and borrower of a loan advance as a “debt,” to find that the advance was in fact a contribution in exchange for equity. Typically, recharacterization occurs when an equity holder asserts a claim based on a loan made by the equity holder to the borrower at a time when the borrower was in such poor financial condition so that other lenders would not make such a loan. In effect, a court that recharacterizes a claim makes a determination that the original circumstance of the contribution warrants treating the holder’s advance not as debt but rather as equity. In determining whether recharacterization is warranted in any given circumstance, courts may look at the following factors: (i) the names given to the instruments (if any) evidencing the indebtedness; (ii) the presence or absence of a fixed maturity or scheduled payment; (iii) the presence or absence of a fixed rate of interest and interest payments; (iv) the source of repayments; (v) the adequacy or inadequacy of capital; (vi) the identity of interest between the creditor and the equity holders; (vii) the security (if any) for the advances; (viii) the borrower’s ability to obtain financing from outside lending institutions; (ix) the extent to which the advances were subordinated to the claims of outside creditors; (x) the extent to which the assets were used to acquire capital assets; and (xi) the presence or absence of a sinking fund to provide for repayment. These factors are reviewed under the circumstances of each case, and no one factor is controlling. Clients may be subject to claims from creditors of an obligor that debt obligations of such obligor held by Clients should be recharacterized.

**Risks Associated with Foreclosure.** Certain loans made by Clients may be secured by real estate, other physical assets or other illiquid collateral. To the extent Clients need to foreclose on such loans Clients may, directly or indirectly, own such real estate, other physical assets or other illiquid collateral and may be subject to the risks incident to the ownership and operation of such assets. In addition, Clients may, directly or indirectly, incur the burdens of ownership of real property, which include the

paying of expenses and taxes, maintaining such property and any improvements thereon and ultimately disposing of such property. There is no assurance that there will be a ready market for resale of real estate or such other assets or that such collateral will be sufficient to satisfy such defaulted loan obligation.

**Non-Performing Nature of Loans.** It is possible that certain of the loans purchased or originated by Clients may be non-performing which may involve workout negotiations, restructuring and the possibility of foreclosure. These processes can be lengthy and expensive. Many of the non-performing loans will have been underwritten to “subprime,” “Alternative A-Paper” or “expanded” underwriting guidelines. These underwriting guidelines are different from and, in certain respects, less stringent than the other general underwriting standards employed by originators. For example, these loans may have been originated to borrowers that have poor credit or that provide limited or no documentation in connection with the underwriting of the loan. Such loans present increased risk standards of delinquency, foreclosure, bankruptcy and loss than prime mortgage loans. An originator generally originates mortgage loans in accordance with underwriting guidelines it has established and, in certain cases, based on exceptions to those guidelines. These guidelines may not identify or appropriately assess the risk that the interest and principal payments due on a loan will be repaid when due, or at all, or whether the value of the property serving as collateral will be sufficient to otherwise provide for recovery of such amounts. To the extent exceptions were made to an originator’s underwriting guidelines in originating a non-performing loan, those exceptions may increase the risk that principal and interest amounts may not be received or recovered and compensating factors, if any, which may have been the premise for making an exception to the underwriting guidelines may not in fact compensate for any additional risk.

**Investments in Secured Loans.** The assets of the portfolio of Clients may include secured debt, which involve various degrees of risk of a loss of capital. The factors affecting an issuer’s secured leveraged loans, and its overall capital structure, are complex. Some secured loans may not necessarily have priority over all other debt of an issuer. For example, some secured loans may permit other secured obligations (such as overdrafts, swaps or other derivatives made available by members of the syndicate to the company), or involve secured loans only on specified assets of an issuer (*e.g.*, excluding real estate). Issuers of secured loans may have two tranches of secured debt outstanding each with secured debt on separate collateral. Furthermore, the liens referred to herein generally only cover domestic assets and non-U.S. assets are not included (other than, for example, where a borrower pledges a portion of the stock of first-tier non-U.S. subsidiaries). In the event of Chapter 11 filing by an issuer, the Bankruptcy Reform Act of 1978, as amended authorizes the issuer to use a creditor’s collateral and to obtain additional credit by grant of a priority lien on its property, senior even to liens that were first in priority prior to the filing, as long as the issuer provides what the presiding bankruptcy judge considers to be “adequate protection” which may but need not always consist of the grant of replacement or additional liens or the making of cash payments to the affected secured creditor. The imposition of priority liens on Clients’ collateral would adversely affect the priority of the liens and claims held by Clients and could adversely affect Clients’ recovery on the affected loans. Any secured debt is secured only to the extent of its lien and only to the extent of underlying assets or incremental proceeds on already secured assets. Moreover, underlying assets are subject to credit, liquidity, and interest rate risk.

**Priority of Debt Instruments and Loans.** Clients may originate or invest in secured debt issued by companies that have or may incur additional debt that is senior to the secured debt owned by Clients. In many instances, loans made by Clients may be part of a unitranche structure in which a single lien

on behalf of all the lenders in the structure will be filed against the assets of the company if the lenders holding the different tranches of debt (including Clients) will contractually agree to their respective priorities in those assets. In the event of insolvency, liquidation, dissolution, reorganization or bankruptcy of any such company, the owners of senior secured debt (*i.e.*, the owners of first priority liens), including in a unitranche structure through the contractual agreements between the lenders, generally will be entitled to receive proceeds from any realization of the secured collateral until they have been reimbursed. At such time, the owners of junior secured debt (including, in certain circumstances, Clients) will be entitled to receive proceeds from the realization of the collateral securing such debt. There can be no assurances that the proceeds, if any, from the sale of such collateral would be sufficient to satisfy the loan obligations secured by subordinate debt instruments. To the extent that Clients own secured debt that is junior to other secured debt, Clients may lose the value of its entire investment in such secured debt.

**Nature of Subordinated Debt Investments.** Clients may make investments in debt instruments at different levels of an obligor's capital structure, including subordinated debt instruments, which involve a high degree of risk with no certainty of any return of capital. Although subordinated debt obligations are senior to common stock and other equity securities in the capital structure, they may be subordinated to large amounts of senior debt and are often unsecured. The ability of the subordinated debt holders to influence a company's affairs, especially during periods of financial distress or following an insolvency, is likely to be substantially less than that of senior creditors. For example, under the terms of subordination agreements, senior creditors are typically able to block the acceleration of the subordinated debt or other exercises by the subordinated creditors of their rights. Accordingly, Clients may not be able to take the steps necessary to protect its investments in a timely manner or at all.

