

**Item 1**  
**Cover Page**

PART 2A OF FORM ADV: FIRM BROCHURE

**Atalaya Capital Management LP**

780 Third Avenue  
27<sup>th</sup> Floor  
New York, NY 10017  
Tel: (212) 201-1910  
Fax: (917) 464-7350  
<http://www.atalayacap.com/>

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This brochure provides information about the qualifications and business practices of Atalaya Capital Management LP (“ACM”) and its relying adviser Atalaya Capital Telos LLC (“ACT”). ACM and ACT are referred to collectively herein as the “Firm” or “Atalaya”. If you have any questions about the contents of this brochure, please contact us at (212) 201-1910. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (the “SEC”) or by any state securities authority.

From time to time in this and other documents, Atalaya may refer to itself as a “registered investment adviser” by virtue of its registration with the SEC. This title does not imply any level of training or skill, or any endorsement by (or on behalf of) the SEC or any state securities authority.

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

## **Item 2**

### **Material Changes**

This Item identifies and summarizes any material changes to this Form ADV Part 2A brochure since the date of the last annual updating amendment, made by Atalaya in March 2019.

In September 2019, Atalaya updated Item 9 (Disciplinary Information) to reflect a recent matter. Please see page 20 for more details.

On April 26, 2019, ACM acquired business assets consisting of certain collateral management agreements relating to certain collateralized debt obligations ("Telos CLOs") from Telos Asset Management LLC, a subsidiary of Tiptree Inc. (NASDAQ: TIPT). In connection with that acquisition, Atalaya Capital Telos LLC ("ACT") was created as a wholly-owned subsidiary of ACM. The senior portfolio management team responsible for the Telos CLOs became employees of ACT and supervised persons of ACM. ACT is a relying adviser of ACM. This brochure has been updated to incorporate disclosures relating to ACT, as relying adviser.

In April 2019, Matt Rothfleisch joined ACM as a Partner. Mr. Rothfleisch joined ACM to expand its' corporate credit investing capabilities. Prior to ACM, Mr. Rothfleisch was the Founder, Chief Executive Officer, and Chief Investment Officer, of Rotation Capital, which he started in 2014. Prior to Rotation Capital, Mr. Rothfleisch was a Partner at Del Mar Asset Management where he was responsible for managing their credit business. Mr. Rothfleisch will report directly to Ivan Zinn, ACM's Chief Investment Officer.

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## **Item 4**

### **Advisory Business**

#### **Introduction**

ACM, a Delaware limited partnership founded in 2006, is an SEC-registered investment adviser located in New York, New York. The principal owner of ACM is Ivan Q. Zinn. Mr. Zinn also serves as the Firm's Chief Investment Officer.

The Firm provides investment advisory services to certain pooled investment vehicles (the "Atalaya Funds"), separately managed accounts (the "Atalaya Managed Accounts") and co-investment vehicles to the Atalaya Funds ("Atalaya Co-Investments" and, collectively with the Atalaya Funds and the Atalaya Managed Accounts, and the Telos CLOs (as discussed below), the "Atalaya Clients" or the "Clients").

In July 2017, ACM sold a minority stake in the Firm to Dyal Capital Partners, a division of Neuberger Berman Group ("Dyal") that acquires passive, minority equity interests in alternative asset management businesses. The interests in ACM held by Dyal are permanent capital interests that, from time to time, require Dyal to make additional capital investments. Dyal does not participate in ACM's day-to-day operations or have any involvement in ACM's investment decision-making.

On April 26, 2019, Atalaya Capital Management LP ("ACM") acquired business assets consisting of certain collateral management agreements relating to collateralized debt obligations ("Telos CLOs") from Telos Asset Management LLC, a subsidiary of Tiptree Inc. (NASDAQ: TIPT). In connection with that acquisition, Atalaya Capital Telos LLC ("ACT") was created as a wholly-owned subsidiary of ACM. The senior portfolio management team responsible for the Telos CLOs became employees of ACT and supervised persons of ACM. ACT is a relying adviser of ACM. This brochure has been updated to incorporate disclosures relating to ACT, as relying adviser.

Throughout the existence of its investment advisory business, Atalaya has focused primarily on investing in credit opportunities and special situations, including, without limitation, secondary loan acquisitions and primary loan originations. Affiliates of Atalaya generally serve as the general partner or managing member, as applicable (individually, a "General Partner" and, collectively, the "General Partners") as well as collateral manager or collateral servicer to the Atalaya Funds (which for the avoidance of doubt is inclusive of the Telos CLOs). Any investment advisory activities of the General Partners are subject to the Investment Advisers Act of 1940, as amended (the "Advisers Act") and the rules thereunder, and the General Partners are subject to examination by the SEC. The General Partners and all of their employees and persons acting on their behalf are subject to the Firm's supervision and control with respect to any investment advisory activities.

## **Atalaya Clients**

Atalaya provides discretionary investment advisory services to the Atalaya Funds. Atalaya has discretion to invest and trade the Atalaya Funds' assets pursuant to its investment or collateral management agreement with, and the governing documents of, each Atalaya Fund. Any applicable limitations or restrictions on Atalaya's investment discretion (if any) are set forth in the governing documents of the applicable Atalaya Fund. Atalaya typically seeks to generate attractive risk-adjusted returns by acquiring and/or originating a relatively diversified portfolio of opportunistic credit and special situations investments. Atalaya's primary (but not exclusive) investment focus is on the opportunistic purchase of loans in the secondary market from distressed or otherwise motivated sellers, as well as the origination of credit to small and mid-sized companies and/or credit secured by real estate, consumer finance, commercial finance or specialty finance related assets; provided that Atalaya may alter its investment focus in response to changing market conditions or other applicable factors.

Atalaya generally manages each Atalaya Fund pursuant to the objectives specified in the materials (principally, a private placement memorandum and applicable governing documents, made available to prospective investors) by which each Atalaya Fund offers its ownership interests to investors and pursuant to the restrictions or limitations (if any) set forth therein. The Atalaya Funds' investors generally do not have the right to restrict or influence the Atalaya Funds' investment objectives or any investment or trading decisions. Atalaya may tailor the advisory services it provides to certain Atalaya Funds to the extent that certain investments cannot be held by certain Atalaya Funds for legal, regulatory and/or tax reasons and pursuant to its general portfolio management discretion, with respect to the investment activity of the Atalaya Funds.

Atalaya Co-Investments and Atalaya Managed Accounts are generally special purpose vehicles and/or "funds of one" created for the Firm and one or more Atalaya Fund investors (and/or third parties) to invest directly in a company or credit-related transaction or other special situations investment. Occasionally, these co-investment vehicles or managed accounts are used to invest in a company or credit-related transaction or other special situations investment that Atalaya has recommended to another Client. This generally occurs only when an applicable Client (typically, an Atalaya Fund) that invested in the company or credit-related transaction or other special situations investment reaches its "threshold limit" regarding the amount of that investment such Client can (or should, as determined by Atalaya) hold in its portfolio. For purposes of ensuring a diversified portfolio, each Atalaya Fund has a limit on the percentage of capital that may be invested in a single investment or issuer, and Atalaya may separately determine that a lower threshold is appropriate, pursuant to its discretionary investment authority. Atalaya Co-Investments and/or Atalaya Managed Accounts may also be applicable with respect to prospective investments that do not meet the investment objectives of any Atalaya Fund then open for new investment activity.

With respect to co-investment opportunities or other types of investment opportunities, Atalaya will be acting as an investment adviser to a co-investor or third party only if Atalaya and the co-investor or third

party explicitly agree to such a relationship in writing. While Atalaya occasionally receives compensation in connection with providing investment structuring, investment underwriting, or other related services, or in connection with making one or more potential third parties aware of an investment or co-investment opportunity, in the absence of a written agreement to create an advisory relationship and to provide advisory services to a current or prospective co-investor or third party, Atalaya will be presumed not to be acting as an investment adviser in such instances. Unless explicitly agreed by Atalaya in writing, current and prospective participants in co-investments and third parties with respect to other investment opportunities are responsible for independently evaluating all such investment opportunities.

