

## **FIRM BROCHURE**

**NexPhase Capital, LP March 30, 2020**

**This investment adviser brochure (“Brochure”) provides information about the qualifications and business practices of NexPhase Capital, LP (collectively with its advisory affiliates, “NPC”).**

**If you have any questions about the contents of this Brochure, please contact us at (212) 878-6000 or e-mail: [agoldfarb@nexphase.com](mailto:agoldfarb@nexphase.com)**

**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. NPC is an investment adviser registered with the SEC under the Investment Advisers Act of 1940, as amended (the “Advisers Act”); however, such registration with the SEC does not imply a certain level of skill or training.**

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

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**Item 2.       Material Changes**

NPC filed its most recent Brochure on March 29, 2019. This annual amendment updates the descriptions of certain of the operations, terms and business practices of NPC and the NexPhase Funds (as defined herein).

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## **Item 4. Advisory Business**

### **A. General Description of Advisory Firm**

NPC is a New York, New York-based investment advisory firm organized as a limited partnership under the laws of the State of Delaware, founded in 2015, and principally owned by Kurt Larsen and Edward Yun. The investment activities are led by Messrs. Larsen and Yun, who, together with NPC's other partners, comprise the members of NPC's investment committee (the "Investment Committee"). A number of other investment professionals work with the Investment Committee to execute NPC's investment strategy.

NPC provides investment advisory services to investment funds privately offered to qualified investors in the United States and elsewhere, including NexPhase Capital Fund III, LP, NexPhase Capital Fund III-A, LP, NexPhase Capital Fund III-B, LP (collectively, "NPC Fund III"), NexPhase Capital Fund IV, LP, NexPhase Capital Fund IV-A, LP, NexPhase Capital Fund IV-B, LP (collectively, "NPC Fund IV") and any future funds established by NPC (collectively, the "NexPhase Funds" or "Funds"), and investment sub-advisory services to certain funds currently managed by Moelis Capital Partners LLC ("MCP") (collectively, the "Moelis Funds"). NPC reserves the right, from time to time, to also establish certain investment vehicles through which certain of its employees, officers, and independent contractors, certain business associates, certain investors in the Funds, or others (including persons close to the firm) can invest alongside one or more Funds in one or more investment opportunities. Such vehicles, referred to herein as "co-investment vehicles," generally are contractually required, as a condition of investment, to purchase and exit their investments in each investment opportunity at substantially the same time, and on substantially the same terms, as the applicable Fund that is invested in that investment opportunity.

The general partner of each NexPhase Fund (each an "NPC GP") is subject to the Advisers Act pursuant to NexPhase Capital, LP's registration in accordance with SEC guidance. This Brochure also describes the business practices of the NPC GPs, which operate as a single advisory business together with NexPhase Capital, LP.

NPC's business generally focuses on advising its clients in making private equity investments of between \$25 to \$75 million in middle market companies primarily in North America.

As used in this Brochure:

- "we," "us" and "our" refer to NPC and its investment advisory business;
- the "NexPhase Funds" or "Funds" refer to NexPhase Capital Fund III, LP, NexPhase Capital Fund III-A, LP, NexPhase Capital Fund III-B, LP, NexPhase Capital Fund IV, LP, NexPhase Capital Fund IV-A, LP, NexPhase Capital Fund IV-B, LP and any future private investment funds to which NPC provides investment advisory services;
- "NexPhase Clients" and "our clients" refer to the NexPhase Funds, and the sub-advised Moelis Funds;

- Unless otherwise indicated herein, the “general partners” refer to the respective general partners of the NexPhase Clients; and
- the “portfolio companies” refer to the portfolio companies owned by the NexPhase Clients.

## ***B. Description of Advisory Services***

We provide investment advice regarding the selection, monitoring and realization of each NexPhase Client’s investments. Generally, we provide assistance to the NexPhase Clients’ general partners with respect to strategic planning, identifying potential investments, screening and referring potential investments to NexPhase Clients, recommending strategies for exit from investments, executing the investments, monitoring the performance of investments, providing economic and investment analysis with respect to investments, and preparing valuations and reports in accordance with the relevant NexPhase Client’s Governing Documents (as defined below). We work with the portfolio companies directly and provide managerial, advisory, and administrative assistance to the portfolio companies under the direction of the NexPhase Clients’ general partner.

In addition to the full-time investment professionals of NPC, the NexPhase Clients engage the services of certain operating partners to work actively with NPC on sourcing and evaluating new transactions, as well as providing strategic insights related to portfolio company matters. While these advisers are from time to time referred to as “Operating Partners,” they are not partners or employees of NPC or any of its affiliates, but rather independent consultants engaged by NPC. The compensation of such individuals, including, but not limited to, transaction fees and other items detailed herein, for their provision of services to (or with respect to) certain portfolio companies is generally treated as an expense of the relevant NexPhase Client(s), and such compensation generally will not result in any reduction or additional offsets to any management fees payable by investors in the NexPhase Clients.

We also work with an independent executive advisory board (the “Executive Advisory Board”) consisting of senior operating professionals with relevant industry and c-suite operating expertise who advise NPC on trends and challenges within its targeted industries, help identify attractive investment opportunities, facilitate introductions to companies and managers, provide critical insight during due diligence and join portfolio company boards when appropriate. The compensation of members of the Executive Advisory Board, including, but not limited to, transaction fees and other items detailed herein, for their provision of services to (or with respect to) certain portfolio companies is generally treated as an expense of the relevant NexPhase Client(s), and such compensation generally will not result in any reduction or additional offsets to any management fees payable by investors in the NexPhase Clients.

The relationship between us, each NexPhase Fund and each of the other NexPhase Clients is governed by the Advisers Act as well as the Governing Documents of each NexPhase Fund and the terms of investment advisory or sub-advisory agreements concluded between us and each (or with respect to each) NexPhase Client. Investments in the NexPhase Funds are privately offered only to qualified investors, which typically include institutional investors (for example, public and private pension funds) and eligible high-net worth individuals.

The NexPhase Funds primarily participate in private equity and equity-related investments in companies operating in the middle-market with EBITDA typically up to \$30 million (although the ranges could be lesser or greater), including, for example, leveraged or management buyouts, recapitalizations, and minority equity investments.

The investment advice we provide to our clients is limited to private equity investment programs conducted by the NexPhase Funds, and other private equity investment programs for which we provide sub-advisory services, such as the Moelis Funds.

**C.     *Availability of Tailored Services for Individual Clients***

Our advisory services are tailored to the investment strategies of the NexPhase Clients and detailed in the relevant NexPhase Client's Governing Documents. Investment restrictions are imposed in the relevant Governing Documents for the NexPhase Clients and have in the past been and may in the future be specifically negotiated with investors. Investors in each NexPhase Client participate in the overall investment program for the applicable NexPhase Client, but may in certain circumstances be excused from a particular investment due to legal, regulatory or other agreed-upon circumstances pursuant to the relevant Governing Document.

**D.     *Client Assets Under Management***

As of December 31, 2019, NPC managed approximately \$1,252,460,342 of assets on a discretionary basis on behalf of our NexPhase Clients.

**Item 5.    Fees and Compensation**

**A.     *Advisory Fees and Compensation***

Management fees, performance fees and other fees we earn can be negotiated. The fees we charge are described in detail in the relevant private placement memoranda or other offering documents, limited partnership agreement (or analogous organizational document) of each NexPhase Client, separate investment and advisory, investment management or portfolio management agreements, or side letters with investors (collectively, the "Governing Documents"). Generally, we charge between a 1.5 and 2 percent management fee annually on aggregate capital commitments and/or aggregate capital contributions. "Carried interest" (*i.e.*, performance-based compensation) is assessed periodically according to the applicable Governing Documents, and in the discretion of the general partner or managing member of the applicable NexPhase Client. These fees are typically paid out of cash otherwise distributable to investors, such as the use of proceeds from a portfolio company by NexPhase Clients.

Please refer to the relevant NexPhase Fund or Moelis Fund Governing Documents for a complete description of our fees and charges for each specific investment.

**B.     *Collection of Fees***

The management fee is calculated as a percentage of committed capital during the commitment period and invested capital thereafter, in each case in accordance with the relevant Governing Documents. Management fees are paid by NexPhase Clients quarterly in advance on behalf of the

limited partners by (i) requiring limited partners to make capital contributions in respect of such fees, or (ii) withholding the amount of such fees from investment proceeds that would otherwise be distributable to the limited partners of the NexPhase Funds. Limited partners are generally not permitted to withdraw from the Funds as outlined in the Governing Documents. In the event of a “non-voluntary withdrawal,” we will refund all pre-paid fees that have not been earned.

NexPhase Funds are assessed a carried interest or performance fee that is paid to each Fund’s general partner. The carried interest is assessed periodically according to each Fund’s Governing Documents, typically after the receipt by the Fund of proceeds from a portfolio company, and is paid out of cash otherwise distributable to investors. See Item 6 for additional information on carried interest.

We reserve the right to waive or reduce management fees and/or carried interest for certain investors, including employees, our affiliates, advisors and consultants, “friends and family” of NPC or its personnel and other investors meeting certain qualification requirements based on commitment size or other strategic or relationship factors, as will be determined in our sole discretion.

### ***C. Other Fees and Expenses***

Other fees are borne by the NexPhase Funds and paid to us or to a NexPhase Fund’s general partner, managing member, or affiliates. These fees include finders, break-up or topping, monitoring, advisory, transactional, directors’, organizational, set-up, investment banking, underwriting, syndication and similar fees. These fees can be substantial and, as and to the extent provided in the relevant Governing Documents, are applied to reduce the applicable NexPhase Fund’s management fee. In certain circumstances, NPC expects that co-investors, lenders, consultants or other parties will negotiate the right to share a portion of such fees from a particular investment, and the above-described reduction will be applied after excluding any amounts paid to such persons. These potential fee arrangements are disclosed in relevant Governing Documents for each NexPhase Client. In general, the management fee reductions described above apply only with respect to the capital commitments of fee-paying investors.

Additionally, portfolio companies will typically reimburse NPC for approved expenses incurred by NPC in connection with its performance of services for such portfolio company, and such reimbursements are not applied to reduce or offset any management fee. In most circumstances, such compensation is not reviewed by an independent third party.