**Unrated or Below Investment Grade Loans and Debt Instruments.** Certain investments may be unrated and whether or not rated, such debt instruments may have speculative characteristics. The market values of certain of these lower-rated and unrated loans and debt instruments tend to reflect individual corporate developments and changes in economic conditions to a greater extent than do high-rated debt instruments. As a result, the market prices of such loans and debt instruments may be subject to abrupt and erratic movements in price and liquidity. Borrowers that are the subject of such loans and that issue such debt instruments are often highly leveraged and may not have available to them more traditional methods of financing.

**Mezzanine Debt Securities.** Mezzanine debt securities are generally unrated or below investment grade rated investments that have greater credit and liquidity risk than more highly rated debt obligations. Mezzanine debt securities are typically issued in traditional private placements or in connection with acquisitions and other business combinations and have no trading market. Moreover, mezzanine debt securities are generally unsecured and subordinate to other obligations of the obligor and are subject to many of the same risks as those associated with high yield debt securities. Adverse changes in the financial condition of the obligor of mezzanine debt securities or in general economic conditions (including, for example, a substantial period of rising interest rates or declining earnings) or both may impair the ability of the obligor to make payment of principal and interest. Issuers of mezzanine debt securities may be highly leveraged, and their relatively high debt to equity ratios create increased risks that their operations might not generate sufficient cash flow to service their debt obligations.

**Debtor-In-Possession (“DIP”) Loans.** DIP loans involve a fundamental credit risk based on the debtor’s ability to make principal and interest payments and the inherent risks of the bankruptcy process. DIP loans are subject to a court approval process in which parties-in-interest may be heard but there can be no assurance that Clients would be successful in obtaining favorable results. If Blue Torch’s calculations as to the outcome or timing of a reorganization are inaccurate, a company that has filed for bankruptcy may not be able to make payments on a DIP loan on time or at all. In addition, DIP loans may be privately negotiated transactions that have individualized terms. These positions may be illiquid and difficult to value. DIP loans may be subject to price volatility due to various factors including, but not limited to, changes in interest rates, market perception of the creditworthiness of the debtor and general market liquidity.

**Investing through Subsidiaries.** A substantial portion of the investments made by Blue Torch on behalf of Clients may be made through subsidiaries. These subsidiaries may be created for leverage; liability management; compliance with the Risk Retention Rules; liability; capital diversification; available capital; tax and/or other reasons. Investments made indirectly through subsidiaries carry risks that direct investments do not carry. For example, indirect investments are structurally subordinate to direct investments in a bankruptcy or workout scenario. In addition, subsidiaries may have a duration, term or liquidity characteristics that differ from those of a client, which may affect a client’s ability to receive capital or income distributions or in-kind distributions. Blue Torch and Clients are also dependent on the CLO market for future leverage of its portfolio of subsidiaries. If the CLO market was unavailable for an extended period of time, Clients could experience diminished returns.

**Nature of Bankruptcy Proceedings.** There are a number of significant risks when investing in companies involved, or which may have been involved, in bankruptcy proceedings, including the following: First, many events in a bankruptcy are the product of contested matters and adversary proceedings which are beyond the control of the creditors. Second, a bankruptcy filing may have adverse and permanent effects on a company. For instance, the company may lose its market position and key employees and otherwise become incapable of restoring itself as a viable entity. Further, if the proceeding is converted to a liquidation, the liquidation value of the company may not equal the liquidation value that was believed to exist at the time of the investment. Third, the duration of a bankruptcy proceeding is difficult to predict. A creditor’s return on investment can be impacted adversely by delays while the plan of reorganization is being negotiated, approved by the creditors and confirmed by the bankruptcy court, and until it ultimately becomes effective. Fourth, certain claims, such as claims for taxes, wages and certain trade claims, may have priority by law over the claims of certain creditors. Fifth, the administrative costs in connection with a bankruptcy proceeding are frequently high and will be paid out of the debtor’s estate prior to any return to creditors. Sixth, creditors can lose their ranking and priority in a variety of circumstances, including if they exercise “domination and control” over a debtor and other creditors can demonstrate that they have been harmed by such actions. Seventh, investors in the company may be subject to a court-imposed “cram down” in which they lose their seniority in the capital and security interest structure. Eighth, Clients may seek representation on creditors’ committees and as a member of a creditors’ committee it may owe certain obligations generally to all similarly situated creditors that the committee represents and may be exposed to liability to such other creditors who disagree with Clients’ actions. There can be no assurance that Clients would be successful in obtaining results most favorable to it in such proceedings, although Clients may incur significant legal fees and other expenses in attempting to do so. Clients may also be subject to various trading or confidentiality

restrictions. In addition, Clients may potentially hold conflicting positions in relation to investments in companies involved in bankruptcy proceedings.

Investment in the debt of financially distressed companies domiciled outside the United States involves additional risks. Bankruptcy law and process may differ substantially from that in the United States, resulting in greater uncertainty as to the rights of creditors, the enforceability of such rights, reorganization timing, and the classification, seniority and treatment of claims.

**Equity Securities.** Clients may invest in equity and equity-related securities and may also at times acquire equity in connection with a secured debt investment, as a result of a reorganization or as a consequence of loan foreclosure or foreclosure on the collateral securing such loans. Equity securities in general fluctuate in value in response to many factors, including the activities, results of operations and financial condition of individual companies, the business market in which individual companies compete, industry market conditions, interest rates and general economic environments and movements in the equity markets in general. As a result, Clients may suffer losses if they invest in equity instruments of issuers whose performance diverges from Blue Torch's expectations or if equity markets generally move in a single direction.

**Hedging Transactions.** Hedging techniques involve one or more of the following risks: (i) imperfect correlation between the performance and value of the instrument and the value of Clients securities or other objective of Blue Torch; (ii) possible lack of a secondary market for closing out a position in such instrument; (iii) losses resulting from interest rate, spread or other market movements not anticipated by Blue Torch; (iv) the possible obligation to meet additional margin or other payment requirements, all of which could worsen Clients' position; and (v) default or refusal to perform on the part of the counterparty with which Clients transact. Furthermore, to the extent that any hedging strategy involves the use of over-the-counter derivatives transactions, such a strategy would be affected by implementation of the various regulations adopted pursuant to the Reform Act.