Atalaya generally has discretionary authority to make all trading and investment decisions for the Atalaya Co-Investments, subject to any investment restrictions or limitations that an investor in an Atalaya Co-Investment may negotiate with Atalaya (which may limit Atalaya's ability to make any other or separate investments). With respect to the Atalaya Managed Accounts, either (i) Atalaya may have discretionary authority to make all trading and investment decisions for the Atalaya Managed Accounts, subject to any investment restrictions or limitations that an investor in an Atalaya Co-Investment may negotiate with Atalaya, or (ii) Atalaya may have non-discretionary authority with respect to such Atalaya Managed Accounts, with investment recommendations being subject to the consent or approval of the managed account-holder(s). As a general matter, Atalaya Clients may be permitted to impose reasonable restrictions on investing in certain securities or transactions or types of securities or transactions in an Atalaya Co-Investment or Atalaya Managed Account.

The Telos CLOs are collateralized loan obligation vehicles that invest primarily in syndicated corporate loans. As collateral manager/servicer, ACT exercises discretionary investment authority over the Telos CLO portfolios, subject to the terms and restrictions of the relevant indenture and other organizational documents.

As of December 31, 2019, the Atalaya Clients had regulatory assets under management of approximately \$5.58 billion, of which Atalaya had discretion over approximately \$5.53 billion of such assets, with the remaining approximately \$56.8 million of such assets being non-discretionary.

## Item 5 Fees and Compensation

### Atalaya Clients

Interests in Atalaya Clients, including Atalaya Managed Accounts, are offered only to “qualified purchasers” as defined in the Investment Company Act of 1940, as amended (the “Investment Company Act”), and therefore the Firm is not required to include a fee schedule in this brochure. Please contact the Firm’s Chief Compliance Officer, Drew Phillips, at [phillips@atalayacap.com](mailto:phillips@atalayacap.com) for more information, including the Firm’s fee schedule.

### *Atalaya Funds, Atalaya Managed Accounts and Atalaya Co-Investment Assets*

The Firm generally deducts management fees (the “Management Fee”) directly from Atalaya Fund, Atalaya Managed Account and Atalaya Co-Investment assets on a quarterly basis in arrears. The Firm also may be entitled to a performance fee (the “Carried Interest Distribution”), typically based on the relevant Atalaya Clients’ aggregate net realized gains (inclusive of net interest income) from investments (“Gains”), to the extent such Gains exceed a certain performance benchmark or hurdle. Generally, the Carried Interest Distribution is received by the Firm through the General Partners. Carried Interest Distributions, if applicable, are deducted directly from Atalaya Clients’ assets, generally as investments realize gains and not on a pre-determined schedule. The Carried Interest Distribution is generally subject to a clawback provision in the event of the dissolution of an Atalaya Client if certain applicable conditions are met. Atalaya is also generally entitled to tax distributions from the Atalaya Clients related to the Carried Interest Distributions.

The Management Fee and Carried Interest Distribution for Atalaya Funds are non-negotiable; however, the Firm’s agreement with each Atalaya Fund gives the General Partners the authority to vary these fees for particular investors. By virtue of their structure, the Management Fee and Carried Interest Distribution for Atalaya Co-Investments and Atalaya Managed Accounts are negotiable.

### *Telos CLOs*

Management fees related to the Telos CLOs are paid to Atalaya by the relevant Trustee of each Telos CLO on a predetermined “distribution date”. Management fees are charged in an amount up to 0.625% of the aggregate principal balance of underlying loans in such collateralized loan obligation. Performance fees from Telos CLOs are generally based on cash available in each CLO on a distribution date after all other required distributions are made, and in certain cases, certain performance thresholds are met.

The Atalaya Funds, Atalaya Managed Accounts and Atalaya Co-Investments (generally bear their own organizational, initial offering and operating expenses. Such operating expenses typically include, but are not limited to, investment expenses (e.g., brokerage commissions, acquisition fees, finder fees,

structuring or advisory fees, expenses relating to short sales, clearing and settlement charges, loan servicing fees, asset management fees, custodial fees, trustee fees, initial and variation margin expenses, interest expenses and other amounts, fees and expenses related to leverage or financing and expenses related to proposed investments that were not consummated), professional fees (including, without limitation, expenses of consultants and experts' fees relating to particular investments and retainer fees for sourcing services), travel and other expenses related to investments, entity formation and management expenses, domestic and foreign entity-level taxes (including, without limitation, the New York City unincorporated business tax, if applicable), legal expenses, fees of the administrator, custodian and/or trustee fees, internal (excluding costs of personnel) and external accounting expenses, compliance-related expenses (including, without limitation, in connection with any of Atalaya's filing or reporting requirements with respect to the Atalaya Clients, including, without limitation, Form PF), loan-monitoring and other portfolio tracking software, audit and tax preparation expenses, appraisal and valuation fees, premiums for directors' and officers', errors and omissions and lender liability insurance and fidelity bond(s), the costs and expenses incurred in connection with indebtedness of the Atalaya Clients (and their respective subsidiaries), including, without limitation, interest expense and other fees and charges associated therewith, the costs of establishing such other indebtedness, the costs of monitoring compliance therewith (including, without limitation, the costs of purchasing, licensing or developing any computer software used for such purposes), expenses relating to the offer and sale of interests in the Atalaya Clients, including travel, printing and mailing fees, the Management Fees (as defined above), the Additional Fees (as defined below), extraordinary expenses (including, without limitation, in respect of litigation) and for certain Atalaya Clients, the costs and expenses of establishing the General Partners. To the extent that the Firm bears any of the above expenses, the Atalaya Clients will reimburse the Firm directly. The governing documents of certain Atalaya Clients may contain expense provisions that vary from the items set forth above and these are negotiated on a case-by-case basis.

Telos CLO investors bear expenses as set out in the relevant governing documents, which generally include expenses similar to those borne by the Atalaya Funds as discussed above.

Certain expenses may be shared among multiple relevant Atalaya Clients and/or among relevant Atalaya Clients and Atalaya. In such instances, Atalaya will endeavor to allocate the expenses in a manner that is fair and equitable to all relevant Atalaya Clients. Shared expenses incurred in connection with specific investment opportunities generally will be allocated on a pro rata basis (although in certain instances, certain Atalaya Clients may not be required to fund their pro rata shares) based on (i) each relevant Atalaya Client's ownership of such investment, for investments that have been consummated; or (ii) the respective committed capital of each applicable Atalaya Client that is eligible to participate (and would have participated, pursuant to Atalaya's investment allocation policy) in the investment opportunity in question, for investments that have not been consummated. Operating expenses and investment-related expenses that are not related to specific investment opportunities generally will be allocated on a pro rata basis based on the most recent quarter-end net asset value or committed capital of each relevant Atalaya Client, as appropriate. To the extent a portion of a shared expense is attributable to one or more Atalaya



Clients to whom Atalaya is not permitted to charge such expense, the Firm will bear the portion of the expense attributable to such Atalaya Client(s).

The Firm often charges a fee in connection with the administration of certain agented loans or credit facilities in the Atalaya Clients' portfolios (the "Additional Fee"), although such Additional Fee may not be charged with respect to all eligible investments. The Additional Fee is in addition to the Management Fee and is typically charged to (and paid by) the Atalaya Clients' borrowers (as opposed to the Atalaya Clients directly), provided that Atalaya is generally also entitled to charge the Atalaya Clients directly. The Additional Fee is generally subject to a cap as defined in each Atalaya Client's governing documents.

In connection with certain lending or other investment transactions, Atalaya often negotiates for the receipt of an up-front expense deposit from the prospective borrower or counterparty. Such negotiated expense deposit is generally in respect of anticipated due diligence or other expenses to be incurred by Atalaya related to the potential transaction (including, in certain instances, applicable internal legal expenses). In some cases, Atalaya and/or the prospective borrower or counterparty may determine not to move forward with the potential transaction before Atalaya has used the full amount of the expense deposit. In these instances, to the extent permitted by the terms negotiated with the prospective borrower or counterparty, Atalaya may elect to retain the unused portion of the expense deposit.

### **Side Letters**

The Firm and/or the General Partner of an Atalaya Client may enter into side letters or other similar agreements with certain investors (without the approval of any other investors) in connection with their admission to such Atalaya Client. Such side letters or other similar agreements may alter and/or supplement the terms of an Atalaya Client's governing documents (with respect to the specific investor in question) in a manner that makes the terms applicable to such investors more favorable than those applicable to other investors (including, without limitation, with respect to fees). Side letters will not alter investor liquidity rights.

### **General**

As discussed generally above, Clients may incur brokerage and other transaction costs. Please see Item 12 ("Brokerage Practices") above for more information.

Clients do not pay fees in advance.