NPC contracts with Operating Partners and Executive Advisory Board members and generally will negotiate to pay them a set retainer and/or consulting fee which is generally treated as an expense of the relevant NexPhase Client(s) or portfolio company, as applicable, without any reduction or additional offset to any management fee. Operating Partners and Executive Advisory Board members also will receive additional compensation, including, but not limited to, cash fees, retainers (as described above), transaction fees, a profits or equity interest in a portfolio company, incentive equity and stock awards, profits or equity interests in one or more NexPhase Funds or general partners, remuneration from NPC and/or the Funds or affiliates, guaranteed minimums or other compensation, the amount of which is typically determined according to one or more methods, including the value of time (including an allocation for overhead and other fixed costs)

of such Operating Partners or Executive Advisory Board members, a percentage of the value of the portfolio company, the invested capital exposed to such portfolio company, amounts believed to be charged by other providers for comparable services and/or a percentage of cash flows of profits from such portfolio company. Furthermore, in the course of the performance of their services, Operating Partners and Executive Advisory Board members can contract directly with a portfolio company to provide additional consulting services, including joining the board of directors. No such compensation or expenses of the Operating Partners and Executive Advisory Board members will offset or reduce any management fees payable by investors in the NexPhase Clients.

Each NexPhase Fund must reimburse us and/or our affiliates for customary organizational and operating expenses, as the Governing Documents of each Fund more fully describe. As set forth more fully in the relevant Governing Documents, in addition, each NexPhase Fund will bear all fees, costs, liabilities, obligations and expenses relating to its (or its subsidiaries' or intermediate entities') activities, investments and business to the extent not borne or reimbursed by a portfolio company or potential portfolio company, including, without limitation, all fees, costs, expenses, liabilities, and obligations relating or attributable to:

- activities with respect to the origination, identifying and sourcing of investment opportunities for a Fund, including meeting with consultants, broker-dealers, investment banks and other sources of investments and developing an investment pipeline;
- activities with respect to the structuring, organizing, negotiating, consummating, financing, refinancing, diligencing (including any subscriptions to any periodicals, databases and/or research services), acquiring, bidding on, owning, managing, monitoring, operating, holding, hedging, restructuring, trading, taking public or private, selling, valuing, winding up, liquidating, dissolving or otherwise disposing of, as applicable, actual and potential investments (including follow-on investments) or seeking to do any of the foregoing (including any associated legal, financing, commitment, transaction or other fees and expenses payable to attorneys, accountants, tax professionals, investment bankers, lenders, expert networks, third-party diligence and deal sourcing software and service providers, consultants and similar professionals in connection therewith and any fees and expenses related to transactions that may have been offered to co-investors), whether or not any contemplated transaction or project is consummated and whether or not such activities are successful (subject to the limitations set forth in the Governing Documents);
- indebtedness of, or guarantees made by, a Fund, its general partner, NPC or any of their affiliates on behalf of such Fund (including any credit facility, letter of credit or similar credit support), including repayment of principal and interest with respect thereto, or seeking to put in place any such indebtedness or guarantee;
- financing, commitment, origination and similar fees and expenses;
- broker, dealer, underwriting (including both commissions and discounts), loan administration, private placement fees, sales commissions, investment banker,



- finder(including, but not limited to, any retainer fees and/or consulting fees paid to potential Operating Partners, Executive Advisory Board members and other portfolio company executives) and similar services;
- brokerage, sale, custodial, depository, trustee, record keeping, account and other administration fees;
  - reverse breakup, topping, termination and other similar fees;
  - filing, title, transfer, survey, registration and other similar fees and expenses;
  - printing, communications, mailing, courier, marketing and publicity;
  - the preparation, distribution or filing of a Fund's financial statements or other reports, tax returns, tax estimates, K-1's and other communications with investors any other administrative, compliance or regulatory filings or reports (including Form PF and Bureau of Economic Analysis Reports) or other information, including fees, costs and expenses of any third-party service providers and professionals related to the foregoing;
  - expenses associated with the reporting, filings or other ongoing compliance requirements contemplated by Directive 2011/61/EU of the European Parliament and of the Council dated June 8, 2011 on Alternative Investment Fund Managers (subject to the limitations set forth in the Governing Documents), or any similar law, rule or regulation and including any secondary legislation, regulations, rules and/or associated guidance, and any related requirements;
  - compliance with any financial account reporting regime, including the "Foreign Account Tax Compliance Act" or "FATCA", the OECD Standard for Automatic Exchange of Financial Account Information Common Reporting Standard and any similar laws, rules and regulations, and any fees, costs and expenses of any third-party service providers and professionals related to the foregoing;
  - developing, licensing, implementing, maintaining or upgrading any web portal, extranet tools, computer software (including accounting, investor reporting and ledger systems) or other administrative or reporting tools (including subscription-based services);
  - any activities with respect to protecting the confidential or non-public nature of any information or data, including Confidential Information (including costs and expenses incurred in connection with the Freedom of Information Act);
  - to the extent provided Governing Documents, activities or proceedings of a Fund's advisory board (including any costs and expenses incurred by representatives of the relevant general partner, the advisory board members, permitted observers and other persons in attending or otherwise participating in meetings of the advisory board);

- indemnification obligations (including legal and any other fees, costs and expenses incurred in connection with indemnifying any limited partner or other person pursuant to the Governing Documents) or otherwise and advancing fees, costs and expenses incurred by any such person in defense or settlement of any claim that may be subject to a right of indemnification pursuant to the Governing Documents;
- actual, threatened or otherwise anticipated litigation, mediation, arbitration or other dispute resolution process, including the costs and expenses of any discovery related thereto and any judgment, other award or settlement entered into in connection therewith;
- any annual limited partner meeting or other periodic meetings of a Fund's the limited partners, if any, any other conference, meeting or webcast with any limited partner(s) and any periodic executive forum of portfolio company management and other persons;
- legal, accounting, research, auditing, administration (including fees and expenses associated with compliance with any anti-money laundering laws and regulations and any third-party administrator and administration, tracking or reporting software, if any), information, appraisal, advisory, valuation (including third-party valuations, appraisals or pricing services), consulting (including consulting and retainer fees, salary and other compensation paid and benefits provided to the Operating Partners, consultants performing investment initiatives or providing services related to environmental, social and governance investment considerations and policies and other consultants), tax and other professional services;;
- any taxes, fees and other governmental charges levied against a Fund and all expenses incurred in connection with any tax audit, inquiry, investigation settlement or review of a Fund (subject to the limitations set forth in the Governing Documents);
- insurance (including directors and officers liability, management liability, cybersecurity, errors and omissions liability and general partnership liability premiums and other insurance) and regulatory and litigation expenses (and damages), including insurance and certain regulatory expenses of NPC, a Fund's general partner, and other affiliated entities (as defined in the relevant Fund's Governing Documents), and any consultants or other advisors utilized in the procurement, review and analysis of insurance policies;
- the termination, winding up or liquidation of a Fund and any legal entities owned directly or indirectly by a Fund, including portfolio companies and related entities;
- defaults by investors in the payment of any capital contributions;
- attendance of any member, manager, shareholder, partner, director, officer, employee or affiliates of a general partner or NPC at any business related conferences (including any applicable registration fees and exhibition, reasonable business-related sponsorship costs and expenses, other presentation fees, costs and expenses, related travel, lodging or meals);

- compliance with any law, rule, regulation, policy, directive or special measure (including in relation to privacy, data protection, know-your-customer, anti-money laundering, sanctions, anti-terrorism or environmental, social or governance considerations), including any legal, administrator, consulting or other third-party service provider fees, costs and expenses related thereto and any regulatory expenses of a Fund's general partner incurred in connection with the operation of such Fund;
- any litigation or governmental inquiry, investigation or proceeding, including any costs and expenses of discovery related thereto and the amount of any judgments, settlements or fines paid in connection therewith (subject to the limitations set forth in the Governing Documents);
- any third-party experts, including independent appraisers, engaged by a Fund's general partner in connection with a Fund considering, making, holding or disposing of, directly or indirectly, an investment in the same entity as one or more investment vehicles (other than such Fund) managed or controlled by such general partner or any of its affiliates;
- unreimbursed costs and expenses incurred in connection with any transfer, or proposed transfer, of a limited partner's interest in a Fund or any limited partner's name change, internal restructuring or change in registered agent or custodian;
- amendments to, and waivers, consents or approvals pursuant to, the Governing Documents of a NexPhase Fund and related entities, including NPC and such Fund's general partner and any alternative investment vehicle (including the preparation, distribution and implementation thereof) and any entities owned directly or indirectly by the a Fund (including portfolio companies);
- except as set forth in the Governing Documents, any fees, costs, expenses, liabilities or obligations relating to any alternative investment vehicle or its activities, business, portfolio companies or actual or potential investments (to the extent not borne or reimbursed by a portfolio company of such alternative investment vehicles) incurred in connection with the formation, management, operation, termination, winding up and dissolution of any alternative investment vehicles and any other costs and expenses related to any structuring or restructuring of a Fund and/or its affiliated entities to the extent permitted under the relevant Fund's Governing Documents;
- unreimbursed expenses and unpaid fees of the Executive Advisory Board, employees or other persons engaged by the Executive Advisory Board;
- compliance and regulatory matters (subject to the limitations set forth in the Governing Documents);
- distributions to a NexPhase Fund and other expenses associated with the acquisition, holding and disposition of a Fund's investments, including extraordinary expenses;

- any travel (including, subject to the limitations set forth in the Governing Documents, the cost of using or chartering private aircraft or other private air travel at a cost not to exceed the cost of corresponding first class commercial airfare, car or ride sharing services and other modes of transportation), lodging, meals or entertainment relating to any of the foregoing, including in connection with consummated and unconsummated investment and disposition opportunities;
- any organizational expenses of a Fund, its general partner or any affiliated investment vehicles;
- any private placement or finders' fees paid by a Fund to placement agents, finders or other third-parties performing similar services in connection with the organization or funding of such Fund and/or any affiliated investment vehicles (subject to the limitations set forth in the Governing Documents); and
- any other fees, costs, expenses, liabilities or obligations approved by a Fund's advisory board.