Blue Torch will not attempt to hedge all market or other risks inherent in Clients' positions, and will hedge certain risks, if at all, only partially. Specifically, Blue Torch may choose not, or may determine that it is economically unattractive, to hedge certain risks — either in respect of particular positions or in respect of Clients' overall portfolios. Clients' portfolio composition will commonly result in various directional market risks remaining unhedged. Blue Torch may rely on diversification to control such risks to the extent that Blue Torch believes it is desirable to do so; however, Clients are not subject to formal diversification policies.

The ability of Clients to hedge successfully will depend on the ability of Blue Torch to predict relevant market movements, which cannot be assured. Blue Torch is not required to hedge and there can be no assurance that hedging transactions will be available or, even if undertaken, will be effective. In addition, it is not possible to hedge fully or perfectly against currency fluctuations affecting the value of securities denominated in non-U.S. currencies because the value of those securities is likely to fluctuate as a result of independent factors not related to currency fluctuations. Moreover, it should be noted that the portfolio will always be exposed to certain risks that cannot be hedged, such as counterparty credit risk. Furthermore, by hedging a particular position, any potential gain from an increase in the value of such position may be limited.

**Collateralized Debt Obligations ("CDOs").** Clients may invest in CDOs and CLOs. The portfolio may consist of CLO equity, multi-sector CDO equity, trust preferred CDO equity and CLO



mezzanine debt. CDOs are subject to credit, liquidity and interest rate risks. The CDO equity purchased by Clients will most likely be unrated or non-investment grade, which means that a greater possibility that adverse changes in the financial condition of an issuer or in general economic conditions or both may impair the ability of the related issuer or obligor to make payments of principal or interest. Such investments may be speculative. In addition, as a holder of CDO equity, the Clients will have limited remedies available upon the default of the CDO. In the recent past, the market for CDOs has become highly illiquid resulting in severe declines of the prices of such instruments.

**Broad Investment Mandate.** As proceeds from the sale of Clients' initial investments are realized, the proceeds may be reinvested in investments of a kind other than those in which Clients initially invested. Blue Torch may opportunistically implement whatever strategies or discretionary approaches it believes from time to time may be best suited to prevailing market conditions. Over time, the strategies implemented on behalf of Clients can be expected to expand, evolve and change, perhaps materially. Blue Torch will not be required to implement any particular strategies and may discontinue employing any particular strategy on behalf of Clients, whether or not such strategies are specifically described in this Memorandum, and without notice to investors. There can be no assurance that the various investment strategies which Blue Torch expects from time to time to develop and implement for Clients will be successful or that strategies that have been successful will continue to be profitable.

**Uncertain Exit Strategies; Duration of Investment Positions.** Blue Torch typically does not know the maximum, or, often, even the expected, duration of any particular investment at the time of initiation. Due to the illiquid nature of some of the investments that Clients expect to make, Blue Torch is unable to predict with confidence what, if any, exit strategy for a given investment will ultimately be available for Clients. Exit strategies that appear to be viable at certain times during the life cycle of an investment may be precluded by the time the investment is ready to be realized due to economic, legal, political or other factors. The larger the transaction in which Clients are participating, the more uncertain Clients' exit strategy tends to become. The length of time for which a position is maintained may vary significantly, based on Blue Torch's subjective judgment of the appropriate point at which to liquidate a position so as to augment gains or reduce losses. Many of Clients' transactions may involve acquiring related positions in a variety of different instruments or markets at or about the same time. Frequently, optimizing the probability of being able to exploit the pricing anomalies among these positions requires holding periods of significant length—sometimes many months to a year or more. Actual holding periods depend on numerous market factors which can both expedite and disrupt price convergences. There can be no assurance that Clients will be able to maintain any particular position, or group of related positions, for the duration required to realize the expected gains, or avoid losses, from such positions.

**Expedited Transactions.** Investment analyses and decisions by Blue Torch may be undertaken on an expedited basis in order to make it possible for Clients to take advantage of short-lived investment opportunities. In such cases, the available information at the time of an investment decision may be limited, inaccurate and/or incomplete. Furthermore, Blue Torch is unlikely to have sufficient time to fully evaluate information which is available. There is a significantly increased risk of making poor investments when they are made on an expedited basis.

**Inability to Participate in Certain Investments.** Blue Torch has numerous business relationships worldwide. As a result of these relationships, there may be situations in which Blue Torch would

otherwise take a position in an issuer, or a position adverse to the management of an issuer, but may choose not to do so because of the potential adverse effects on such relationships, even if such position could prove advantageous for Clients.

**Other Regulated Industries.** Clients may issue loans to companies in industries that present inherent risks or that are in industries that are heavily regulated. Clients' investments are expected to include loans to companies operating in industries that are subject to greater amounts of regulation than other industries generally. These more highly regulated industries include financial services (including banking and mortgage servicing), insurance, transportation (*e.g.*, aviation or shipping) and also businesses that serve primarily customers that are governmental entities, including the defense industry. Investments in companies that are subject to greater amounts of governmental regulation pose additional risks relative to investments in other companies generally. Changes in applicable laws or regulations, or in the interpretations of these laws and regulations, could result in increased compliance costs or the need for additional capital expenditures and/or regulatory capital requirements in the case of banks or similarly regulated entities. If a company fails to comply with these requirements, it could also be subject to civil or criminal liability and the imposition of fines. A company also could be materially and adversely affected as a result of statutory or regulatory changes or judicial or administrative interpretations of existing laws and regulations that impose more comprehensive or stringent requirements on such company. Governments have considerable discretion in implementing regulations that could impact a company's business and governments may be influenced by political considerations and may make decisions that adversely affect a company's business. Additionally, certain companies may have a unionized work force or employees who are covered by a collective bargaining agreement, which could subject any such company's activities and labor relations matters to complex laws and regulations relating thereto. Moreover, a company's operations and profitability could suffer if it experiences labor relations problems. Upon the expiration of any such company's collective bargaining agreements, it may be unable to negotiate new collective bargaining agreements on terms favorable to it, and its business operations at one or more of its facilities may be interrupted as a result of labor disputes or difficulties and delays in the process of renegotiating its collective bargaining agreements. A work stoppage at one or more of any such company's facilities could have a material adverse effect on its business, results of operations and financial condition. Additionally, any such problems may bring scrutiny and attention to Clients itself, which could adversely affect Clients' ability to implement its investment objectives.