Neither Atalaya nor any of Atalaya's supervised persons accepts compensation for the sale of securities or other investment products.

## **Item 6**

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

As stated in Item 5 (“Fees and Compensation”) above, Atalaya or a General Partner may be entitled to receive a Carried Interest Distribution in respect of its management of an Atalaya Client, based upon such Atalaya Client’s aggregate Gains (as defined above), to the extent such Gains exceed a certain performance benchmark or hurdle specified in such Atalaya Client’s private placement memorandum (or the applicable governing agreements of an Atalaya Co-Investment or Atalaya Managed Account). With respect to certain Atalaya Funds, Atalaya or a General Partner is entitled to receive a Carried Interest Distribution after investors in such funds have received a return of their capital contribution plus a preferred rate of return, as specified in the governing documents of each such Atalaya Fund, as applicable. Atalaya is also generally entitled to tax distributions from the Atalaya Clients related to the Carried Interest Distributions.

The Carried Interest Distribution may create an incentive for the Firm to recommend to the Atalaya Clients investments that are riskier or more speculative than those which would be made under a different fee arrangement.

Further, because the fee structure (both with respect to amount and timing) varies among the different Clients, Atalaya could have an incentive to favor one Client over another based upon a potentially greater Management Fee or Carried Interest Distribution. The governing documents for each Client set forth specific procedures designed to ensure that each Client is treated fairly and to prevent this conflict from unduly influencing the allocation of investment opportunities. The potential for conflicts resulting from different fee structures among the Clients is further mitigated by Atalaya’s internal trade allocation policy, which addresses (and sets forth procedures designed to ensure) the fair allocation of investment opportunities with respect to all Clients.

With respect to the Telos CLOs, performance fees, net of compensation payable to ACT employees, operating expenses, reserves, or similar withholdings shall be received by Atalaya. These performance fees are generally based on cash available in each CLO on a distribution date after all other required distributions are made, and in certain cases, certain performance thresholds are met.

## **Item 7**

### **Types of Clients**

The Firm provides investment advisory services to the Clients, which consist of privately offered pooled investment vehicles that are exempt from registration under the Investment Company Act Sections 3(c)(1) and/or 3(c)(7), co-investment vehicles, collateralized loan obligation vehicles and separately managed accounts.

The Atalaya Funds are primarily marketed to institutional investors and high net worth individuals, and the Atalaya Funds limit investors to persons who meet the criteria for “qualified purchasers” as defined in the Investment Company Act, “accredited investors” as defined in the Securities Act of 1933 and “qualified clients” as defined in Rule 205-3 under the Advisers Act.

**Each Atalaya Fund imposes minimum investor qualification standards (as noted above) and minimum investment requirements.**

While the minimum investment in Atalaya Funds was \$5 million in respect of certain older Atalaya Funds, the Firm has increased this minimum investment to \$10 million with respect to certain Atalaya Funds; however, this minimum investment threshold may be waived on a case-by-case basis at the discretion of the General Partner of each Atalaya Fund. Certain Atalaya Funds may have materially lower minimum investment requirements.

Investors in the Atalaya Managed Accounts and Atalaya Co-Investments are primarily institutional investors and high net worth individuals. Minimum account size for opening or maintaining an Atalaya Managed Account or participating in an Atalaya Co-Investment is negotiable.

Telos CLOs are primarily marketed to institutional investors. Investors of the Telos CLOs will generally be subject to minimum investment amounts as described in each Telos CLO’s offering documents. These minimum investment amounts generally range between \$100,000 and \$250,000.

## **Item 8**

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

#### **Atalaya Clients**

The Firm's primary (but not exclusive) investment focus for the Atalaya Funds is the opportunistic purchase of loans from distressed or otherwise motivated sellers, as well as the origination of credit to small and mid-sized companies and/or credit secured by real estate, consumer finance, commercial finance or specialty finance related assets; provided, that, Atalaya may alter its investment focus in response to changing market conditions or other applicable factors. The Telos CLOs primary investment focus is to invest in broadly syndicated performing bank loans. The Firm utilizes a fundamental bottom-up process of identifying investment opportunities, beginning with proprietary sourcing efforts and utilizing an extensive network of industry contacts. The Firm's network helps Atalaya locate unadvertised, off-the-run potential investment opportunities (as well as more widely marketed opportunities that Atalaya believes may still represent attractive investment opportunities), and its investment professionals conduct extensive analysis and due diligence to determine which of these investment opportunities provides an investable risk/reward proposition. The diligence process carried out by the Firm's investment professionals may include, but is not limited to, analysis of publicly available information, forensic accounting, valuation work, on-site information gathering and analysis of company specific, sector specific, and general market trends. While the Firm focuses primarily (but not exclusively) on opportunistic loan purchases and the issuance of private credit, Atalaya reserves the right to utilize any investment strategy which it believes will serve the best interests of the Atalaya Clients, subject only to the restrictions and limitations (if any) set forth in the governing documents of the Atalaya Clients.

The Firm's investment program is speculative and entails substantial risks. Investing in loans, securities and other opportunistic credit and/or special situation transactions generally characteristic of the Firm's investment program, involves substantial risk of loss that Clients should be prepared to bear, including the risk of losing the entire investment. Certain of these risks are summarized below, provided that this summary is non-exhaustive and does not represent a complete discussion of potential risks. These risks are qualified in their entirety by those discussed in each Atalaya Clients' offering and governing documents. Prospective investors should read and consider carefully all of the risks related to investing in an Atalaya Client that are set forth in the applicable private placement memorandum or other offering documents, as well as the other matters (such as potential conflicts of interest) discussed therein.

#### **Risks**

*The following risk factors do not purport to be a complete list or explanation of the risks relating to Atalaya's services. A complete list of risks relating to an investment in a particular Atalaya Client is set forth in such Atalaya Client's offering memorandum.*

### **Credit and Debt Related Investments**

The Firm recommends primarily credit and debt related investments to the Clients. There are a number of risks involved with these types of loans and securities including general credit market risk, meaning that events which negatively impact the overall US and/or international credit markets could have a profoundly adverse impact on the value of certain credit and debt related investments held by the Clients. Furthermore, the Firm does not “hedge out” credit risk, effectively creating Client portfolios which are “long” the credit market and therefore “long” default and non-payment risk. The Clients’ investments also tend to be illiquid, with a small or non-existent readily available market for resale. Therefore, the market prices, if any, for such investments tend to be volatile and may not be readily ascertainable, and a Client may not be able to sell its investments when it desires to do so or to realize what it perceives to be fair value in the event of a sale.

### **Distressed Companies and Obligors**

The Firm will often recommend investments to the Clients in companies (or with respect to certain credit investments, with obligors) in a distressed or near-distressed financial condition. There are a multitude of risks inherent with these types of recommendations, including but not limited to bankruptcy, litigation and default. Furthermore, it may be difficult to obtain information as to the true condition of such companies or obligors. Such investments may also be adversely affected by laws relating to, among other things, fraudulent transfers and other voidable transfers or payments, lender liability, and the bankruptcy court’s power to disallow, reduce, subordinate or disenfranchise particular claims. Investments in such companies or loans to such obligors may be considered speculative, and the ability of such companies or obligors to pay their debts on schedule could be affected by adverse interest rate movements, changes in the general economic climate, economic factors affecting a particular industry or specific developments within such companies, or with respect to such obligors. In addition, there is no minimum credit standard that is a prerequisite to the Firm’s recommendation of any investment, and a significant portion (or all) of the obligations and securities which the Firm recommends may be less than investment grade.

### **Fraud**

Of paramount concern in lending (and in acquiring loans on the secondary market) is the possibility of material misrepresentation or omission or fraud on the part of the borrower or loan seller. Such inaccuracy or incompleteness may adversely affect the valuation of the collateral underlying the loans or may adversely affect the ability of the Clients to perfect or effectuate a lien on the collateral securing the loan. The Clients will rely upon the accuracy and completeness of representations made by borrowers or loan sellers to the extent reasonable, but cannot guarantee such accuracy or completeness. Under certain circumstances, payments to the Clients may be reclaimed if any such payment or distribution is later determined to have been a fraudulent conveyance or a preferential payment.

**Lending to High-Risk Borrowers**

In addition to lending to (or acquiring loans to) small businesses and startups, the Clients may make loans to (or acquire loans to) other high-risk borrowers, such as individuals with poor credit histories, low FICO (or other) credit scores or past legal troubles (including prior bankruptcy). While the Clients may receive a higher rate of return on such loans in light of the increased risk, such borrowers are generally more likely to default on a loan, which may lead to significant losses by the Clients.