The Funds also bear expenses indirectly to the extent a portfolio company (or intermediate entity) pays expenses, including expenses of NPC and/or its affiliates. Generally included in the expenses permitted to be borne by a Fund are the fees, costs, expenses, liabilities and obligations of legal counsel, consultants and/or other service providers to procure, develop, establish, review, revise, customize, upgrade and/or negotiate relationships relating to the foregoing items, which generally are expected to be significant. Excluded from Fund expenses are ordinary administrative and overhead expenses of the general partners incurred in connection with maintaining and operating their respective offices (including salaries, rent and equipment expenses) to the extent not reimbursed by a portfolio company. In certain cases, these or similar expenses are expected to be charged to portfolio companies, capitalized into the cost basis of a transaction or, to the extent necessary or desirable for operational, administrative, tax or other reasons, charged at the level of an intermediate holding company between the relevant Fund and the portfolio company.

In cases where co-investors participate in an investment, such co-investors generally will bear their pro-rata share of any fees or expenses associated with such investment. In the event that a transaction in which a co-investment was planned, including a transaction for which a co-investment was believed necessary in order to consummate such transaction or would otherwise be beneficial, in the judgment of the relevant general partner, ultimately is not consummated, all Broken Deal Expenses relating to such proposed transaction will be borne by the relevant NexPhase Fund(s), and not by any potential co-investors who were to have participated in such transaction. However, to the extent that such co-investors have already invested in a co-invest or other vehicle in connection with such transaction, such vehicle is expected to bear its share of such Broken Deal Expenses. Accordingly, a Fund will, in most cases, only benefit from the management fee reduction described above with respect to its allocable portion on a fully diluted basis of any such fee or expenses and not the portion of any fee or expenses allocable to any other investor (e.g., co-investors) in a portfolio company. Such co-investors typically do not pay advisory fees or carried interest to NPC or affiliated entity.

Our clients will incur brokerage and other transaction costs, and a discussion of our brokerage practices may be found in Item 12 of this Brochure.

***D. Refunds for Fees Charged in Advance***

Investors in the Funds typically agree to commit a certain amount of capital to a Fund in advance of our performance of any investment advisory functions. Fees assessed against the Funds are paid to us, in advance, from these amounts as described above.

Upon termination of the investment advisory agreement with a NexPhase Fund, we will return to such Fund any paid but unearned portion of the management fee. In general, such fees are pro-rated from the date of termination to the end of the period to which the advance fee applied.

***E. Compensation for Sales of Securities***

Neither we nor our supervised persons accept compensation for the sale of securities or other investment products.

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

Funds are assessed a carried interest or other performance-based compensation that is paid to the Fund's general partner. "Carried interest" is typically measured as a percentage of the profits of a Fund, and is negotiated separately for each Fund. Investors in the NexPhase Funds will be subject to carried interest.

Performance-based compensation arrangements has the potential to create an incentive for us to recommend investments which are riskier than those which would be recommended under a different compensation arrangement, as we capture a set fraction of an investment's upside but do not suffer proportionately the downside of the investment. Additionally, to the extent that NPC has Funds with varying carried interest terms and/or NPC personnel are assigned varying percentages of carried interest from the NexPhase Funds, NPC and such personnel are subject to potential conflicts of interest, to the extent they are involved in identifying investment opportunities as appropriate for NexPhase Funds from which they are entitled to receive a higher carried interest percentage. We seek to address these conflicts through careful vetting of investment opportunities by our investment professionals, full disclosure of investments to limited partners by way of quarterly reports, as well as investment by a number of our investment professionals alongside NexPhase Funds, in an effort to align our interests with such NexPhase Funds.

Performance fee arrangements also create an incentive to favor higher fee paying accounts over other accounts in the allocation of time, services, or investment opportunities. We have implemented procedures to seek to prevent this potential conflict of interest from influencing the allocation of investment opportunities among or between our clients. Under no circumstances are we permitted to allocate investment opportunities based on anticipated compensation or profits to ourselves or any other affiliates or employees.

For further discussion regarding investment allocation, see Item 11.D.

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

We provide investment advice (including sub-advisory services to the Moelis Funds) solely to the NexPhase Clients, and references throughout this Brochure to “clients” and to NPC’s related duties to and practices on behalf of its clients and/or investors should be construed accordingly.

NexPhase Clients generally include alternative investment vehicles established from time to time in order to permit one or more investors to participate in one or more particular investment opportunities in a manner desirable for tax, regulatory or other reasons. Alternative investment vehicle sponsors generally have limited discretion to invest the assets of these vehicles independent of limitations or other procedures set forth in the organizational documents of such vehicles and the related NexPhase Client.

We offer interests in the NexPhase Funds only to qualified investors, typically institutional investors and eligible high-net worth individuals. We typically impose a minimum investment in connection with participating in a NexPhase Fund, often \$5 million, although this minimum may be waived at our discretion. On occasion, we will also offer investment opportunities to our qualified professional personnel, as well as other qualified institutions or individuals (for example, executives of present or former portfolio companies) with whom we have a pre-existing relationship.

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

### **A. *Methods of Analysis and Investment Strategies***

We seek to closely partner with entrepreneurial owners and/or management teams of portfolio companies to grow their companies.

We engage in a detailed due diligence process for each potential investment, including modeling short and long-term financial scenarios, company assessment, industry analysis, competitive benchmarking, evaluation of company management, risk assessment and transaction size, and pricing and structure analysis. The due diligence effort includes our investment professionals as well as Operating Partners and Executive Advisory Board members, legal, tax, insurance and accounting advisors and third-party consultants. In our analysis of potential investments, we primarily use information that a potential portfolio company provides to us as a result of our due diligence review. In certain circumstances we will also employ third-party advisors.

Investments made on behalf of NexPhase Clients involve significant risks, including the risk of losing the entire investment, and investors must be prepared to bear the risk of a total loss of their committed or invested capital. Please see Item 8.B. below for additional risks associated with such investment.

### **B. *Material Risks***

There can be no assurance that any investment will meet its investment objectives, or that an investor will receive a return of capital. In many cases, the success of our investment strategy will depend, in part, on our ability to restructure and effect improvements in the operations of the portfolio companies held by NexPhase Clients. Identifying and implementing potential operating

improvements involves a high degree of uncertainty, and there can be no assurance that we will be able to successfully identify and implement these improvements. The performance of prior investments made by NexPhase Clients is not indicative of any expected future results. The descriptions contained below are a brief overview of different market risks related to NPC's investment strategy; however, it is not intended to serve as an exhaustive list or a comprehensive description of all risks and conflicts that can arise in connection with the management and operations of NexPhase Clients.

### **Public Health Emergencies; COVID-19**

Pandemics and other widespread public health emergencies, including outbreaks of infectious diseases such as SARS, H1N1/09 flu, avian flu, ebola and the current outbreak of COVID-19 (as defined below), have and are resulting in market volatility and disruption, and future such emergencies have the potential to materially and adversely impact economic production and activity in ways that are impossible to predict, all of which may result in significant losses to a NexPhase Client(s).

Currently, there is an ongoing outbreak of a novel and highly contagious form of coronavirus ("COVID-19"), which the World Health Organization formally declared in March 2020 to constitute a global "pandemic." This outbreak has caused a worldwide public health emergency, straining healthcare resources and resulting in extensive and growing numbers of infections, hospitalizations and deaths. In an effort to contain COVID-19, national, regional and local governments, as well as private businesses and other organizations, have taken severely restrictive measures, including instituting local and regional quarantines, restricting travel (including closing certain international borders), prohibiting public activity (including "stay-at-home" and similar orders), and ordering the closure of large numbers of offices, businesses, schools, and other public venues. As a result, COVID-19 has significantly diminished global economic production and activity of all kinds and has contributed to both volatility and a severe decline in all financial markets. Among other things, these unprecedented developments have resulted in material reductions in demand across most categories of consumers and businesses, dislocation (or in some cases a complete halt) in the credit and capital markets, labor force and operational disruptions, slowing or complete idling of certain supply chains and manufacturing activity, and strain and uncertainty for businesses and households, with a particularly acute impact on industries dependent on travel and public accessibility, such as transportation, hospitality, tourism, retail, sports and entertainment.

The ultimate impact of COVID-19 — and the resulting precipitous decline in economic and commercial activity across several of the world's largest economies — on global economic conditions, and on the operations, financial condition and performance of any particular industry or business, is impossible to predict, although ongoing and potential additional materially adverse effects, including a further global or regional economic downturn (including a recession) of indeterminate duration and severity, are possible. The extent of COVID-19's impact will depend on many factors, including the ultimate duration and scope of the public health emergency and the restrictive countermeasures being undertaken, as well as the effectiveness of other governmental, legislative and financial and monetary policy interventions designed to mitigate the crisis and address its negative externalities, all of which are evolving rapidly and may have unpredictable results. Even if and as the spread of the COVID-19 virus itself is substantially contained, it will be

difficult to assess what the longer-term impacts of an extended period of unprecedented economic dislocation and disruption will be on future macro- and micro-economic developments, the health of certain industries and businesses, and commercial and consumer behavior.

The ongoing COVID-19 crisis and any other public health emergency could have a significant adverse impact and result in significant losses to a NexPhase Client. The extent of the impact on a NexPhase Client and its portfolio companies' operational and financial performance will depend on many factors, all of which are highly uncertain and cannot be predicted, and this impact may include significant reductions in revenue and growth, unexpected operational losses and liabilities, impairments to credit quality and reductions in the availability of capital. These same factors may limit the ability of NexPhase Clients to source, diligence and execute new investments and to manage, finance and exit investments in the future, and governmental mitigation actions may constrain or alter existing financial, legal and regulatory frameworks in ways that are adverse to the investment strategy a NexPhase Client intends to pursue, all of which could adversely affect a NexPhase Client's ability to fulfill its investment objectives. They may also impair the ability of portfolio companies or their counterparties to perform their respective obligations under debt instruments and other commercial agreements (including their ability to pay obligations as they become due), potentially leading to defaults with uncertain consequences. In addition, the operations of a NexPhase Client, its portfolio companies, its general partner and NPC may be significantly impacted, or even temporarily or permanently halted, as a result of government quarantine measures, restrictions on travel and movement, remote-working requirements and other factors related to a public health emergency, including its potential adverse impact on the health of any such entity's personnel. These measures may also hinder such entities' ability to conduct their affairs and activities as they normally would, including by impairing usual communication channels and methods, hampering the performance of administrative functions such as processing payments and invoices, and diminishing their ability to make accurate and timely projections of financial performance.