**Derivatives.** Clients may use various derivative instruments. The use of derivative instruments involves a variety of material risks, including the extremely high degree of leverage sometimes embedded in such instruments. The derivatives markets are frequently characterized by limited liquidity, which can make it difficult as well as costly to close out open positions in order either to realize gains or to limit losses. The pricing relationships between derivatives and the instruments underlying such derivatives may not correlate with historical patterns, resulting in unexpected losses. Use of derivatives and other techniques such as short sales for hedging purposes involves certain additional risks, including (i) dependence on the ability to predict movements in the price of the securities hedged; (ii) imperfect correlation between movements in the securities on which the derivative is based and movements in the assets of the underlying portfolio; and (iii) possible impediments to effective portfolio management or the ability to meet short-term obligations because of the percentage of a portfolio's assets segregated to cover its obligations. In addition, by hedging a particular position, any potential gain from an increase in the value of such position may be limited.

**Swap Agreements.** Clients may occasionally enter into various swap agreements (“Swaps”) as part of its investment program. A Swap is an individually negotiated, non-standardized agreement between two parties to exchange cash flows (and sometimes principal amounts) measured by different interest rates, commodity prices, exchange rates, indices or prices, with payments generally calculated by reference to a principal (“notional”) amount or quantity. Swaps and similar derivative contracts are not currently traded on exchanges; rather, banks and dealers act as principals in these markets. As a result, Clients are subject to the risk of the inability or refusal to perform with respect to such contracts on the part of the counterparties with which Clients transact. Swaps may be subject to various other types of risk, including market risk, liquidity risk, counterparty credit risk, legal risk and operations risk. In addition, Swaps can involve considerable economic leverage and may, in some cases, involve significant risk of loss. Depending on their structure, Swaps may increase or decrease exposure to the corporate credit market, equity securities, long-term or short-term interest rates, foreign currency values, corporate borrowing rates or other factors. Swaps can take many different forms and are known by a variety of names. Clients are not limited to any particular form of Swap if its use is consistent with Clients’ investment objectives and policies, and Blue Torch anticipates that Clients will invest in interest rate swaps, credit default swaps, total return swaps, variance swaps and other types of Swaps.

**Total Return Swaps.** Clients from time to time may invest in total return swaps. As a buyer of total return swaps, Clients will be obligated to make certain periodic payments in exchange for the total return on a referenced asset, including coupons, interest and the gain or loss on such asset over the term of the swap. Clients may be required to maintain collateral with the total return swap counterparty. If Clients fail to fulfill its payment obligations or fails to post any required collateral under a total return swap, the total return swap counterparty may declare an event of default and, as a result, Clients may be required to pay swap breakage fees, suffer the loss of the amounts paid to the counterparty and forego the receipts from the counterparty of further total return swap payments.

**Forward Contracts.** Clients may trade forward contracts in the inter-bank currency market. Certain forward contracts may be traded on exchanges; however, forward contracts that are not traded on an exchange are traded via banks and/or dealers who act as principals in these markets. As a result of the Reform Act, the CFTC now regulates non-deliverable forwards (including deliverable forwards where the parties do not take delivery). Changes in the forward markets may entail increased costs and result in burdensome reporting requirements. There is currently no limitation on the daily price movements of forward contracts. Principals in the forward markets have no obligation to continue to make markets in the forward contracts traded. The imposition of credit controls by governmental authorities or the implementation of regulations pursuant to the Reform Act might limit such forward trading to less than that which Blue Torch would otherwise recommend, to the possible detriment of Clients.

**Risks of Coinvesting with Third Parties.** Clients may coinvest with third parties through partnerships, joint ventures or other entities or otherwise. Such investments may involve risks in connection with such third party involvement and risks not present in direct investments, including the possibility that a third party co-venturer may have financial difficulties resulting in a negative impact on such investment, may have economic or business interests or goals that are inconsistent with those of Clients or may be in a position to take (or block) action in a manner contrary to Clients’ investment objective. Furthermore, if such co-venturer or partner defaults on its funding obligations, it may be difficult for Clients to make up the shortfall from other sources. Clients may be required to make additional contributions to replace such shortfall, thereby reducing the diversification of their

investments. Any default by such co-venturer or partner could have an adverse effect on Clients, their assets and the interests of investors. In addition, Clients may be liable for the actions of its co-venturers or partners. While Blue Torch will attempt to limit the liability of Clients through contractual arrangements and by reviewing the qualifications and previous experience of co-venturers or partners, it may not undertake private investigations with respect to prospective co-venturers or partners. Clients may enter into compensation arrangements with third parties relating to such investments, including incentive compensation arrangements. Though Blue Torch considers the effect of such compensation on the expected returns, such compensation arrangements will reduce the returns to participants in the investments and create potential conflicts of interest between such parties and Clients.

**Valuation Risk.** Many of the investments made by Clients are illiquid and thus have no readily ascertainable market prices. Blue Torch values these investments based on its estimate, or an independent third party's estimate, of their fair value as of the date of determination, which often involves significant subjectivity. There is no single standard for determining fair value in good faith and in many cases fair value is best expressed as a range of fair values from which a single estimate may be derived. Blue Torch estimates the fair value of our investments based on third-party models, or models developed by it, which include discounted cash flow analyses and other techniques and may be based, at least in part, on independently sourced market parameters. The material estimates and assumptions used in these models include the timing and expected amount of cash flows, the appropriateness of discount rates used, and, in some cases, the ability to execute, the timing of and the estimated proceeds from expected financings, some or all of which factors may be ascribed more or less weight in light of the particular circumstances. The actual results related to any particular investment often vary materially as a result of the inaccuracy of these estimates and assumptions. In addition, because many of the investments held by Clients are in industries or sectors which are unstable, in distress or undergoing some uncertainty, valuations of such investments may be subject to rapid and/or significant changes caused by, among other matters, sudden company-specific or industry-wide developments.

Because such valuations will be inherently uncertain, may fluctuate significantly over short periods of time and will be based on estimates and other material assumptions, Blue Torch's determinations of fair value may differ materially from the values that would have been used if a readily available market for these investments existed and may differ materially from the values that Clients may ultimately realize on such investments.