**Bank Loans**

The Firm's investment strategy includes investments in 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 the Client holding such an investment to directly enforce its rights with respect to participations.

**Direct Lending**

In regards to the Firm's direct lending investments, of primary concern 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 the Firm to perfect or effectuate a lien on the collateral securing the loan. The Firm will rely upon the accuracy and completeness of representations made by borrowers to the extent reasonable, but cannot guarantee such accuracy or completeness. Clients may invest in loans to high risk borrowers, such as companies or individuals with limited or poor credit histories. The risk of default by such borrowers is high, and any such default may lead to a material loss to the Clients.

**Consumer and Specialty Finance**

Clients may invest in, or lend against, a variety of assets, including consumer loans or leases, mortgage loans, automobile loans, aircraft and aviation equipment, ships and maritime equipment, portfolios of accounts receivables relating to consumer loans, consumer leases, credit cards, installment loans and other unsecured products, healthcare loans and student loans. Clients may engage in other specialty finance transactions, such as marketplace lending, microfinance, merchant cash advance and small business lending. Consumer and specialty finance investments are illiquid and subject to many risks (which include credit risk and regulatory risk), including the risk that a Client could lose its entire investment. In some instances, there may be little to no chance of recovery of the Client's investment upon a borrower default.

**Lending Against or Leasing Equipment**

Clients may lend against or lease equipment, which may expose the Clients to considerable risk. In cases of a non-performing lessee or borrower, there are considerable costs associated with terminating leases and retrieving hard assets that can disrupt and reduce cash flow. These risks may be exacerbated in the

case of lessee bankruptcy. Further, it may be difficult to re-lease or sell retrieved equipment, depending on market conditions, especially if such equipment is outdated, or has been misused, or if the valuation of such equipment is ultimately proven inaccurate.

**Real Estate Risk**

Investing in real estate and real estate related instruments is subject to cyclicalities and other uncertainties. The Client's real estate related investments are subject to various risks, including risks incident to the ownership and development of residential and commercial real estate, credit, liquidity and interest rate risks, general economic conditions, developments or trends in a particular industry, valuation risk and structural risks, that can adversely affect the Client's assets and performance. In addition, there are various material risks related to bridge, transitional and construction real estate lending.

**No Assurance of Investment Return**

There can be no assurance that any Client will be able to generate returns for its investors or that the returns will be commensurate with the risks of investing in the type of investments in which such Client participates.

**Highly Competitive Market for Investment Opportunities**

The activity of identifying, completing and realizing attractive investments is highly competitive, and involves a high degree of uncertainty. There can be no assurance that a Client will be able to locate, consummate and exit investments that satisfy its rate of return objectives or realize upon their values or that it will be able to invest fully its committed capital.

**Limited Liquidity**

Many of the Firm's recommendations are made with the assumption that a considerable amount of time will pass before the investment provides a realizable gain to investors and the Firm. In certain instances, a Client may be forced to sell or exit an investment earlier than the Firm would recommend due to liquidity issues, Client dissolution, or other possible factors.

**Illiquid and Long-Term Investments**

Investment in a Client may require a long-term commitment with no certainty of return. Most of the Clients' investments will be highly illiquid, and there can be no assurance that a Client will be able to realize on such investments in a timely manner. Although certain investments may generate current income, the return of capital and the realization of gains, if any, from an investment may (on a case-by-case basis) occur only upon the partial or complete disposition or refinancing of such investment.

**Investments Longer than Term**

A Client may make investments which may not be advantageously disposed of prior to the date such Client will be dissolved, either by expiration of its term or otherwise. In addition, there can be no assurances

with respect to the time frame in which the winding up and the final distribution of proceeds to investors will occur.

### **Litigation**

Distressed credit investing and reorganizations, workouts and restructurings resulting from such activities can be contentious and adversarial. It is by no means unusual for participants to use the threat of, as well as actual, litigation as a negotiating technique. The expense of defending against claims by third parties and paying any amounts pursuant to settlements or judgments would generally be borne by the Client and would reduce net assets or could require investors to return to the applicable Client distributed capital and earnings.

### **Legal, Tax and Regulatory Risks**

Legal, tax and regulatory changes could occur during the term of a Client that may adversely affect such Client. There is a material risk that governmental or regulatory agencies may adopt burdensome laws (including tax laws) or regulations, or changes in law or regulation, or in the interpretation or enforcement thereof, which are specifically targeted at the private equity industry, the consumer finance industry or the specialty lending industry, or other changes that could adversely affect private equity firms (inclusive of those with a focus on credit opportunities and special situations investing) and the funds that they sponsor, including a Client.

### **No Market for Interests; Restrictions on Transfers**

The Interests in the Atalaya Funds have not been registered under the Securities Act of 1933, as amended ("Securities Act"), or applicable securities laws of any U.S. state or the securities laws of any other jurisdiction and, therefore, cannot be resold unless they are subsequently registered under the Securities Act and any other applicable securities laws or an exemption from such registration is available. There is no public market for the interests in the Atalaya Funds, and one is not expected to develop. An investor will not be permitted to directly or indirectly assign, sell, pledge, exchange or transfer any of its interests or any of its rights or obligations with respect to its interests without the prior written consent of the General Partner of the applicable Atalaya Fund, which consent may be given or withheld in accordance with the governing documents of the applicable Atalaya Fund, as applicable. Withdrawals from an Atalaya Fund are generally not permitted, and there may be little or no near-term cash flow available to investors as a result of owning interests in the Atalaya Funds, as applicable. Investors must be prepared to bear the risks of owning interests in the Atalaya Funds for an extended period of time.

### **Bankruptcy Claims**

Clients may invest in bankruptcy claims which are amounts owed to creditors of companies in financial difficulty. Bankruptcy claims are illiquid and generally do not pay interest, and there can be no guarantee that the debtor will ever be able to satisfy the obligation on the bankruptcy claim. The markets in bankruptcy claims are not generally regulated by federal securities laws or the SEC. Because bankruptcy claims are frequently unsecured, holders of such claims may have a lower priority in terms of payment



than certain other creditors in a bankruptcy proceeding. In addition, under certain circumstances, payments and distributions may be reclaimed if any such payment is later determined to have been a fraudulent conveyance or a preferential payment.

### **Peer-to-Peer and Marketplace Lending**

Peer-to-peer and marketplace lending allow individuals and, increasingly, institutional investors, to lend money to others via an online platform. The borrowers on such platforms are a wide range of individuals and businesses, and the Firm's ability to assess their creditworthiness may be limited. While lending on a peer-to-peer or marketplace platform can generate high returns, it is subject to many risks, including the risk that a Client could lose its entire investment if a borrower defaults or if the lending and/or loan servicing platform itself is no longer viable. In the event of a default, certain lending platforms offer lenders almost no chance of recovery. In addition, peer-to-peer and marketplace loans are relatively illiquid investments. In many cases it is difficult or impossible for the lender to get its money back before a loan matures, even absent a default. These lending models and systems are also subject to increasing regulatory risk, as several U.S. government agencies are examining the possibility of regulating them as well as the banks with which they often partner. Such regulations could result in increased compliance costs for these systems and a lessened ability for them to make loans on a cost effective basis, or could ultimately eliminate their ability to make such loans entirely. Any of these outcomes would reduce a Client's ability to earn profits in this area of the debt market and could lead to investment losses.

### **Merchant Cash Advances**

Clients may provide merchant cash advances in exchange for a share of a business' future sales and/or a fixed fee. The Client's remittances from the borrower will generally be drawn from the borrower's customer debit- and credit-card purchases until the advance is repaid. Such cash advances come with the additional risks associated with small business lending, which may lead to significant losses to the Client. Since the cash advances are technically sales of future assets, rather than direct loans or credit, when making such advances the Clients are currently not subject to state usury laws or any of the restrictions under The Dodd-Frank Wall Street Reform and Consumer Protection Act. However, there have been discussions of increasing regulation of merchant cash advances and other alternative lending. Any such increased regulation may have a material adverse effect on the Client by increasing the cost of executing merchant cash advances, or making the strategy economically unfeasible or unlawful.