### **Financial Market Fluctuations**

General fluctuations in the market prices of securities and economic conditions may reduce the availability of attractive investment opportunities for NexPhase Clients and may affect the ability of NexPhase Clients to make investments and the value of the investments held by NexPhase Clients. Instability in the securities markets and economic conditions generally, may also increase the risks inherent in the investments of NexPhase Clients. The public securities markets have seen periods of increased volatility where the ability of companies to obtain financing for ongoing operations or expansions was severely hampered by the tightening of the credit markets and the ongoing financial turmoil. There may be repercussions if this market turmoil returns, including the effect of unknown governmental measures undertaken in response to such turmoil (whether regulatory or financial in nature) which may have a positive or negative effect on market conditions. There can be no assurance that the market will, at that time, retain its current liquidity and it might be volatile for the foreseeable future. The ability to realize investments depends not only on portfolio companies and their historical results and prospects, but also on political, market and economic conditions at the time of such realizations. In the past, many private equity funds have looked to the public securities markets as a potential exit strategy and there can be no assurance, particularly given the recent period of volatility in the financial markets and a potential lack of investor appetite for new issues in the public securities markets, that NexPhase Clients



would be able to exit from their investments in portfolio companies by listing their shares on securities exchanges. The trading market, if any, for the securities of any portfolio company may not be sufficiently liquid to enable a NexPhase Client to sell these securities when NPC believes it is most advantageous to do so, or without adversely affecting the stock price. Continued or renewed volatility in the financial sector may have a material adverse effect on the ability of NexPhase Clients to buy, sell and partially dispose of their portfolio company investments. NexPhase Clients would likely be adversely affected to the extent that they seek to dispose of any of their portfolio companies into an illiquid or volatile market, and a NexPhase Client may find itself unable to dispose of investments at prices that NPC believes reflect the fair value of such investments. The duration and ultimate effect of future market conditions and whether such conditions may worsen cannot be predicted. The ability of portfolio companies to refinance debt securities may depend on their ability to sell new securities in the public high yield debt market or otherwise.

### **Liquidity Risk**

A long-term commitment is required for investing in a NexPhase Client, as we do not generally sell the securities of portfolio companies for a number of years. In many cases these securities are not publicly traded. Consequently, any returns on the investments are paid to investors multiple years after they invest. A variety of factors, including national and international economic conditions, asset conditions, political and regulatory considerations, and public opinion, may impact each NexPhase Client's ability to buy or sell investments on favorable terms, if at all. Further, interests in the NexPhase Clients have not been registered under the Securities Act of 1933, as amended, or any other applicable securities laws and are not transferable except with the consent of the applicable general partner, which may be withheld by the applicable general partner in its sole discretion. There is no public market for interests of any NexPhase Client, nor is such a market expected to develop in the future. Investors in NexPhase Clients generally are not permitted to withdraw capital at any time. Consequently, investors in NexPhase Clients generally will not be able to liquidate their investments prior to the end of the term of the particular fund.

### **Leverage Risk**

In addition, investments made by NexPhase Clients are expected to include companies whose capital structures may have significant leverage. Asset-level leverage generally will not be subject to any limitations regarding the amount of time such leverage may remain outstanding. These investments are inherently more sensitive to declines in revenues and increases in expenses and interest rates; the use of leverage enhances the possibility of a significant loss in the value of an investment portfolio. Leverage often imposes restrictive financial and operating covenants on a company, in addition to the burden of debt service, and could potentially impair its ability to operate its business as desired and/or finance future operations and capital needs. Our ability to achieve attractive rates of return on investments will depend on our ability to access sufficient sources of indebtedness at attractive interest rates.

Further, if additional financing (including leverage) is needed for the capital requirements of a portfolio company, the availability of capital is a function of capital market conditions that are beyond our control.

To the extent a NexPhase Fund provides bridge financing to facilitate investments, it is possible that all or a portion of such bridge financing will not be recouped within the time period specified in the Governing Documents, in which case the investment would be treated as a permanent investment of the NexPhase Fund. As a result, the NexPhase Fund's portfolio could become more concentrated with respect to such investment than initially expected or otherwise provided for under the NexPhase Fund's investment limitations, certain of which exclude bridge financing investments.

### **Subscription Lines**

NexPhase Funds have in the past and expect to in the future enter into a subscription line with one or more lenders in order to finance its operations (including the acquisition of the NexPhase Fund's investments). Fund-level borrowing subjects limited partners to certain risks and costs. For example, because amounts borrowed under a subscription line typically are secured by pledges of the relevant general partner's right to call capital from the limited partners, limited partners may be obligated to contribute capital on an accelerated basis if the relevant NexPhase Fund fails to repay the amounts borrowed under a subscription line or experiences an event of default thereunder. Moreover, any limited partner claim against the relevant NexPhase Fund would likely be subordinate to such NexPhase Fund's obligations to a subscription line's creditors.

In addition, fund-level borrowing will result in incremental partnership expenses that will be borne by investors. These expenses typically include interest on the amounts borrowed, unused commitment fees on the committed but unfunded portion of a subscription line, an upfront fee for establishing a subscription line, and other one-time and recurring fees and/or expenses, as well as legal fees relating to the establishment and negotiation of the terms of the borrowing facility. Because a subscription line's interest rate is based in part on the creditworthiness of the relevant NexPhase Fund's limited partners and the terms of the Governing Documents, it may be higher than the interest rate a limited partner could obtain individually. To the extent a particular limited partner's cost of capital is lower than the NexPhase Fund's cost of borrowing, fund-level borrowing can negatively impact a limited partner's overall individual financial returns even if it increases the NexPhase Fund's reported net returns in certain methods of calculation. Conflicts of interest have the potential to arise in that the use of Fund-level borrowing typically delays the need for limited partners to make contributions to a Fund, which in certain circumstances enhances the relevant Fund's internal rate of return calculations and thereby may be deemed to benefit the marketing efforts of the general partner and its affiliates. Conflicts of interest also have the potential to arise to the extent that a subscription line is used to make an investment that is later sold in part to co-investors, as to the extent co-investors are not required to act as guarantors under the relevant facility or pay related costs or expenses, co-investors nevertheless stand to receive the benefit of the use of the subscription line and neither the relevant Fund nor investors generally will be compensated for providing the relevant guarantee(s) or being subject to the related costs, expenses and/or liabilities.

A credit agreement may contain other terms that restrict the activities of a NexPhase Fund and the limited partners or impose additional obligations on them. For example, a subscription line may impose restrictions on the relevant general partner's ability to consent to the transfer of a limited partner's interest in the NexPhase Fund. In addition, in order to secure a subscription line, the relevant general partner may request certain financial information and other documentation from

limited partners to share with lenders. The general partner will have significant discretion in negotiating the terms of any subscription line and may agree to terms that are not the most favorable to one or more limited partners.

Fund-level borrowing involves a number of additional risks. For example, drawing down on a subscription line allows the general partner to fund investments and pay partnership expenses without calling capital, potentially for extended periods of time. Calling a large amount of capital at once to repay the then-current amount outstanding under a subscription line could cause short-term liquidity concerns for limited partners that would not arise had the relevant general partner called smaller amounts of capital incrementally over time as needed by a NexPhase Fund. This risk would be heightened for a limited partner with commitments to other funds that employ similar borrowing strategies or with respect to other leveraged assets in its portfolio; a single market event could trigger simultaneous capital calls, requiring the limited partner to meet the accumulated, larger capital calls at the same time. A NexPhase Fund may also utilize Fund-level borrowing when the general partner expects to repay the amount outstanding through means other than limited partner capital, including as a bridge for equity or debt capital with respect to an investment. If the NexPhase Fund ultimately is unable to repay the borrowings through those other means, limited partners would end up with increased exposure to the underlying investment, which could result in greater losses.

### **Reliance on NPC**

Investors will not have the right to participate in the management of the NexPhase Funds or other clients or in decisions made by the general partners or us on their behalf. As a result, investors will have little control over their investments.

### **Default Risk**

If a limited partner of a NexPhase Client fails to pay any portion of its capital commitment when due, and the contributions made by non-defaulting limited partners and borrowings by such Fund are inadequate to cover the defaulted capital contribution, such Fund may be unable to pay its obligations when due, and its ability to execute its investment strategy or to otherwise continue operations may be impaired. As a result, a NexPhase Client may be subjected to significant penalties that could materially and adversely affect the returns to the limited partners (including non-defaulting limited partners). A default by a substantial number of limited partners would limit opportunities for investment diversification and would likely negatively affect such NexPhase Client's economic results.

### **Competitive Market for Investments**

We generally compete for investments with a number of other investors, including, without limitation, investment banks, commercial banks, private equity funds, specialized investment funds, hedge funds, corporate buyers and other financial institutions, some of which have greater financial resources, better brand recognition, more extensive development, marketing and service capabilities and a larger number of qualified managerial and technical personnel. As a result of this intense competition, we face the risk that we will not be able to locate suitable investment opportunities, acquire them for an appropriate level of consideration, or fully invest our committed

capital. However, regardless of the extent to which the commitments of the limited partners of a Fund are invested (or drawn down to be invested), the limited partners will be required to bear management fees through such Fund during the commitment period based on the entire amount of the limited partners' commitments to such Fund and other expenses as set forth in the Governing Documents.