Because the performance and reports provided by Blue Torch derive from the valuation of Clients' assets, Blue Torch faces a conflict in valuing Clients' portfolios. Although Blue Torch will seek to mitigate this conflict by relying on third party sources for valuation in certain instances, such third party sources may not be available for many instruments.

**Risks Related to Multiple Clients.** Blue Torch has explored and will continue to explore opportunities to invest capital outside for other clients. Blue Torch anticipates managing additional accounts that may pursue similar strategies or have substantially overlapping objectives. Such activity may adversely affect current Clients. These risks include, but are not limited to, loss of management attention and time due to multiple constraints, increased competition of capital allocations, and expansion of potential risks to Blue Torch as a whole outside those previously disclosed. As Blue Torch organizes and manages new Clients, Blue Torch will face conflicts with respect to the allocation of investment opportunities among such Clients.

**Investments by Affiliated Entities in the Same Borrower.** In the future, Clients may invest in loans held by or issued to other Blue Torch Clients or issue loans to borrowers in which other Blue Torch Clients also have an economic interest, which economic interest may be in a different debt tier or a different part of the capital structure. There is no limit on the number of additional Blue Torch Clients that may be established in the future to pursue lending and credit strategies. In certain instances, Blue Torch Clients participating in a loan origination strategy and Blue Torch Clients participating in other credit strategies may be in different tranches of the same financing. Debt investments of the Clients may also include one or more revolving credit facilities. Portfolio borrowers may also have senior revolving facilities provided by one or more third parties. Under such scenarios, certain Clients may have opposing interests and actions taken on their behalf by Blue Torch Clients which may have an adverse effect on the interests of the Clients.

**Risks of Reliance on the Founder.** Blue Torch's investment operations are led by the Founder. The death, permanent disability or prolonged unavailability of the Founder could have an adverse effect on Clients.

**Risks Associated with Reliance on Blue Torch.** The success of Clients' investing may, to a large degree, be dependent upon Blue Torch's personnel, who may influence the investment decisions with respect to Clients' investments. Competition in the financial services industry for experienced and capable employees, such as Blue Torch's personnel, is intense. The loss of the services of any of such personnel could adversely affect Clients' portfolio.

**Cybersecurity Breaches and Information Technology.** Blue Torch is heavily reliant on its information technology infrastructure, processes and procedures, and it has devoted significant resources to ensuring it has competitive informational technology systems. Information technology changes rapidly, however, and Blue Torch may not be able to stay ahead of such advances. Moreover, as Blue Torch grows, it may find itself a target of cybersecurity breaches and attacks. Clients are subject to risks associated with a breach in its cybersecurity. Cybersecurity is a generic term used to describe the technology, processes and practices designed to protect networks, systems, computers, programs and data from "hacking" by other computer users, other unauthorized access and the resulting damage and disruption of hardware and software systems, loss or corruption of data as well as misappropriation of confidential information. The computer systems, networks and devices used by Blue Torch and service providers to Blue Torch and Clients to carry out routine business operations employ a variety of protections designed to prevent damage or interruption from computer viruses, network failures, computer and telecommunication failures, infiltration by unauthorized persons and security breaches. Despite the various protections utilized, these systems, networks, or devices potentially can be breached. Cybersecurity breaches can include unauthorized access to systems, networks, or devices; infection from computer viruses or other malicious software code; and attacks that shut down, disable, slow, or otherwise disrupt operations, business processes, or website access or functionality.

Clients could be negatively impacted as a result of a cybersecurity breach. If a cybersecurity breach occurs, Clients may incur substantial costs, including those associated with: forensic analysis of the origin and scope of the breach; increased and upgraded cybersecurity; investment losses from sabotaged trading systems; loss of data and other records; identity theft; unauthorized use of proprietary information; litigation; adverse investor reaction; the dissemination of confidential and proprietary information; and reputational damage. Cybersecurity breaches may cause disruptions and

impact business operations, potentially resulting in financial losses to Clients; interference with our ability to calculate the value of an investment in Clients; impediments to trading; the inability of Blue Torch and other service providers to transact business; violations of applicable privacy and other laws; regulatory fines, penalties, reputational damage, reimbursement or other compensation costs, or additional compliance costs; as well as the inadvertent release of confidential information.

**Conflicts of Interest.** Blue Torch has certain conflicts of interest in its management of Clients. These conflicts arise primarily from the involvement of Blue Torch and their affiliates in other activities that may conflict with those of Clients and will also arise whenever Blue Torch or any of its affiliates is engaged to perform for compensation any services for Clients.

A general partner of a Private Fund, Blue Torch, and the custodians of Clients may from time to time act as directors, investment advisors, administrators, custodians or prime brokers in relation to or otherwise be involved with other companies established by parties other than Clients which have similar objectives. In such event, should a conflict of interest arise, Blue Torch will endeavor to ensure that it is resolved fairly.

**Distributions in Kind.** Distributions may be in cash or in securities, but Blue Torch will use commercially reasonable efforts not to distribute securities other than marketable securities unless such distribution is in connection with the liquidation of a Client. Assets that are distributed in kind may be illiquid. Even for those assets for which a liquid market exists or develops, there is no guarantee that such market will be sustained. There can be no assurance that any investor would be able to realize an amount equal to the value attributed by Blue Torch to the distribution.

**Material, Non-Public Information.** Affiliates of Blue Torch may serve as directors of, or in a similar capacity with, issuers of debt instruments held by Clients. Similarly, Blue Torch investment professionals may enter into non-disclosure agreements providing them access to confidential information. If material nonpublic information is obtained with respect to such issuers, Clients could be prohibited by law or otherwise from purchasing or selling such loans or debt instruments of such issuers for a period of time, and such prohibitions may have an adverse effect on Clients.

**Side Letters; Additional Reports and Information.** To the extent permitted by Clients agreement, Blue Torch and/or affiliates on behalf of Clients, as applicable, may, in their sole and absolute discretion, agree to waive or modify the application of any provision of the offering terms described herein with respect to any investor, by side letter or otherwise, without obtaining the consent of any other investor. Such side letters may provide for the following modified terms: (i) various notification requirements; (ii) limitations on Clients' ability to distribute securities in kind; (iii) the provision of audited financial statements within certain periods of time; (iv) the provision of information relating to Clients' portfolio holdings (subject to non-disclosure agreements and other confidentiality considerations); (v) reduced Management Fees, Carried Interest or fee rebates; (vi) minor investment restrictions that do not materially affect Clients; (vii) the provision of periodic pricing information; or (viii) provisions necessary to accommodate a particular investor's legal, tax, sovereign or regulatory status, accounting considerations, contractual obligations, or internal guidelines or policies.