### **Small Business Lending**

The Clients may make loans to small businesses and newly-formed "startup" companies. Lending to small businesses and startups presents unique risks. Small businesses and startups generally have limited borrowing and operating histories, making it more difficult to assess their creditworthiness. In addition, small businesses and startups may have fewer assets available to use as collateral, leaving the Partnership with little recourse in the event of default on the loan.

**Purchasing or Lending Against Litigation Claims**

Clients may purchase, or may make loans based on, anticipated future payments to be received as the result of favorably determined litigation, settlement, or mass tort claims. The results of pending litigation and/or settlements, are inherently uncertain. Purchasing or lending against pending litigation and/or settlements entails unique risks because there is no guarantee that the relevant litigation will be favorably determined or that the relevant case settlement will be upheld and consummated, and consequently that the Client's investment objective will be achieved. If the relevant litigation is determined (in a court or in an out-of-court settlement) in a manner that is adverse to the Client's interest, or if the relevant settlement is not approved or is overturned, the Client may lose some or all of its investment.

**Convertible Securities**

A convertible security may be subject to redemption at the option of the issuer at a price established in the convertible security's governing instrument. If a convertible security held by a Client is called for redemption, the Client will be required to permit the issuer to redeem the security, convert it into the underlying common stock or sell it to a third party. Any of these actions could have an adverse effect on the Client's ability to achieve its investment objective.

**Increased Regulation of Mortgage Servicing Rights ("MSRs") and Servicers**

MSRs are subject to numerous federal, state and local laws and regulations and may be subject to various judicial and administrative decisions. The expanding body of federal, state and local regulation may increase the cost for a Client's servicer to service the underlying mortgage loans which could adversely affect servicing results and the Client's returns. The servicing of residential mortgage loans is subject to extensive federal, state and local laws, regulations and administrative decisions. The volume of new or modified laws and regulations has increased in recent years and is likely to continue to increase. If implemented, these rules or other new laws and regulations affecting the mortgage servicing industry could increase the cost of servicing mortgage loans. On January 10, 2014, a set of new rules issued by the U.S. Consumer Financial Protection Bureau went into effect. The new rules may cause servicers, including a Client's servicer, to modify their servicing processes and procedures and to incur additional costs in connection therewith.

**Cybersecurity Breaches**

Clients and their service providers (including the Firm, administrators, prime brokers and custodians) are subject to risks associated with a breach in cybersecurity. Cybersecurity is a generic term used to describe the technology, processes and practices designed to protect networks, systems, computers, programs and data from cyber-attacks and hacking by other computer users, and to avoid the resulting damage and disruption of hardware and software systems, loss or corruption of data, and/or misappropriation of confidential information. In general, cyber-attacks are deliberate, but unintentional events may have similar effects. Cyber-attacks may cause losses to a Client or individual investors by interfering with the processing of investor transactions, affecting a Client's ability to calculate net asset value or impeding or sabotaging Client investment and/or asset management activity and trading. A Client may also incur

substantial costs as the result of a cybersecurity breach, including those associated with forensic analysis of the origin and scope of the breach, increased and upgraded cybersecurity, identity theft, unauthorized use of proprietary information, litigation, adverse investor reaction, the dissemination of confidential and proprietary information and reputational damage. Any such breach could expose both the Firm and Clients to civil liability as well as regulatory inquiry and/or action. Investors could be exposed to additional losses as a result of unauthorized use of their personal information. While the Firm has established business continuity plans and systems designed to prevent cyber-attacks, there are inherent limitations in such plans and systems, including the possibility that certain risks have not been identified.

#### **Lack of Diversification**

Certain Clients' portfolios may consist of only a limited number of investments. Those Clients would be far less diversified than most (or other) investment vehicles. Unfavorable performance of such concentrated investments may have a substantial adverse impact on the returns of such Clients. The concentrated focus of such Clients on a limited number of investments may cause its performance to be more volatile and result in its incurring greater losses during unprofitable periods as compared to a more diversified approach.

#### **COVID-19**

In December 2019, a novel strain of coronavirus (known as COVID-19) surfaced in Wuhan, China, which has resulted in the temporary closure of many corporate offices, retail stores, and manufacturing facilities across China and South Korea, among other affected countries. These closures have caused the disruption of manufacturing supply chains and local and global economies, the duration of which remains uncertain. As of March 2020, COVID-19 has spread across the world, which may result in additional market disruptions. The extent to which COVID-19 may negatively affect the operations of Atalaya and the performance of Atalaya Clients is difficult to predict. Any potential impact on such operations and performance will depend to a large extent on future developments and new information that may emerge regarding the duration and severity of COVID-19 and the actions taken by authorities and other entities to contain COVID-19 or treat its impact. These potential impacts, while uncertain, could adversely affect the performance of Atalaya Clients.

#### **General Economic and Market Conditions**

The success of certain Clients' activities will be affected by general economic and market conditions, such as interest rates, availability of credit, credit defaults, inflation rates, economic uncertainty, changes in laws (including laws relating to taxation of the Clients' investments), trade barriers, currency exchange controls, and national and international political circumstances (including wars, terrorist acts or security operations). These factors may affect the level and volatility of financial instruments' prices and the liquidity of the Clients' investments. Volatility or illiquidity could impair Clients' profitability or result in losses. Clients may maintain substantial positions that can be adversely affected by the level of volatility in the financial markets—the larger the positions, the greater the potential for loss.

## **Item 9**

### **Disciplinary Information**

On August 1, 2019, the New York State Attorney General's Office ("NYAG") and the New York Department of Financial Services ("NYDFS") filed a lawsuit ("Lawsuit") against Vision Property Management, LLC, ("Vision"). Atalaya previously provided capital, primarily in the form of loans, to subsidiaries of Vision for the sole purpose of acquiring residential properties and did so only after conducting thorough due diligence. Throughout its interactions with Vision, Atalaya relied on the advice of outside counsel in an attempt to ensure compliance with applicable law and regulation.

In the Lawsuit against Vision, which stemmed from a more than two-year investigation, the NYAG and the NYDFS claimed that Vision's business model was unlawful because Vision operated as an unlicensed mortgage lender, preyed on and made inadequate disclosures to its tenants, and failed to maintain or repair its properties, leaving consumers to bear the costs. They also claimed that Vision's practices were deceptive, unfair, and abusive under federal law, and deceptive, illegal, and fraudulent under New York law.

The NYAG and NYDFS also took the position, prior to filing suit against Vision, that by financing Vision's acquisition of certain properties, and through its relationship with Vision more generally, Atalaya was also responsible for Vision's alleged misconduct. This position was taken notwithstanding that Vision was responsible for managing the properties it purchased, including those purchased using Atalaya's funds, and for doing so in accordance with all applicable laws, and Atalaya neither communicated with consumers or customers of Vision nor operated any portion of Vision's business.

On August 27, 2019, Atalaya reached an agreement with the NYAG and NYDFS, which resolved potential claims against Atalaya. As part of that agreement, Atalaya agreed to pay a fine of \$250,000 and restitution of approximately \$2.5 million to New York consumers, the state where Atalaya operates its principal place of business. No client of Atalaya bore any portion of the fine or restitution amount.

Further, the agreement, which did not require that Atalaya admit the NYAG and the NYDFS' allegations against it, was explicit that, in or around January 2017, when a series of news articles highlighted concerns regarding Vision's business model and the conditions of certain properties, Atalaya immediately pulled back from, and shortly thereafter fully ceased funding, new Vision transactions.

## **Item 10**

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

Neither the Firm nor any individual management person is registered, or has an application pending to register, as a broker-dealer, representative of a broker-dealer, futures commission merchant, commodity pool operator, commodity trading advisor or associated person of a futures commission merchant commodity pool operator or commodity trading advisor.

As noted under Item 4 (“Advisory Business”) above, Atalaya is affiliated with related entities that serve as the general partners (previously defined individually as a “General Partner” and, collectively, as the “General Partners”) to the Atalaya Clients. Also as noted above in Item 4, ACT is a relying adviser of ACM and serves as collateral manager to the Telos CLOs. Atalaya serves as the investment manager to each of the Atalaya Clients. The General Partners and all of their respective employees and persons acting on their behalf are subject to the Firm’s supervision and control with respect to any investment advisory activities. Mr. Zinn serves as the Chief Investment Officer of the Firm and the managing member of each General Partner. Mr. Zinn is the principal owner of the Firm and the General Partners. The relationships by and among Atalaya and the General Partners do not, in and of themselves, create any material conflicts of interest affecting investors in the Atalaya Clients.