### **Limited Access to Information**

Limited partners' rights to information regarding a Fund, the relevant general partner or NPC generally will be specified, and in many cases strictly limited, by the Governing Documents. In particular, it is anticipated that the general partner and its affiliates will obtain certain types of material information from or relating to a Fund's investments that will not be disclosed to limited partners because such disclosure is prohibited, including as a result of contractual, legal or similar obligations outside of NPC's control. Decisions by NPC or its affiliates to withhold information may have adverse consequences for limited partners in a variety of circumstances. For example, a limited partner that seeks to transfer its interest in a Fund may have difficulty in determining an appropriate price for such interest. Decisions to withhold information may also make it difficult for a limited partner to monitor NPC and its performance. Additionally, it is anticipated that limited partners that designate representatives to participate on a Fund's advisory board generally may, by virtue of such participation, have more or earlier information about a Fund and its investments in certain circumstances than other limited partners. Limited partners generally will bear the expenses of responding to disclosure requests, including in connection with state public records, similar freedom of information and other laws, whether or not the relevant Fund succeeds in asserting confidentiality for requested documents and other materials, and NPC reserves the right to withhold certain information from investors subject to such laws for reasons relating to NPC's public reputation, business strategy or other reasons.

### **Relationship with MCP**

NPC is a sub-advisor to the Moelis Funds, and maintains a material relationship with various MCP entities; and as such, we are subject to a number of actual and potential conflicts of interest. In seeking to address these conflicts across the various businesses, we implement certain policies and procedures that may reduce the positive synergies that we cultivate across these businesses. For example, we may come into possession of material nonpublic information with respect to issuers in which we may be considering making an investment, issuers that are MCP advisory clients as well as in connection with officerships or directorships of NPC personnel. We are prohibited from acting on any material nonpublic information and our material relationship with MCP may restrict our ability to invest in certain public companies.

### **Management Fee Payable Regardless of Performance**

NexPhase Clients will pay fees to us and bear significant expenses. These fees and expenses are expected to reduce actual returns to our investors. Most of the fees and expenses will be paid to us regardless of whether a NexPhase Client produces positive investment returns.

## **Concentration Risk**

A NexPhase Client will only participate in a limited number of investments (and may seek to make several investments in one industry or one industry segment within a short period of time) and, as a consequence, the aggregate returns of a NexPhase Client may be substantially adversely affected by the unfavorable performance of even a single investment, industry, or industry segment.

## **Lack of Control**

A NexPhase Client may hold meaningful minority stakes in privately held companies and in some cases may have limited minority projection rights. In addition, during the process of exiting investments, a NexPhase Client at times may hold minority equity stakes of any size such as might occur if portfolio companies are taken public. As is the case with minority holdings in general, such minority stakes that a NexPhase Client may hold will have neither the control characteristics of majority stakes nor the valuation premiums accorded majority or controlling stakes.

To the extent the NexPhase Client invests alongside third parties, such as institutional co-investors or private equity funds of other sponsors, or makes a minority investment, the relevant portfolio companies may be controlled or influenced by persons who have economic or business interests, investment or operational goals, tax strategies or other considerations that differ from or are inconsistent with those of the NexPhase Clients or their limited partners. Such third parties may be in a position to take action contrary to the NexPhase Client's business, tax or other interests, and the NexPhase Client may not be in a position to limit such contrary actions or otherwise protect the value of its investment. When taking non-control positions, a NexPhase Client generally will seek to negotiate certain negative controls and veto rights on major decisions, but there can be no assurance that a NexPhase Client will be able to control the timing or occurrence of an exit strategy for such portfolio companies in a manner that maximizes or protects value.

## **Legal Risk**

A NexPhase Client may make investments in companies that are experiencing financial difficulties which may never be overcome. These investments could, in certain circumstances, subject NexPhase Clients to certain potential legal liabilities that may exceed the value of a NexPhase Client's original investment in the company. For example, under certain circumstances, a lender who has inappropriately exercised control over the management and policies of a debtor may have its claims subordinated or disallowed or may be found liable for damages suffered by parties as a result of such actions. In addition, under certain circumstances, payments to and distributions by the applicable NexPhase Client may be reclaimed if any such payment or distribution is later determined to have been a "fraudulent conveyance."

## **Derivatives Transaction Risk**

The general partners may (but are not obligated to) endeavor to manage the relevant Fund's or any portfolio company's currency exposures, interest rate exposures or other exposures using hedging techniques where. The Funds may incur costs related to such hedging arrangements, which may be undertaken in exchange-traded or over-the-counter ("OTC") contexts, including futures, forwards, swaps, options and other instruments. There can be no assurance that adequate hedging arrangements will be available on an economically viable basis or that such hedging arrangements

will achieve the desired effect, and in some cases hedging arrangements may result in losses greater than if hedging had not been used.

In some cases, particularly in OTC contexts, hedging arrangements will subject the relevant Fund to the risk of a counterparty's inability or refusal to perform under a hedging contract, or the potential loss of assets held by a counterparty, custodian or intermediary in connection with such hedging. OTC contracts may expose a Fund to additional liquidity risks if such contracts cannot be adequately settled.

Certain hedging arrangements may create for the relevant general partner and/or one of its affiliates an obligation to register with the U.S. Commodity Futures Trading Commission ("CFTC") or other regulator or comply with an applicable exemption. Losses may result to the extent that the CFTC or other regulator imposes position limits or other regulatory requirements on such hedging arrangements, including under circumstances where the ability of a Fund or a portfolio company to hedge its exposures becomes limited by such requirements.

### **Foreign Transaction Risk**

A NexPhase Client may invest in portfolio companies that are organized or headquartered or have substantial sales or operations located outside the United States, its territories and possessions. Investments in such assets involve certain risks not typically associated with an investment in U.S. securities and instruments, including risks relating to: (i) currency exchange matters, such as fluctuations in the rate of exchange between the U.S. dollar and various non-U.S. currencies in which a NexPhase Client's non-U.S. investments are denominated (including risks associated with potential rapid fluctuation), and costs associated with conversion of investment principal and income from one currency to another; (ii) exposure to fluctuations in interest rates payable with respect to the instruments in which such NexPhase Client invests; (iii) differences in conventions relating to documentation, settlement, corporate action, stakeholder rights and other matters; (iv) differences between the U.S. and non-U.S. securities markets, including potential price volatility in and relative illiquidity of some non-U.S. securities markets; (v) the absence of uniform accounting, auditing and financial reporting standards, practices and disclosure requirements and less or more government supervision and regulation; (vi) certain economic, social and political risks, including potential exchange control regulations and restrictions on non-U.S. investment and repatriation of capital, nationalization of business enterprises, the risk of political, economic, governmental or social instability, including the risk of sovereign defaults, regulatory changes, the possibility of substantial rates of inflation and the possibility of expropriation or confiscatory taxation; (vii) the possible imposition of non-U.S. taxes on income and gains and gross sales or other proceeds recognized with respect to such securities or instruments; (viii) the application of complex U.S. and non-U.S. tax rules to cross-border investments; (ix) possible non-U.S. tax return filing requirements for the relevant NexPhase Client and/or its limited partners; (x) differing and potentially less well-developed or well-tested corporate laws regarding stakeholder rights, creditors' rights (including the rights of secured parties), fiduciary duties and the protection of investors; (xi) differences in the legal and regulatory environment or enhanced legal and regulatory compliance; (xii) political hostility to investments by foreign or private equity investors; and (xiii) less publicly available information.

## **Valuation Risk**

There are no readily ascertainable market prices for many types of illiquid investments which NexPhase Clients may hold. Portfolio valuation is subjective and imprecise and requires the use of techniques that are costly and time consuming. The general partner of each NexPhase Client will apply a methodology it determines to be appropriate based on accounting guidelines and the applicable nature, facts and circumstances of the relevant investment to determine the value of all such NexPhase Client's investments that are not readily marketable. There can be no assurance that the relevant general partner will have all the information necessary to make valuation decisions in respect of these investments, or that any information provided by third parties on which such decisions are based will be correct. The process of valuing securities for which reliable market quotations are not available is based on inherent uncertainties and the resulting values may differ from values that would have been determined had an active market existed for such securities and may differ from the prices at which such securities ultimately may be sold. Accordingly, the valuation decisions made by such general partner may cause it to ineffectively manage the relevant NexPhase Client's investment portfolios and risks, and may also affect the diversification and management of such NexPhase Client's portfolio of investments. Additionally, the exercise of discretion in valuation by the relevant general partner will give rise to potential conflicts of interest, including in connection with determining the amount and timing of distributions of carried interest and the calculation of Management Fees.

## **In-Kind Distributions**

Under normal circumstances, prior to the termination of the relevant NexPhase Client, such NexPhase Client intends to make distributions in cash or in marketable securities. However, it is possible that distributions of investments for which there is no readily available public market and/or which may be subject to substantial restrictions on sale or transfer may be made in-kind under certain circumstances (including liquidation of a NexPhase Client). It may be difficult for limited partners to liquidate the investments received at a price or within a time period that is determined thereby to be ideal, and significant administrative burden may be involved. After a distribution of investments is made, the recipients may decide to liquidate such investments within a short period of time, which could have an adverse impact on the price of such investments. Limited partners in receipt of a distributed investment will have no guidance from the relevant NexPhase Client or its general partner with respect to disposition of such investment (including timing of such disposition). The price at which such investments may be sold by such limited partners may be lower than the value of such investments determined pursuant to the Governing Documents, including the value used to determine the amount of carried interest accruing to the general partner with respect to such investment. In addition, the direct holding of certain investments may subject the holder to suit or taxes in jurisdictions in which such investments are located.

## **Credit Support**

NexPhase Clients may make contingent funding commitments to their portfolio companies and provide credit support for such obligations. Such credit support may take the form of a guaranty of a portfolio company's debt, a letter of credit, a pledge of a portion of commitments to a lender or other forms of promise to provide funding. Such funding commitments may be secured by an

assignment of the general partner's rights to draw down capital from the limited partners. It is possible that the limited partners will be required to acknowledge and consent to any such pledge and provide certain information and/or legal opinions as required by the lender. The general partner may be required to segregate unfunded commitments sufficient to satisfy the obligations of a NexPhase Client with respect to any such credit support. Utilization of the credit support will result in fees, expenses and interest costs to each NexPhase Client and it may result in an under-utilization of a NexPhase Client's capital.