In certain cases, Blue Torch may disclose portfolio holdings of Clients to entities that evaluate portfolio risk. Blue Torch will provide this information to such entities as it chooses and may refuse to provide this information to any such entity at any time. Every effort is made to bind the recipients

of this information to maintain the confidential nature of this information, including entering into non-disclosure agreements prior to providing this information to them. However, there can be no assurance that these entities will fulfill their confidentiality obligations to Blue Torch. In addition, certain investors, in the course of conducting due diligence, may request information pertaining to their investments (either verbally or in writing), including information that is not generally made available to all other investors or Clients. Clients and Blue Torch may respond to such requests without providing relevant information to all other investors or Clients. Blue Torch reserve the right to determine what information is appropriate to provide in response to inquiries from investors.

## **Item 9. Disciplinary Information**

There are no legal or disciplinary events that are material to a Client's or investor's, or a prospective Client's or prospective investor's, evaluation of the Firm's advisory business or the integrity of the Firm's management

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

Except as set forth below, Blue Torch and its employees do not have any relationships or arrangements with other financial services companies that pose material conflicts of interest.

Affiliates of Blue Torch serve as the general partners to Private Funds. These general partners will receive the performance-based allocation or fee.

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

Blue Torch will adopt a Code of Ethics (the "Code of Ethics") setting forth the standards of business and fiduciary conduct for its covered persons under such policies. The Code of Ethics will include, among other things, policies and procedures regarding personal securities trading. These policies prohibit employees from engaging in transactions with respect to individual securities of any issuer, public or private (except in certain circumstances), unless the account is under the discretionary management of a third party. Employees may transact in certain types of securities (generally, governmental securities, money market instruments, money market funds, open-end mutual funds, and unit investment trusts). In addition, employees may transact in exchange-traded funds replicating broad based indices with preapproval.

All Employees will be required to report their holdings on an annual basis and all transactions quarterly, which are then reviewed by the Chief Compliance Officer. A copy of the Firm's Code of Ethics is available upon request.

### **Investment Allocation and Aggregation**

Blue Torch and/or its affiliates may from time to time act as manager, investment manager, in relation to, or be otherwise involved with, other clients, including other investment funds and client accounts, including those (such as open-end funds and single investor funds) that follow an investment program substantially similar to that of Clients. The investment objectives and programs of certain Clients may be similar to, or overlap with, the investment objectives and proposed

investment programs of other Clients and, therefore, certain affiliates regularly compete for investment opportunities with each other (and potentially with Blue Torch). As a result, the allocation of investment opportunities gives rise to potential and actual conflicts of interest.

In making allocation decisions with respect to limited investment opportunities that could reasonably be expected to fit the investment objectives of Clients or of Blue Torch itself, Blue Torch anticipates that it may consider one or more of the following factors that it deems relevant: the investment objectives of Clients; the source of the investment opportunity; any exclusive rights to investment opportunities that may have been granted to particular clients; the expected duration of the investment in light of Clients' investment objectives and policies (including diversification policies); the amount of available capital; available financing of the clients; proximity of a Client to the end of its investment period and/or term; the size of the investment opportunity; regulatory and tax considerations; the degree of risk arising from an investment; the expected investment return relative to the client's target return; relative liquidity needs of the clients; likelihood of current income; and such other factors as Blue Torch deems to be appropriate. These factors provide substantial discretion to Blue Torch in allocating investment opportunities. Further, two or more clients may hold an investment for which there is extremely limited, or no, liquidity or that is subject to legal or other restrictions on transfer. In a situation where Blue Torch is limited in its ability to dispose of an investment, Blue Torch may consider the factors described above in allocating the sale of such an investment.

If an investment opportunity is available in limited quantities, and subject to investment restrictions and fiduciary duties, Blue Torch may have an incentive to allocate such investment opportunity to Blue Torch or its employees or to one particular Client rather than another Client. For example, such an incentive may arise if the economic interests of Blue Torch and its employees in certain of these Clients, when combined with their rights to Management Fees and/or Carried Interest or other fees, are significantly larger than their direct and indirect economic interests in other Clients. Such an instance may lead to fewer, and less attractive, investment opportunities being made available to Clients than would have been the case had Blue Torch and its employees been restricted from pursuing proprietary investments and/or investment programs on behalf of other Clients.

In an attempt to resolve those conflicts in the context of allocating credit opportunities, Blue Torch has developed a set of allocation procedures which will take into account many of the above enumerated factors, as well as other considerations, in determining how loan investment opportunities will be allocated among various Blue Torch proprietary accounts, managed accounts and other affiliated and unaffiliated persons to whom such opportunities might be offered or with whom such opportunities may be participated in the future.

All transactions among Blue Torch Clients on the one hand and other affiliates of Blue Torch on the other hand will be approved in a manner designed to comply with Section 206(3) of the Advisers Act. Where Clients, Blue Torch itself, or its employees hold the same investment, the differing investment objectives of such Clients, as well as other factors applicable to the specific situation, may result in a determination to dispose of, or retain, all or a portion of such investment on behalf of Clients (or on behalf of the another Client, Blue Torch itself or its employees) at different times as such investment or portion thereof is being disposed of, or retained, by Clients. In addition, particularly with respect to illiquid or private investments, conflicts of interest can arise when disposing of a particular investment which would be beneficial for one Client while retaining such investment would be beneficial for another Client. Blue Torch may also invest in securities on behalf of one Client (or



Blue Torch itself or its employees may purchase such securities) that may differ from investments made on behalf of another Client, even though the investment objectives of the Clients may be similar. Moreover, Clients, Blue Torch or Blue Torch's employees may make investments or engage in other activities that express inconsistent views with respect to an investment, a particular security or relevant market conditions.