Other than its investment advisory activities (and ancillary activities, including, without limitation, those generating Additional Fees and in respect of unused portions of certain expense deposits, as described in Item 5 (“Fees and Compensation”) above and those involving loan or investment syndication activity to non-Client third parties), Atalaya currently does not engage in other financial industry activities or maintain other financial industry affiliations. The Firm does not generally recommend or select other investment advisers for its Clients; provided that it may do so on a case-by-case basis; but further provided that in any such instance, the Firm will not be compensated (whether directly or indirectly) by any such other investment adviser (except to the extent such compensation is appropriately disclosed in advance of the applicable investment).

In connection with the investment program for certain Atalaya Clients, the Firm will periodically cause the applicable Atalaya Client to enter into joint ventures with third parties, the terms of which may provide for fees (including incentive fees) to be paid to such third parties; provided that in any such instance, the Firm will not be compensated (whether directly or indirectly) by any such joint venture party; and further provided that the Firm will typically maintain a material degree of investment decision-making rights with respect to such joint venture.

Notwithstanding the foregoing, from time to time the Firm may receive compensation from co-investors, joint venture partners or other third parties in connection with certain non-advisory activities unrelated to the Firm’s activities on behalf of the Atalaya Clients. For example, the Firm or its related persons may occasionally receive compensation (i) for providing investment structuring, investment underwriting, or other related services, (ii) in connection with making one or more potential third parties aware of

investment or co-investment opportunities, or (iii) for making introductions involving third parties who are not Atalaya Clients. In these instances, neither the Firm nor its related persons provide any investment advisory recommendations to such third parties with respect to such particular transactions. In addition the Firm generally invests (either directly or through an affiliate) in each of the Atalaya Funds, Atalaya Managed Accounts or Atalaya Co-Investments (as a limited partner alongside other investors) and intends to invest in the equity of each Telos CLO launched after April 26, 2019.

From time to time Atalaya's Clients may enter into joint venture transactions or other arrangements with individuals or entities that have business relationships with Atalaya's employees. Employees are required to report any substantive personal interactions with joint venture partners and other individuals and entities with which Atalaya Clients are known to conduct business. Such interactions are subject to review by the Chief Compliance Officer, and Atalaya has implemented internal controls necessary to ensure that any actual or potential conflicts of interest do not exert an improper influence on Atalaya's investment advisory services to its Clients.

## Item 11

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

The Firm has adopted a Code of Ethics (the “Code”), which (i) describes the Firm’s fiduciary duties and responsibilities to its Clients and (ii) requires that the Firm’s employees act in the best interests of its Clients, act in good faith and in an ethical manner, avoid conflicts of interest with Clients to the extent reasonably possible, and identify and manage/mitigate conflicts of interest to the extent they arise. The Firm’s employees are also required to comply with applicable provisions of the federal securities laws and make prompt reports to the Firm or other appropriate party of any actual or suspected violations of such laws by Atalaya or its employees. In addition, the Code sets forth formal policies and procedures with respect to the personal securities trading activities of Atalaya’s employees. The Code generally prohibits employees from engaging in personal trading involving securities of issuers on the Firm’s restricted list (without prior approval from the Chief Compliance Officer) and requires employees to provide duplicate brokerage accounts statements to the Firm (directly or indirectly via software monitored by the Firm) and to report certain securities transactions on at least a quarterly basis. The Code also includes policies and procedures to prevent the misuse and disclosure of material nonpublic information (“insider trading”) and other confidential information as well as policies and procedures addressing conflicts of interest, outside activities of employees, gifts and business entertainment (including limitations and reporting requirements), and pre-clearance and reporting of political contributions. Atalaya will provide a complete copy of its Code to any investor upon request to the Firm’s Chief Compliance Officer, Drew Phillips, at [phillips@atalayacap.com](mailto:phillips@atalayacap.com).

From time to time, consistent with a Client’s investment objectives and subject to satisfaction of the policies and procedures set forth in the Code, the Client’s governing documents and applicable law, the Firm may recommend that a Client acquire or sell an investment in which the Firm, an Atalaya employee, or another Client has a pre-existing direct or indirect interest. A potential conflict of interest could arise from the fact that the Firm, the interested Atalaya employee or another Client could benefit from such a purchase or sale of the applicable investment by such Client. However, the Code is designed to identify and manage conflicts of interest to the extent they arise in connection with such principal or cross-trade transactions and ensure that the Firm fulfills its role as a fiduciary to each of the applicable Clients. Certain terms of the Clients’ governing documents (including, without limitation, applicable terms and conditions with respect to independent investor advisory committees) and the equity participation of Atalaya related persons in the Clients are designed to further mitigate such potential conflicts.

From time to time, the Firm creates co-investment vehicles (as previously defined, the Atalaya Co-Investments) through which Atalaya and one or more Atalaya Fund investors (and/or third parties) invest directly in a company or credit-related transaction. Occasionally, these co-investment vehicles are used to invest in a company or credit-related transaction that Atalaya has recommended to a Client. This occurs only (i) when any Client that has invested in the applicable company or credit-related transaction has

reached its applicable “threshold limit” (as determined per the below) regarding the amount of that investment such Client can hold in its portfolio or (ii) with respect to prospective investments that do not meet the investment objectives of any Atalaya Fund then open for new investment activity. For diversification and risk-management purposes, certain Atalaya Funds have a limit (set forth in the applicable governing documents of such Atalaya Funds) on the percentage of capital that may be invested in a single investment or issuer. In addition, Atalaya may also make a decision, based on its portfolio management and/or risk management discretion, not to cause such Atalaya Fund to invest up to its maximum permissible amount in such single investment or issuer.

Except as specifically set forth above (or as specifically approved by an Atalaya Client, or its applicable independent investor advisory committee), neither Atalaya nor any related person invests in the same securities that the Firm or any related person recommends to Clients.

Except as specifically set forth above (or as specifically approved by an Atalaya Client, or its applicable independent investor advisory committee), neither Atalaya, nor any related person, recommends securities to Clients, or buys or sells securities for Client accounts, at or around the same time Atalaya or such related person buys or sells securities for their own account.



## **Item 12**

### **Brokerage Practices**

Due to the nature of the their strategies, the transactions in which the Atalaya Funds, Atalaya Managed Accounts, and Atalaya Co-Investments engage do not typically require the use of broker-dealers, the Firm will occasionally utilize broker-dealers in respect of transactions for those clients (for example, a broker-dealer may be utilized to facilitate the purchase or sale of a portfolio of loans, assets or properties, or to source or arrange another type of investment opportunity). As a general matter, in such instances the broker-dealer will act in an advisory capacity to one of the transaction parties and as such, the applicable Client will generally not transact directly with the broker-dealer.

ACT has authority to select broker-dealers through which investments are placed for the Telos CLOs.

If applicable, when selecting brokers and dealers to effect portfolio transactions for one or more Clients, the Firm considers such factors as the ability of the broker or dealer to effect the transactions, the brokers' or dealers' facilities, reliability and financial responsibility and responsiveness. While Atalaya generally seeks the best combination of brokerage expenses and execution quality, the Firm need not solicit competitive bids and does not have an obligation to seek the lowest available commission cost. Accordingly, if Atalaya determines in good faith that the commissions charged by a broker are reasonable given the various other factors being considered, the relevant Client may pay commissions to such broker in an amount greater than the amount another broker might charge.

Atalaya does not engage in formal soft dollar arrangements with broker-dealers. However, ACT may from time to time receive research from broker-dealers who also provide execution services.

Atalaya does not consider Client referrals when selecting or recommending a broker-dealer.

Atalaya does not engage in directed brokerage.

#### **Aggregation of Trades**

Due to the nature of their strategies, ACM does not aggregate the purchase or sale of securities for Atalaya Funds, Atalaya Managed Accounts or Atalaya Co-Investments accounts. Notwithstanding the foregoing, there may be situations when more than one Atalaya Fund, Atalaya Managed Account, or Atalaya Co-Investment ultimately participates in a given investment, and Atalaya will apply its investment allocation policy to each such situation.

If ACT believes that the purchase or sale of a security or loan is in the best interest of more than one of the respective Telos CLOs, it may (but is not obligated to) aggregate the orders to be purchased or sold to seek favorable execution or lower brokerage commissions, to the extent permitted by applicable regulation or law. However, ACT is not required to bunch or aggregate orders of their respective personnel to the extent that portfolio management decisions are made separately or if ACT or its affiliates (as

applicable) determines it would not be consistent with its investment management duties to do so. Aggregation of orders under these circumstances should, on average, decrease the cost of execution.