### **Co-Investment Risk**

NexPhase Clients may invest alongside strategic, financial or other third-party co-investors. The ability of a NexPhase Client to achieve certain co-investment objectives assumes that such NexPhase Client will be able to negotiate and execute mutually acceptable terms and conditions in respect thereof. Such investments will involve additional risks which may not be present in investments which do not involve a co-investor, including the risk that a co-investor or co-investors may have interests contrary to the investment objective of such NexPhase Client or may default on their obligations.

### **Taxation Risk**

An investor is likely to face complicated tax analyses, and the tax treatment of an investment is subject to potential legislative, judicial or administrative change at all times. The U.S. federal income tax treatment of ownership of an interest in a NexPhase Client depends on determinations of fact and interpretations of complex provisions of U.S. federal income tax law for which no clear precedent or authority may be available. U.S. federal income tax rules are periodically reviewed by persons involved in the legislative process, the Internal Revenue Service and the U.S. Treasury Department, frequently resulting in revised interpretations of established concepts, statutory changes, revisions to regulations and other modifications and interpretations. The IRS pays close attention to the proper application of tax laws to partnerships, which is the legal structure of NexPhase Clients. The present U.S. federal income tax treatment of these investment vehicles may be modified by administrative, legislative or judicial interpretation at any time, and any such action may affect investments and commitments previously made.

### **Regulatory Risk**

The U.S. securities laws applicable to us and our operations are constantly under review by persons involved in the legislative process and by the SEC, resulting in revisions of regulations and revised interpretations of established concepts as well as statutory changes. These laws may be modified by legislative, judicial or administrative action at any time. For example, the Dodd- Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") made several sweeping changes to U.S. securities laws. These Dodd-Frank revisions to the U.S. securities laws and potential future revisions and interpretations could adversely affect the investors in NexPhase Clients, by, among other things, increasing compliance costs of our operations. Other jurisdictions are similarly reviewing their respective laws, regulations and policies with respect to private investment funds and their investment advisers and any changes may have an adverse effect on investors in NexPhase Clients.



We and our affiliates and personnel are subject to extensive regulation by the SEC and other federal and state agencies, including periodic inspections and examinations. Even if an investigation or proceeding does not result in a sanction against us or our personnel, or if the sanction imposed is small in monetary amount, the adverse publicity attendant to the investigation, proceeding or imposition of sanctions could harm our reputation and materially adversely impact our businesses and returns to investors.

In addition, the targeted industries in which NexPhase Clients seek to invest are highly regulated. The adoption of new laws or regulations, or changes in the interpretation of existing laws or regulations, could have a material adverse effect on portfolio companies and thus on the ability of each NexPhase Client to meet its investment objectives. Such changes could necessitate the creation of new business models and the restructuring of investments in order to meet regulatory requirements, which may be costly and/or time-consuming and may adversely affect the performance of such NexPhase Client.

No NexPhase Clients are currently registered, nor do any intend to register in the future, under the Investment Company Act of 1940, as amended, and the rules and regulations promulgated thereunder (the “Investment Company Act”), or similar laws of U.S. states and non-U.S. jurisdictions, and thus the registration requirements and restrictions of the Investment Company Act will not be applicable to NexPhase Clients. On the other hand, investors in NexPhase Clients will not be afforded the protections of the Investment Company Act.

Anti-money laundering, anti-boycott and economic and trade sanction laws and regulations in the United States and other jurisdictions may prevent NPC or the NexPhase Clients from entering into transactions with certain individuals or jurisdictions. The United States Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) and other governmental bodies administer and enforce laws, regulations and other pronouncements that establish economic and trade sanctions on behalf of the United States. Among other things, these sanctions may prohibit transactions with or the provision of services to, certain individuals or portfolio companies owned or operated by such persons, or located in jurisdictions identified from time to time by OFAC. Additionally, antitrust laws in the United States and other jurisdictions give broad discretion to the U.S. Federal Trade Commission, the United States Department of Justice and other U.S. and non-U.S. regulators and governmental bodies to challenge, impose conditions on or reject certain transactions. In certain circumstances, antitrust restrictions relating to one NexPhase Client’s acquisition of a portfolio company may preclude other NexPhase Clients from making an attractive acquisition or require one or more other NexPhase Clients to sell all or a portion of certain portfolio companies owned by them.

As a result of any of the foregoing, a NexPhase Client may be adversely affected because of NPC’s inability or unwillingness to participate in transactions that may violate such laws or regulations, or by remedies imposed by any regulators or governmental bodies. Any such laws or regulations may make it difficult or may prevent a NexPhase Client from pursuing investment opportunities, require the sale of part or all of certain portfolio companies on a timeline or in a manner deemed undesirable by NPC or may limit the ability of one or more portfolio companies from conducting their intended business in whole or in part. Consequently, there can be no assurance that any NexPhase Client will be able to participate in all potential investment opportunities that fall within its investment objectives.

## **Cybersecurity Risk**

Recent events have illustrated the ongoing cybersecurity risks to which operating companies are subject, particularly operating companies in historically vulnerable industries. To the extent that a portfolio company is subject to cyber-attack or other unauthorized access is gained to a portfolio company's systems, such portfolio company may be subject to substantial losses in the form of stolen, lost or corrupted (i) customer data or payment information; (ii) customer or portfolio company financial information; (iii) portfolio company software, contact lists or other databases; (iv) portfolio company proprietary information or trade secrets; or (v) other items. In certain events, a portfolio company's failure or deemed failure to address and mitigate cybersecurity risks may be the subject of civil litigation or regulatory or other action. Any of such circumstances could subject a portfolio company, or the relevant NexPhase Client, to substantial losses.

In addition, investment advisers, including NPC, must rely in part on digital and network technologies ("cyber networks") to maintain substantial computerized data about activities for client accounts and otherwise conduct their businesses. Such cyber networks might in some circumstances be subject to a variety of possible cybersecurity incidents or similar events that could potentially result in the inadvertent disclosure of confidential computerized data or client data to unintended parties, or the intentional misappropriation or destruction of data by malicious hackers seeking to compromise sensitive information, corrupt data, or cause operational disruption. Cyber-attacks might potentially be carried out by persons using techniques that could range from efforts to electronically circumvent network security or overwhelm websites to intelligence gathering and social engineering functions aimed at obtaining information necessary to gain access. NPC maintains policies and procedures on information technology security, it has certain technical and physical safeguards intended to protect the confidentiality of its internal data, and takes other reasonable precautions to limit the potential for cybersecurity incidents, and to protect data from inadvertent disclosure or wrongful misappropriation or destruction.

Nevertheless, despite reasonable precautions, the risk remains that cybersecurity incidents could potentially occur, and such incidents, in some circumstances, might result in unauthorized access to sensitive information about NPC or its clients or their investors, and/or cause damage to client accounts or NPC's activities for clients or their investors. NPC will seek to notify affected clients and investors of any known cybersecurity incident that may pose a substantial risk of exposing confidential personal data about such clients or investors to unintended parties.

## **Privacy and Data Protection Law Compliance Risk**

The adoption, interpretation and application of consumer protection, data protection and/or privacy laws and regulations ("Privacy Laws") in the United States, Europe and elsewhere could significantly impact current and planned privacy and information security related practices, the collection, use, sharing, retention and safeguarding of personal data and current and planned business activities of NPC, the general partner, the Funds and/or their portfolio companies, and increase compliance costs and require the dedication of additional time and resources to compliance for such entities. A failure to comply with such Privacy Laws by any such entity or their service providers could result in fines, sanctions or other penalties, which could materially and adversely affect the results of operations and overall business, as well as have a negative impact on reputation and Fund performance. As Privacy Laws are implemented, interpreted and

applied, compliance costs for the NPC, the general partners, the Funds and/or their portfolio companies, are likely to increase, particularly in the context of ensuring that adequate data protection and data transfer mechanisms are in place.

For example, California has passed the California Consumer Privacy Act of 2018, and the EU has enacted the General Data Protection Regulation (EU 2016/679), each of which broadly impacts businesses that handle various types of personal data, potentially including private fund managers and their funds and investments. Such laws impose stringent legal and operational obligations on regulated businesses, as well as the potential for significant penalties.

### ***C. Particular Securities***

We do not specialize in investments in a particular type of security or industry sector. We do seek to target investments in industry verticals where we have extensive experience and where we believe we have competitive advantages, including consumer, healthcare, software and industrial services.

## **Item 9. Disciplinary Information**

There are no legal or disciplinary matters required to be discussed in this Brochure or that would be material to a client's or investor's or prospective client's or investor's evaluation of our advisory business or the integrity of our management.

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

### ***A. Broker-Dealers***

We are not registered, and do not have an application pending to register, as a broker-dealer.

### ***B. Futures and Commodity Trading***

Neither we nor any of our management persons are registered, or have an application pending to register, as a futures commission merchant, commodity pool operator, a commodity trading advisor, or an associated person of the foregoing types of entities.

### ***C. Material Relationships***

The NPC founders and all of our employees were previously employed by MCP or by Moelis Asset Management ("MAM"), which wholly-owns MCP, and is controlled by Kenneth Moelis. Certain transfer and separation agreements were executed by MCP and NexPhase Holdings LLC ("NPH"), whereby ownership of NPH transferred to Messrs. Larsen and Yun on January 1, 2016, at which time, NPH, and by extension, NPC, became an independent company. Subsequent to this separation, certain material relationships between the two firms still remain, which include, but are not limited to the following:

- NPC maintains a strategic relationship with MAM. The relationship entitles MAM to certain rights related to the first two NexPhase Funds created by NPC, including, economic participation in the carried interest of the Fund(s) (and similar rights for

serving as an anchor investor in future Funds). Neither MCP nor any other investor will be involved in the day-to-day operations of NPC nor do they have authority to direct the operations of the Funds.