In addition, Blue Torch expects to make other business decisions on behalf of certain Clients relating to investments independently of the manner in which it approaches a similar or even the same investment held by other Clients. Consequently, Blue Torch, on behalf of certain Clients, may choose not to hedge certain risks that other Clients hedge, or certain Clients may be exposed to risks of financing on an investment when other Clients are not. Further, in some instances, Blue Torch may choose to coordinate its Clients' activities (such as timing dispositions in an orderly way in order to avoid affecting the share price of an investment in an unduly volatile manner) with respect to investments held by more than one Client when it would theoretically be possible for Blue Torch to act unilaterally with respect to a particular Client's holdings in such investment. Such coordination could have the effect of lowering returns for a particular Client with respect to an investment relative to what might have been achieved absent such coordination.

If Clients invest in entities or assets in which other Clients hold an investment, the investment by such Clients could be viewed, especially in hindsight, to have been made on a non-arm's-length basis and could have an effect (either positive or negative) on the market price of the initial investment.

Clients, or Blue Torch itself, may hold interests in an entity that are of a different class or type than the class or type of interest held by another Client. For example, Clients may hold securities in an entity where another Client may hold equity or debt of such entity that are senior or junior which could mean that Clients will be entitled to different payment or other rights, or that in a workout or other distressed scenario the interests of certain Clients might be adverse to those of other Client(s) and certain Client(s) might recover all or part of their investment while others might not. Blue Torch Clients, will not be required to take any action or refrain from taking any action to mitigate another Client's losses in such a scenario, and Blue Torch will make decisions on how to resolve such situations in its sole discretion.

Blue Torch will not enter into transactions in which it knowingly and deliberately favors itself or one Client over another; however, Blue Torch is given considerable discretion to trade for other accounts, and intends to do so to a significant extent.

### **Principal and Cross Transactions**

Blue Torch does not act as principal, either buying securities for itself or its affiliates from Clients or selling securities it or its affiliates own to Clients. However, if Blue Torch were to decide to engage in any such "principal transaction" in the future, it will comply with the requirements of Section 206(3) of the Advisers Act: (i) disclosing to the client in writing the material terms of the transaction; and (ii) obtaining the written consent of the Client for such transaction. Blue Torch will include in such disclosure: (1) its capacity as principal; (2) the cost to Blue Torch of the security, in the case of a sale to a Client, or the price of the security in a resale, in the case of a purchase from a Client; and (3) the best price at which the transaction could be effected by or for the client elsewhere if such price is more advantageous to the Client than the purchase or sale with Blue Torch. Blue Torch does not anticipate engaging in such transactions when Blue Torch may make a trading profit.

From time to time, an affiliate of Blue Torch may sell or buy a security to or from another affiliate, including a Client. Such transactions may not be deemed principal transactions if Blue Torch (including its controlling persons) owns less than a certain portion of the interests of each such Blue Torch Client. Nevertheless, Blue Torch recognizes the conflict of interest such transactions may create. To mitigate such conflict of interest, Blue Torch may, but is not obligated to, obtain an independent review of the fairness of the transaction to both funds if the investment is private or an independent price (*i.e.*, a pricing service or broker quote) if the investment is public.

Similarly, from time to time, one Blue Torch Client may sell or buy a security or an investment to or from another Client managed by Blue Torch. Blue Torch also recognizes the conflict of interest such transactions may create. To mitigate such conflict of interest, Blue Torch may provide the relevant Client with the name of each security to be crossed for review and confirm approval by such Client before executing the trade. Public securities will typically be “crossed” at the mid-point between the bid and the ask. Private securities will be valued by Blue Torch, based on its valuation procedures, and such valuation may be reviewed and approved by the relevant Client.

### **Originated Loans**

From time to time, a Client may offer to another Blue Torch Client and other Blue Torch affiliates, participations in and/or assignments or sales of loans (or interests therein) that the Client has originated or purchased. In the event of such an offer to another Blue Torch Client, the price of the participation, assignment or sale will be established based on third-party valuations. Further, the decision by another Blue Torch Client to accept or reject the offer will be made by a party independent of Blue Torch, such as an independent third-party valuation firm or the independent directors or independent representative of such Blue Torch Client. In determining the target amount to allocate to a particular loan origination, the Client will take into consideration the fact that it anticipates selling, assigning or offering participations in such investment to third parties as described above. If the Client is not successful in offering such participations, assignments or sales, the Client will be forced to hold such excess until such time as it can be disposed. This may result in the Client being “overweighted” with respect to a particular borrower.

### **Co-investments**

Certain investments may generate the opportunity for certain persons or entities to co-invest in such investments alongside Clients. Blue Torch may make these opportunities available to certain current investors; however, it may also choose to offer some or all of any available co-investment opportunity to one or more other investors that Blue Torch deems, in its sole discretion, to be strategic to the investment or the Fund. Such decisions will be made based on Blue Torch’s co-investment policy, which may change over time. As a result, current investors should not expect to be offered co-investment opportunities.

To the extent any co-investment opportunity is in fact offered to co-investors, such co-investors participating may be required to pay amounts to Blue Torch or its affiliates, including management fees, administration fees and other fees, carried interest or other incentive compensation, and operating expenses and other expense reimbursements associated with any co-investment vehicle through which they invest. Blue Torch and its affiliates may elect to reduce or waive any or all such fees, carried interest and other amounts for the benefit of one or more co-investors without offering such reduction or waiver to the other co-investors. A co-investor will not receive the benefit of any transaction fees received by Blue Torch or its affiliates in connection with a co-investment unless such co-investor is also paying management fees to Blue Torch or its affiliates in respect of such co-

investment. In addition, a co-investor will not receive a share of any topping, break up or broken deal fees received in connection with an unconsummated co-investment unless such co-investor has agreed to pay its share of broken deal expenses associated with such unconsummated co-investment.

In general, Clients will bear 100% of all out of pocket expenses (including, without limitation, legal and accounting costs and travel expenses) associated with any investment that is not unconsummated, including any portion thereof that may or would have been allocated to potential co-investors had such investment been consummated. Blue Torch believes this approach to broken deal expenses is reasonable from the Clients' perspective for the following reasons: (i) the amount of broken deal expenses associated with an investment is expected to be the same, or substantially similar, regardless of whether co-investors participate in such investment; (ii) in most cases, it is impracticable to charge broken deal expenses to co-investors since such expenses are often incurred prior to the date on which a co-investor is contractually committed to participate in such investment; and (iii) the participation of co-investors can often provide material benefits to Clients, including facilitating Blue Torch's efforts to diversify Clients' portfolio of investments and allowing Clients to participate in larger, and potentially attractive, investments with co-investors whose interests are more likely to be aligned with the interests of Clients than third party co-investors not selected by Blue Torch.