Due to prevailing trading activity, it is frequently not possible to receive the same price or execution on the entire volume of securities purchased or sold. When this occurs, the various prices may, in ACT's sole discretion, be averaged and participating Telos CLOs will be charged or credited with the average price. In such cases, each Telos CLO that participates in the aggregated transaction will share transaction costs pro rata based upon each Telos CLO's participation in the transaction. Aggregation may advantage or disadvantage a Telos CLO, from time to time.

### **Allocation of Investment Opportunities**

Atalaya seeks to allocate investment opportunities in a manner that is fair and equitable and in the best interest of all Clients. Atalaya owes each Client a duty of loyalty and a duty to act in the Client's best interests. Accordingly, under no circumstances will Atalaya unfairly favor one Client over another (e.g., act in violation of its internal trade allocation policy).

#### *Atalaya Funds, Atalaya Managed Accounts and Atalaya Co-Investments*

In accordance with Atalaya's trade allocation policy, certain Clients will receive priority with respect to a given investment opportunity based on (i) the expected gross underwritten internal rate of return applicable to such investment, as determined by Atalaya (the "Expected IRR"), (ii) whether a Client is an Atalaya Fund (versus an Atalaya Managed Account or an Atalaya Co-Investment), (iii) whether Atalaya has discretionary investment authority with respect to such Client and (iv) in certain cases, the type (or characteristics) of an investment. The priority designation set forth in (i) above is largely due to the fact that Atalaya believes that the Expected IRR is generally indicative of the appropriateness of an investment for a given Client, in consideration of the specific Client's investment objectives, including, without limitation, return targets and risk tolerance. However, in accordance with Atalaya's trade allocation policy, the allocation of an investment opportunity may be adjusted based on relevant circumstances including, without limitation: investment objectives, strategies and restrictions; underwritten or projected returns and/or duration; portfolio and risk management strategies; tax (including tax efficiency), legal, regulatory and other considerations; asset levels and cash flow considerations; portfolio liquidity; timing and size of capital contributions and redemptions; market conditions; whether certain accounts would receive nominal or de minimis allocation amounts; portfolio concentration; participation in prior investments in the same issuer; liquidity considerations and portfolio management discretion, among others. The potential for conflicts resulting from different fee structures among the Clients is mitigated by Atalaya's trade allocation policy, which addresses (and sets forth procedures designed to ensure) the fair allocation of investment opportunities with respect to all Clients.

Certain Atalaya Funds are structured with onshore and offshore side-by-side fund vehicles. With respect to these structures, certain credit origination investments are initially entered into solely by the onshore

fund vehicle (due to tax considerations) and after a period of time, applicable pro rata interests in such investments may be sold from the onshore fund vehicle to the offshore fund vehicle, in order to give the latter exposure to the investment (“season and sell transactions”). Atalaya’s policies with respect to these types of transactions (including requiring a third party appraisal and independent investor advisory board approval) are designed to allocate these investment opportunities appropriately, while complying with certain applicable structuring guidelines and considerations.

While Atalaya may enter into such investments with the reasonable expectation that a portion of the investment may ultimately be sold from the onshore fund vehicle to the offshore fund vehicle after a period of time, subject to approval by the relevant independent investor advisory board, it is important to note that such season and sell transactions would not occur if not approved by the relevant independent investor advisory board, or if Atalaya otherwise determines that (for a variety of potential reasons) recommending such season and sell transactions is not in the best interest of both Clients at the time that the transaction is contemplated. Consequently, during the time that the investment is held solely by the onshore fund vehicle, the onshore fund vehicle assumes all downside risk, costs and expenses associated with such investment, including the risk that the investment will default and will result in a loss of invested capital, as well as the risk that the season and sell transaction, if recommended by Atalaya, will not be approved.

Additionally, to the extent that expenses allocable to Clients are incurred in connection with an originated loan expected to be recommended as a proposed season and sell transaction, and either Atalaya ultimately determines not to recommend a sale of a portion of the investment to the offshore fund vehicle, or the applicable season and sell transaction is not approved, such expenses will be borne solely by the onshore fund vehicle.

In circumstances other than the “season and sell” transactions described above, from time to time, one Atalaya Client may transact with another Atalaya Client or with a portfolio company held by another Atalaya Client, in each case conditioned upon Atalaya’s determination that such transaction is in the best interest of both Atalaya Clients and either (i) receipt of specific approval by each such Atalaya Client (or its applicable independent investor advisory committee) or (ii) compliance with the applicable offering documents of each such Atalaya Client.

### *Telos CLOs*

When a transaction is suitable for more than one Telos CLO, ACT will generally attempt to allocate purchase and sale opportunities on a fair and equitable basis over time among their respective CLOs. ACT may consider some or all of the following factors in making allocation decisions amongst Telos CLOs, investment objectives, policies or restrictions, risk tolerance, time horizon, tax sensitivity, desired capitalization range, nature and size of the Telos CLO, suitability, tolerance for portfolio turnover, availability of cash, account 'ramp-ups', or whether the respective Telos CLO is eligible to participate in a transaction pursuant to applicable compliance regulations in its governing documents.

Allocations are designed with a view towards ensuring that over time no Telos CLO (or group of Telos CLOs) will be systematically favored over any other Telos CLO (or group of Telos CLOs). Allocation methodologies may include "pro rata" (based on account, size or available capital for a particular investment strategy) or a "round robin" allocation (that is, rotating the Telos CLOs that do not participate in allocations due to the limited investment opportunities as described herein). In the event an order is only partially filled, ACT will generally attempt to allocate the position pro rata based upon the original allocation statement ("Pro Rata").

There are exceptions to this policy. For example, if the Pro Rata allocation results in a cash position that is different from the desired cash level, or if the position would be inconsistent with the investment objectives or governing documents of one or more Telos CLOs, ACT may deviate from the Pro Rata formula. ACT may also deviate from its policy in order to address liquidity concerns and other practical limitations associated with partial fills or small allocations by allocating to participating Telos CLOs a minimum number of shares or bonds (such as 1,000 shares or 1,000 bonds). Furthermore, ACT may adjust its Pro Rata allocation party where ACT personnel, in their reasonable discretion, believe a Pro Rata allocation is not appropriate or suitable for certain Telos CLOs.

Securities may not be allocated Pro Rata or otherwise as described above in the case of a transaction involving de-minimus amounts of loans or other securities such that normal allocations among Telos CLOs would be impracticable or result in a nonconforming allocation for one or more particular client (such as when securities only trade in larger blocks). In those cases, ACT personnel will use their best efforts to allocate amounts obtained from partial fills fairly.

## **Trade Errors**

### *Atalaya Funds, Atalaya Managed Accounts and Atalaya Co-Investments*

From time to time trade errors may occur with respect to transactions made on behalf of one or more of Atalaya Funds, Atalaya Managed Accounts and Atalaya Co-Investments. The applicable clients bear the costs of correcting these trade errors unless they are attributable to the gross negligence of ACM or its employees.

### *Telos CLOs*

ACT seeks to exercise due care in making and implementing investment decisions on behalf its clients. It is ACT's policy to seek to correct any trade error that may occur as soon after discovery as is reasonably practicable, consistent with the orderly disposition (and/or acquisition) of the securities in question. As a general matter, actual losses in a Telos CLO as a result of a trade error caused by ACT will be reimbursed by ACT; however, ACT does not compensate its clients for lost investment opportunities (such as its failure to take advantage of investment or market improvements) or trade errors that do not result from errors or omissions of ACT. Any gains in a Telos CLO as a result of a trade error caused by ACT will remain in the Telos CLO.

As a general matter, netting of gains and losses between Telos CLOs is not permissible. Netting of gains and losses for one Telos CLO may be permitted, however, in circumstances in which more than one transaction may be affected to correct one or more trade errors made as a result of a single (or related) investment decision(s). Netting of gains and losses may also be permitted in the circumstances in which multiple trade errors resulting from more than one investment decision occur in the same Telos CLO on the same day. It is ACT's policy that broker-dealers may not assume responsibility for trade error losses caused by ACT, and ACT does not enter into reciprocal arrangements between ACT and a broker with respect to the trade error in question (or any other trade) to encourage the broker to assume responsibility for such losses.