- Per the terms of a subcontractor agreement between MAM, MCP, NPH, NPC and Messrs. Larsen and Yun, the parties agreed that NPH/NPC will provide investment management, management, administrative and operations services to MCP in respect of the Moelis Funds until the final liquidation of the Moelis Funds.
- MAM has agreed to become a limited partner in the first two NexPhase Funds (the “MAM Commitment”), and MAM will have the right, but not the obligation, to invest in subsequent NexPhase Funds. The MAM Commitment will not be charged a carried interest or a management fee.
- MAM received to certain fixed payments upon the closing of NPC Fund III and is entitled to certain fixed payments in connection with the closing of NPC Fund IV. MAM will also receive variable payments based on qualified commitments, and a percentage of carried interest distributions from NPC Fund III and NPC Fund IV.
- NPC will not be entitled to any portion of carried interest from the Moelis Funds.
- NPH has signed an agreement with Moelis & Company LLC (“M&C”), a registered broker-dealer controlled by Moelis & Company, a public company listed on the New York Stock Exchange whose controlling shareholder is Kenneth Moelis. Under the terms of the agreement, NPH/NPC will pay M&C a significant annual retainer (the “Retainer”) during the investment period of the NexPhase Funds as consideration for providing access to its investment bankers for investment ideas and due diligence assistance as well as other financial advisory services. All mergers and acquisitions transaction, advisory or other similar fees paid to M&C by the NexPhase Clients shall be credited in part against the accrued Retainer, subject to the terms of the agreement with M&C. M&C will also have the right to act as a financial co-advisor and/or placement agent to raise capital for the first NexPhase Fund.

We or the NPC GPs will be responsible for all decisions regarding portfolio transactions and will have full discretion over the management of the NexPhase Funds’ investment activities. The NPC GPs will be subject to the Advisers Act pursuant to NexPhase Capital LP’s registration in accordance with SEC guidance, and, accordingly, all of their investment advisory activities are subject to the Advisers Act. The NPC GPs operate as a single advisory business and generally share common owners, officers, partners employees, consultants or persons occupying similar positions. Employees, and persons acting on behalf, of the NPC GPs are subject to the supervision and control of NexPhase Capital, LP. Thus, the general partners, all of their respective employees and the persons acting on their behalf are subject to the restrictions of the Advisers Act.

#### ***D. Other Investment Advisers***

We do not recommend or select other investment advisers for our clients.

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

**A. Code of Ethics**

We have established a code of ethics (the “Code of Ethics”), which consists of policies and procedures reasonably designed to ensure compliance by us and our personnel with the Advisers Act, and to reflect our fiduciary duties to our clients. To comply with NPC’s fiduciary duties, NPC and/or its personnel are not permitted to benefit at the expense of clients. To that end, our employees must, at a minimum:

- Place the interests of our clients above any personal interests and refrain from taking for their own advantage an opportunity that rightfully belongs to our clients;
- Keep all investment-related information that is non-public information relating to a portfolio company or client confidential;
- Refrain from, directly or indirectly, purchasing or selling any security while NPC or such employee is in possession of material, non-public information regarding such security, whether or not such information was obtained in the course of employment at NPC in breach of a duty of confidence;
- Refrain from giving or accepting gifts or other benefits where a gift may be regarded as an inducement to the recipient to act contrary to his/her duties to us or our clients;
- Conduct all personal securities transactions in a manner consistent with the Code of Ethics (including pre-clearance of certain transactions and reporting of transactions);
- Refrain from competing directly or indirectly with us or our affiliates or using corporate property, information or position for personal gain;
- Report any violation of the Code of Ethics to our Chief Compliance Officer; and
- Acknowledge the terms of our Code of Ethics annually.

The Code of Ethics also provides guidelines on avoiding potential conflicts of interest that might arise in the management of client investment programs where the MCP broker-dealer or its affiliated broker-dealers may have played a role, among other provisions. Personnel who violate the Code of Ethics may be subject to remedial actions, potentially up to, and including, termination of employment.

Clients, investors and prospective clients and investors may request a copy of our Code of Ethics by contacting Andrew Goldfarb, Chief Compliance Officer, by e-mail at [agoldfarb@nexphase.com](mailto:agoldfarb@nexphase.com) or by telephone at 212-878-6006.

## ***B. Participation or Interest in Client Transactions***

We, our employees, and/or the applicable NPC GP will make a capital commitment either directly to each NexPhase Fund or indirectly through a co-investment vehicle. The purpose of this commitment is to align our interests with the limited partners of the NexPhase Funds. Generally, investments and disposals are made at substantially the same time and on substantially the same terms and conditions as the relevant NexPhase Fund. Details regarding the commitment for each NexPhase Fund can be found in its Governing Documents.

We provide ongoing portfolio management and investment advisory or sub-advisory services for NexPhase Clients and investment decisions are made by our Investment Committee. The Investment Committee is responsible for monitoring and managing each NexPhase Client's investment portfolio in accordance with its particular investment objectives, limitations and guidelines, and as set forth in its applicable Governing Documents. We also comply with restrictions provided in the applicable Governing Documents relating to principal transactions or other affiliated transactions, in which we or our personnel may have.

Principal transactions are generally defined as transactions where an adviser, acting as principal for its own account buys from or sells any security to any advisory client. An agency cross transaction is defined as a transaction where a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlled by or under common control with the investment adviser, acts as broker for both the advisory client and for another person on the other side of the transaction. Client cross transactions occur where an adviser executes a securities transaction between two (or more) of its managed client accounts. Cross transactions may benefit clients because they can avoid transaction fees that might otherwise apply had the buy and the sell transaction been exposed to potential market transaction fees.

However, they also can create conflicts of interest by not exposing such buy and sell transactions to market forces, so clients may not receive the benefits of best price, or an adviser might seek to prop up the performance of one fund by selling under-performing assets to another fund in order, for example, to earn higher fees in the aggregate. We do not practice this.

It is our policy not to execute any principal or agency cross securities transactions for client accounts unless our Investment Committee deems the transaction to be in the best interest of a particular client, such client (including, where permitted by the relevant Governing Documents, through such client's limited partner advisory board or equivalent body) and our Chief Compliance Officer give prior consent, and the transaction complies with SEC requirements.

The general partner of each NexPhase Client expects to, from time to time, receive fees or other payments in respect of investments completed by a NexPhase Client such as deal fees, monitoring fees or transaction fees. Such fees are not dependent on the performance of the investment, and may create a conflict of interest between us and our clients. To address this potential conflict, all or a portion of such fees generally offset the management fees paid to us by NexPhase Clients as further described in each client's relevant Governing Documents.

### ***C. Personal Trading***

Potential conflicts of interest arise when we or our employees invest on our own behalf in the same securities that we recommend to clients, or have another interest in a transaction that is, or may be, in conflict with the interest of a client. To seek to address these conflicts, we maintain specified procedures for managing or obtaining client consent for conflicts of interests, including obtaining consent for any conflict from an advisory committee comprised of investor representatives that is given the power to waive such conflicts after disclosure of material information related to the conflict.

Potential conflicts of interest will also arise where our investment professionals have (i) a material interest in a transaction to be entered into with or for a client; (ii) a relationship that gives or may give rise to a conflict of interest in relation to a transaction; or (iii) another interest in a transaction that is, or may be, in conflict with the interest of a client. In addition to the conflict waiver procedures described above, we have established internal procedures to identify and manage such conflicts. Pursuant to our Code of Ethics, each of our employees is required to submit to our Chief Compliance Officer a report of the employee's securities holdings (which must be updated annually), as well as provide to our Chief Compliance Officer a report of any personal securities transactions on a quarterly basis. In addition to these reports, our employees have an obligation to report any personal conflict of interest to our Chief Compliance Officer as such conflict becomes known. Our employees must obtain our Chief Compliance Officer's prior approval before buying or selling any covered security, including, but not limited to, stocks, bonds, puts, calls, options, and partnership or limited liability interests. In addition, our employees are prohibited from purchasing securities issued in an initial public offering or in a private placement of securities (including an investment in a NexPhase Client or investment vehicle established for qualified professional personnel), without obtaining pre-approval in writing from our Chief Compliance Officer.

To seek to prevent insider trading and other inappropriate forms of personal trading activities, we also maintain "restricted list" procedures. Under these procedures, our Chief Compliance Officer will place any securities of publicly-traded companies for which we can be deemed to possess material, non-public information on a "restricted list." Employees must report the receipt of any such information to the Chief Compliance Officer or his designee, and are strictly prohibited from trading in securities (including, without limitation, equity, debt or options) on the restricted list for their own account.

### ***D. Other Conflicts***

In connection with its investment activities, NPC can encounter situations in which it must determine how to allocate investment opportunities among various clients and other persons, which may include, but are not limited to, the following:

- The NexPhase Funds;
- Any vehicles that have been formed to invest side-by-side with one or more NexPhase Funds in all or particular transactions entered into by such NexPhase Fund(s) (the investors in such investment vehicles may include employees, business associates and

other “friends and family” of NPC or its personnel; individuals and entities that are also investors in one or more NexPhase Funds (“Adviser Investors”); and/or individuals and entities that are not investors in any NexPhase Funds (“Third Parties”));

- Adviser Investors and/or Third Parties that wish to make direct investments (*i.e.*, not through an investment vehicle) side-by-side with one or more NexPhase Funds in particular transactions entered into by such NexPhase Fund(s);
- Adviser Investors and/or Third Parties acting as “co-sponsors” with NPC with respect to a particular transaction; and
- The Moelis Funds.

In recognition of its fiduciary duties, it is the policy of NPC to exercise due care to seek to ensure that investment opportunities and transactions generally are allocated in a manner that it believes is fair and equitable among its clients over time. Except as required by the relevant Governing Documents, NPC is not obligated to recommend any investment to any particular investment vehicle.