#### **Restrictions of Fund Trading Activities—Material Non-Public Information**

Employees of Blue Torch regularly acquire confidential information and Blue Torch may enter into confidentiality and/or "standstill agreements" when assessing investment opportunities. By reason of its various activities, Blue Torch and its employees may have access to material non-public information ("MNPI") about an issuer. For example, an employee of Blue Torch may serve from time to time as a director, or in a similar capacity, or as an executive officer, with respect to, the securities of which may be purchased or sold on behalf of Clients, which service may prohibit all Clients from engaging in transactions in certain issuers. Additionally, employees of Blue Torch may acquire MNPI in the ordinary course of their investment activities, which acquisition may result in restrictions on Clients' ability to sell a portfolio investment at a time when it might otherwise have done so. Any of these activities could prevent Clients from buying or selling securities or other interests in an issuer, potentially for an extended period.

#### **Affiliated Loan Origination Vehicle**

Certain affiliates of Blue Torch may engage in and are expected to continue engaging in loan origination. Such parties will receive loan origination fees in connection with such activity. To the extent that Clients originate or participate in loans originated by such affiliates, it is anticipated that Clients will share in the related origination fees. However, Clients may not benefit from all of the origination fees received by such affiliates. Certain members of the management team involved in managing Clients and selecting investments may also be entitled, under certain circumstances, to share in such origination fees.

#### **Investments in Managed Accounts and Affiliated Funds**

In order to take advantage of diversification and new investment strategies and concepts, Blue Torch, from time to time, may place a portion of Clients' investable assets in accounts managed by or co-managed with other investment advisors, in which case Clients may be subject to additional fees payable to such other investment advisor as well as its proportionate share of costs and expenses. Blue Torch also may place a portion of Clients' investable assets in other Blue Torch affiliated investment funds managed by it or by an affiliate, in which case Clients will not be subject to any additional management or incentive fees but will bear its proportionate share of costs and expenses.

The amounts that may be invested into other managed accounts or in Blue Torch affiliated investment funds are not expected to be significant.

## **Item 12. Brokerage Practices**

### **Broker Selection**

The Firm has complete discretion, without obtaining specific client consent, to (i) buy or sell securities and investments, (ii) determine the amount of the securities and investments to be bought or sold, (iii) select the broker or dealer to be used in such purchase or sale and (iv) agree to the commission rates paid in connection with such purchase or sale. The Firm will generally effect transactions on an over the counter basis and will not likely use a large number of brokers. However, Blue Torch will ensure that it selects brokers on the basis of their ability to provide best execution by considering various factors, which may include, and are not limited to, price, commission, size of order, timeliness and certainty of execution n counterparty risk.

Investors in Private Funds may include entities affiliated with brokers or, possibly, brokerage firms themselves. The fact that any such investor has invested in a Private Fund managed by Blue Torch will not be taken into consideration in selecting brokers (including prime brokers).

## **Item 13. Review of Accounts**

Blue Torch anticipates that it will conduct ongoing portfolio monitoring in addition to more formal, periodic reviews of the Clients' portfolios. In addition, ad hoc reviews of a Client account may be triggered by special circumstances.

Reporting to Clients which are separately managed accounts will be outlined in the applicable investment management agreement. For the Private Funds, it is anticipated that underlying investors will receive quarterly account statements and audited annual financial statements.

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

Other than described herein, the Firm does not receive economic benefits from non-Clients for providing investment advice and other advisory services.

Neither the Firm nor any related person directly or indirectly compensates any person for Client referrals. The Firm has engaged a placement agent to solicit certain types of prospective investors. The Firm may in the future enter into other arrangements with third party placement agents, distributors or others to solicit investors in the Private Funds and such arrangements will generally provide for the compensation of such persons for their services at the Firm's expense.

## **Item 15. Custody**

Rule 206(4)-2 of the Advisers Act (the "Custody Rule") imposes certain obligations on registered investment Firm that have custody or possession of any funds or securities in which any client has any beneficial interest. An investment adviser is deemed to have custody or possession of Client funds or securities if the adviser directly or indirectly holds Client funds or securities or has the

authority to obtain possession of them.

Blue Torch is required to maintain the funds and securities (except for securities that meet the privately offered securities exemption in the Custody Rule) over which they have custody with a qualified custodian. Qualified custodians include banks, brokers, futures commission merchants and certain foreign financial institutions.

Blue Torch does not take custody over Client accounts. However, a related person may serve as the general partner or managing member of a Private Fund and because of this Blue Torch may be deemed to have custody of the assets of the Private Funds because of the authority of such related person. Therefore, in accordance with the Custody Rule, the Firm will ensure that all Private Funds are audited at least annually by an independent public accountant in accordance with generally accepted accounting principles. The audited financial statements will be distributed to all investors within 120 days (180 days in the applicable case of a fund of fund adviser) of its fiscal year-end.

## **Item 16. Investment Discretion**

The Firm has full discretionary authority with respect to investment decisions, and its advice with respect to Clients is made in accordance with the investment objectives and guidelines as set forth in the relevant Client's investment management agreement or offering documents. Separately managed account clients may impose restrictions or objectives on the account with which Blue Torch must comply.

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

The SEC adopted Rule 206(4)-6 under the Advisers Act, which requires registered investment advisers that exercise voting authority over client securities to implement proxy voting policies. In compliance with such rules, Blue Torch has adopted proxy voting policies and procedures. Blue Torch is committed to voting proxies in a manner consistent with the best interest of the Clients. While the decision whether or not to vote a proxy must be made on a case-by-case basis, Blue Torch generally does not vote a proxy if it believes the proposal is not adverse to the best interest of the Clients, or, if adverse, the outcome of the vote is not in doubt. In the situations where Blue Torch does vote a proxy, Blue Torch generally votes the proxy in accordance with specified guidelines. A copy of the proxy voting policies and the proxy voting record relating to a Client may be obtained by contacting Blue Torch.

## **Item 18. Financial Information**

Blue Torch has never filed for bankruptcy and is not aware of any financial condition that is expected to affect its ability to provide investment advisory services to Clients.

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

Not applicable