## **Item 13**

### **Review of Accounts**

#### ***Atalaya Funds, Atalaya Managed Accounts and Atalaya Co-Investment***

Ivan Q. Zinn, Atalaya's Chief Investment Officer, whether individually or along with one or more of the other Partners or senior personnel of the Firm, generally reviews approximately one-hundred percent (100%) of the investments in Atalaya Funds, Atalaya Managed Accounts and Atalaya Co-Investment portfolios on a monthly basis. Through periodic "asset management meetings", each investment is generally reviewed by Mr. Zinn (and/or other senior personnel of the Firm) on at least a monthly basis. Additionally, these same individuals continually review the portfolios on an informal basis. Due to the relatively low turnover and long holding periods for typical investments, more frequent formal review is conducted only as necessary. The Firm does not utilize any specific criteria to trigger a review of investments at this time; provided, that Atalaya does maintain a "watch list", which serves to identify certain investments for a heightened level of review at the periodic asset management meetings described above.

Within 120 days after the Firm's fiscal year-end, audited financial statements are delivered to each investor in the Atalaya Funds, Atalaya Managed Accounts and Atalaya Co-Investment vehicles. The audited financial statements are prepared in accordance with U.S. generally accepted accounting principles by an independent public accounting firm that is registered with the Public Company Accounting Oversight Board. The Firm also sends investors unaudited capital account statements for the Atalaya Funds, Atalaya Managed Accounts and Atalaya Co-Investment vehicles after each calendar quarter-end. Such quarterly reports will include the value of such investor's interest in the applicable Atalaya Fund, Atalaya Managed Account, and Atalaya Co-Investment vehicle, as determined based on the unaudited fair market value of the holdings in such fund, determined and set in accordance with the Firm's valuation policy.

#### ***Telos CLOs***

Ivan Q. Zinn, Atalaya's Chief Investment Officer, whether individually or along with other Partners of the Firm, or the Chief Investment Officer or senior portfolio management team of ACT, generally review one-hundred percent (100%) of the investments in the Telos CLOs. Through periodic meetings and ongoing portfolio credit analysis, investments in the Telos CLOs are monitored. This monitoring takes the form of both weekly reviews of the portfolio or more in-depth analysis when certain circumstances arise (ie defaults, or other credit concerns).

Investors in the Telos CLOs also receive periodic monthly and quarterly reports from the trustee of the respective Telos CLO. These reports generally include detailed information about each investment in the

respective Telos CLO such as position size, interest rate, market value, industry, cash flows, ratings, and various compliance tests related to the Telos CLO.

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

Atalaya's Clients are the pooled investment vehicles, co-investment vehicles, separately managed accounts (including "funds of one"), and collateralized loan obligations to which it provides investment advisory services. Atalaya does not receive any economic benefits from non-Clients for providing advisory services to its Clients. Atalaya does not compensate third parties for Client referrals.



## **Item 15**

### **Custody**

The Firm is deemed to have custody of Client assets by virtue of the General Partners acting as general partners for the Atalaya Funds. Therefore, the Firm is subject to Rule 206(4)-2 under the Advisers Act (the "Custody Rule"). The Firm does not have custody, for purposes of the Custody Rule, over the assets of the Telos CLOs.

In accordance with the Custody Rule, the Firm's Chief Financial Officer (the "CFO") is responsible for ensuring that the Atalaya Clients' securities, other than certain "privately offered securities," are held only with a qualified custodian. The Firm's CFO is also responsible for arranging for annual independent audits of the Atalaya Funds and certain co-investment vehicles by a major accounting firm and for obtaining audited financial statements prepared in accordance with United States Generally Accepted Accounting Principles. Atalaya arranges for the delivery of such audited financial statements to investors within 120 days of the Atalaya Funds' respective fiscal year ends. Pursuant to the Custody Rule, in the event Atalaya has custody of the assets of any Atalaya Managed Account for which audited financial statements are not provided, Atalaya will arrange for the qualified custodian to send quarterly account statements directly to such managed account.

## **Item 16**

### **Investment Discretion**

As noted in Item 4 (“Advisory Business”) above, Atalaya has discretionary authority to manage the assets of the Atalaya Funds. This authority is conveyed pursuant to: (i) the investor’s subscription agreement, (ii) the investment management agreement between Atalaya and each Atalaya Fund, and (iii) the governing documents in connection with each Atalaya Fund. Investment decisions for each Atalaya Fund are made in accordance with the investment objectives, guidelines, restrictions and limitations set forth in each Atalaya Fund’s private placement memorandum and governing documents.

Atalaya generally has discretionary authority to make all trading and investment decisions for the Atalaya Co-Investments, subject to any investment restrictions or limitations that an investor in an Atalaya Co-Investment may negotiate with Atalaya. With respect to the Atalaya Managed Accounts, either (i) Atalaya may have discretionary authority to make all trading and investment decisions for the Atalaya Managed Accounts, or (ii) Atalaya may have non-discretionary authority with respect to such Atalaya Managed Accounts, with investment recommendations being subject to the consent or approval of the managed account-holder. As a general matter, Atalaya Clients may be permitted to impose restrictions on investing in certain securities or transactions or types of securities or transactions in an Atalaya Co-Investment or Atalaya Managed Account.

Atalaya generally has discretionary authority to make all trading and investment decisions for the Telos CLOs, subject to any trading or investment restrictions that are outlined in the offering agreements of each collateralized loan obligation.

## **Item 17**

### **Voting Client Securities**

Atalaya has voting authority and responsibility with respect to securities held by the Atalaya Funds, and may have voting authority with respect to securities held by other Clients to the extent such authority is delegated to Atalaya in the Client's investment management agreement (or other applicable governing documents). In addition to proxy solicitations in connection with equity securities of traditional operating companies, proxy voting is also deemed to include any consent requested in matters such as bankruptcy or insolvency, covenant waivers in connection with debt, approvals regarding the restructuring of debt and other rights and remedies with respect to securities. All such decisions will be made in accordance with Atalaya's proxy voting policy adopted pursuant to Rule 206(4)-6 of the Advisers Act.

The Firm's policy is to vote proxies solely in the best interests of its Clients, in accordance with general fiduciary principles. Generally, Atalaya believes that management is best suited to make the decisions that are essential to the ongoing operation of the company. Therefore, the Firm will generally vote proxies in line with management on routine and administrative matters, unless the Firm has a particular reason to vote to the contrary. This general policy is not a predetermination, however, to vote in favor of management, as the Firm will review all applicable proxies in accordance with the general fiduciary principles noted above. Under certain circumstances when Atalaya believes that management's proposal is not designed to maximize value for its Clients, the Firm will vote against management. Particularly with respect to non-recurring or extraordinary matters, the Firm will vote on a case-by-case basis in accordance with the goals of achieving a Client's stated objectives. The Firm at times may determine that refraining from voting a proxy is in the Client's best interest, such as when the Firm's analysis of a particular proxy indicates that the cost of voting the proxy may exceed the expected benefit to the Client.

If an Atalaya employee becomes aware that a conflict (or potential conflict) exists between (or among) the interests of Atalaya and one or more of its Clients or between (or among) one or more of its Clients with respect to a proxy vote, the employee must bring the conflict to the attention of the Chief Compliance Officer who (in conjunction with senior management) will determine the appropriate course of action. If it is determined that a conflict of interest or potential conflict of interest is material, one or more methods may be used to resolve the conflict, including (i) disclosing the conflict to the Client and obtaining its consent before voting, (ii) engaging a third party to recommend a vote with respect to the proxy or (iii) such other method as is deemed appropriate under the circumstances.

Atalaya may retain a third party to assist it in coordinating and voting proxies with respect to Atalaya Client securities. If so, the Chief Compliance Officer will monitor the third party to assure that all proxies are being properly voted and appropriate records are being retained.

Clients may obtain information about how proxies were voted or a copy of the Firm's proxy voting policies by contacting the Firm's Chief Compliance Officer, Drew Phillips, at [phillips@atalayacap.com](mailto:phillips@atalayacap.com).

**Item 18**  
**Financial Information**

Atalaya does not require or solicit prepayment of more than \$1,200 in fees per Client, six months or more in advance.

Atalaya does not believe there are any financial conditions reasonably likely to impair its ability to meet contractual commitments to Clients.

Atalaya has not been the subject of a bankruptcy petition at any time during the past ten years.