The primary allocation principles for each NexPhase Fund are derived from the Governing Documents of such fund. In that regard:

- Parallel Vehicles or “Side-by-Side” Funds. When two or more NexPhase Funds are formed as part of the same investment program for the purpose of making the same investments (“Parallel Vehicles”), investments made by that investment program will be allocated among the Parallel Vehicles based on their relative capital commitments, subject to all limitations in the Governing Documents for each of the Parallel Vehicles.
- Predecessor/Successor Funds. Generally, a new NexPhase Fund will not begin investment activities until its predecessor NexPhase Fund has invested or committed a significant portion of its aggregate capital commitments. As a result, issues related to allocation of investment opportunities may arise when NPC begins investing a successor to an existing NexPhase Fund. In general, the Governing Documents will set forth rules and procedures for the allocation of investment opportunities among such NexPhase Funds.
- Moelis Funds and NexPhase Funds. In its role as sub-adviser to the Moelis Funds, NPC will manage existing investments of the Moelis Funds, and may in that capacity, make one more investment or add-on investments from existing capital for the Moelis Funds, but does not expect to be making large additional investments for the Moelis Funds.
- Co-investment and Qualified Professional Personnel. To the extent permitted under the Governing Documents, NPC reserves the right to permit qualified personnel and other investors to participate in an investment opportunity alongside the NexPhase Funds. In general, (i) subject to any rights negotiated in any side letter arrangements, no investor in a NexPhase Fund has a right to participate in any co-investment opportunity, (ii) decisions regarding whether and to whom to offer co-investment opportunities are



made in the sole discretion of NPC or its related persons, (iii) in the sole discretion of NPC or its related persons, co-investment opportunities are expected to be offered to some and not to other investors in the NexPhase Funds and certain investors are likely to receive multiple opportunities to co-invest while others expressing interest in co-investments have the potential to receive none, and (iv) NPC may contract with (or otherwise offer to) certain persons other than investors in the NexPhase Funds (*e.g.*, Third Parties) to provide such persons with the opportunity to evaluate specified amounts of prospective co-investments in NexPhase Client portfolio companies or otherwise to have priority in co-investment opportunities, in each case in the sole discretion of NPC or its related persons. Although a prospective co-investor's willingness to invest in future NexPhase Funds may be considered by NPC, it generally will not be the sole determining factor considered by NPC in identifying co-investors.

While NPC generally allocates its investments pro rata among related Funds, NPC will determine how to allocate investment opportunities using its reasonable judgment, considering such factors as it deems relevant, but in its sole discretion. NPC generally will determine the allocation of investment opportunities in a manner that it believes is fair and equitable to the NexPhase Clients under the circumstances over time and consistent with NPC's obligations and the primary allocation principles describe above and generally intends to take into consideration factors such as the following: the NexPhase Client's investment restrictions and objectives (including those set forth in the relevant NexPhase Client's Governing Documents, where applicable), strategy, risk profile, time horizon, tax sensitivity, tolerance for turnover, asset composition, diversification limitations, cash level (if any), applicable tax and regulatory considerations, life cycle, structure and other relevant factors. There can be no assurance that a NexPhase Fund's actual allocation of an investment opportunity, if any, or the terms on which that allocation is made will be as favorable as they would be if the conflicts of interest to which NPC may be subject, discussed herein, did not exist.

The appropriate allocation of expenses and fees generated in the course of evaluating and making investments which are not consummated, such as out-of-pocket fees associated with due diligence, broken-deal or topping fees, attorney fees and the fees of other professionals, will be determined by NPC and its affiliates in their discretion, in a manner they believe is fair and equitable to the NexPhase Clients under the circumstances over time and consistent with the Governing Documents of the NexPhase Funds, as applicable. There may be occasions when NPC pays an expense common to multiple NexPhase Clients (the "Allocated NexPhase Clients") (*e.g.*, legal expenses for a transaction in which such NexPhase Clients participate). On such occasions, each Allocated NexPhase Client will reimburse NPC for its share of such expense, without interest, promptly after the payment is made by NPC.

In exercising its discretion to allocate fees and expenses, NPC may be faced with a variety of potential conflicts of interest. For example, in allocating an investment opportunity among NexPhase Funds and Moelis Funds with differing fee, expense and compensation structures, NPC will have an incentive to allocate investment opportunities to the Funds from which NPC or its related persons may derive, directly or indirectly, a higher fee, compensation or other benefit. In addition, it may be difficult for NPC to determine whether a particular expense has a greater benefit to a NexPhase Client or NPC.

NPC manages a number of Funds that have investment objectives similar to each other. NPC reserves the right in the future to establish one or more additional investment Funds with investment objectives substantially similar to, or different from, those of the existing Funds. Allocation of available investment opportunities between a current NexPhase Fund and any such future NexPhase Fund could give rise to conflicts of interest. In addition, it is expected that employees of NPC responsible for managing a particular Fund will have responsibilities with respect to other Funds managed by NPC, including Funds that may be raised in the future. Conflicts of interest can arise in allocating time, services or functions of these officers and employees.

Investments to finance follow-on acquisitions can present conflicts of interest, including determination of the equity component and other terms of the new financing as well as the allocation of the investment opportunities in the case of follow-on acquisitions by one NexPhase Client in a portfolio company in which another NexPhase Client has previously invested. In addition, a NexPhase Client may participate in re-leveraging and recapitalization transactions involving portfolio companies in which another NexPhase Client has already invested or will invest. Conflicts of interest can arise, including determinations of whether existing investors are being cashed out at a price that is higher or lower than market value and whether new investors are paying too high or too low a price for the company or purchasing securities with terms that are more or less favorable than the prevailing market terms. Additionally, any decision by a Fund not to make add-on investments or its inability to make such investments may have a substantial negative impact on a portfolio company in need of such an investment (including an event of default under applicable debt documents in the event an equity cure cannot be made) or may result in a lost opportunity for such Fund to increase its participation in a successful operation.

In certain cases, NPC will have the opportunity (but, subject to any applicable restrictions or procedures in the relevant Governing Documents, no obligation) to identify one or more secondary transferees of interests in a NexPhase Fund. In such cases, NPC will not receive compensation for identifying such transferees, and will use its discretion to select such transferees based on suitability and other factors, and unless required by the relevant Governing Documents, will determine in its sole discretion whether the opportunity to receive a transfer of NexPhase Fund interests should be offered to one or more existing NexPhase Fund investors.

NPC generally is permitted, in its discretion, contract with any related person of NPC (including but not limited to a portfolio company of a NexPhase Client) to perform services for NPC in connection with its provision of services to NexPhase Clients. When engaging a related person to provide such services, NPC may have an incentive to recommend the related person even if another person may be more qualified to provide the applicable services and/or can provide such services at a lesser cost.

M&C can, directly or indirectly through one or more of its subsidiaries or affiliates, and subject to the requirements of the applicable Governing Documents and applicable law, including any consent requirements, enter into contracts on terms determined by NPC to be fair and equitable to the relevant NexPhase Client to perform financial, investment, advisory and consulting services for, and will in such cases receive customary compensation from, a NexPhase Client's portfolio company, a NexPhase Client or other parties in connection with transactions related to the NexPhase Client's investments or otherwise. Such compensation could include, without limitation, investment banking fees or fees in connection with restructurings and mergers and acquisitions.

As with any other service provider, compensation for these services will not be shared with such NexPhase Client or its limited partners.

M&C, directly or indirectly through one or more of its subsidiaries or affiliates, may provide services in the future beyond those currently contemplated herein, including commercial banking, brokerage, customer financing, asset-based financing, corporate finance, and commercial finance services, among others, and engage in private equity investment activities. In conducting the aforementioned activities, M&C will be acting for its own account or the accounts of its clients and will have no obligation to act in the interest of NexPhase Clients. In addition, the foregoing activities could create conflicts of interest for a NexPhase Client, which could have an adverse impact on such NexPhase Client's performance.

Because there is a fixed investment period after which capital from investors in the NexPhase Funds is only permitted to be drawn down in limited circumstances and because advisory fees are, at certain times during the life of the Funds, based upon capital invested by the Funds, this fee structure creates an incentive to deploy capital when NPC may not otherwise have done so.

A significant portion of our compensation is derived from "carried interest" (a performance fee), which creates an incentive for our managers to make riskier or more speculative investments than would be the case in the absence of this arrangement, although we believe our own commitment of capital to the NexPhase Funds may somewhat mitigate this incentive.

Investors may have conflicting investment, tax and other interests with respect to their investments. These conflicting interests of individual investors and of the different NexPhase Clients may relate to or arise from, among other things, the nature of investments made, the structuring or the acquisition of investments, and the timing of our exit strategy. As a consequence, conflicts of interest may arise in connection with our investment decisions, including with respect to the structuring of investments. In structuring, acquiring and disposing of investments, NPC generally will consider the investment, tax and other relevant objectives of the relevant Fund and its limited partners as a whole, not the investment, tax, or other objectives of any limited partner individually.

Because certain expenses are paid for by a NexPhase Client and/or its portfolio companies or, if incurred by NPC, are reimbursed by a NexPhase Client and/or its portfolio companies, NPC will not necessarily seek out the lowest cost options when incurring (or causing a NexPhase Client or its portfolio companies to incur) such expenses. Although NPC generally seeks appropriate rates for services, it reserves the right to prioritize prior usage, perceived sector competence or expertise, familiarity, onboarding speed or other factors in retaining or recommending service providers.

In addition, as described above, portfolio companies (and, to a lesser extent, the NexPhase Clients) typically pay certain compensation to Operating Partners, Executive Advisory Board members and other consultants (including consultants introduced or arranged by NPC and/or its affiliates that regularly provide services to one or more portfolio companies), and such compensation generally will not offset or reduce any management fees as described herein. Although the use of Operating Partners and Executive Advisory Board members and the allocation of compensation paid to them by NPC, its affiliates and/or the portfolio companies subject NPC and/or its affiliates to potential conflicts of interest, NPC believes that such potential conflicts may be reduced by the anticipated cost savings to portfolio companies (which is expected to be to the benefit of the applicable

NexPhase Client(s)) that is anticipated to result if the cost of the Operating Partner or Executive Advisory Board member is lower than market rates for the services provided and/or if the quality of the services of the Operating Partner or Executive Advisory Board member align with the portfolio NCP's model for the portfolio company and improve portfolio company performance. Although NPC seeks to retain Operating Partners and Executive Advisory Board members with a view to reducing costs to portfolio companies (and, ultimately, the NexPhase Clients) or improving portfolio company performance, a number of factors may result in limited or no cost savings from such retention. NPC also seeks to reduce potential conflicts of interest resulting from such arrangements by structuring compensation packages for such persons in a manner that NPC believes will align such persons' interests with those of the NexPhase Clients' limited partners.

As described in Item 5 above, NPC and its personnel and affiliates have in the past and expect in the future to perform related services for, and receive fees from, actual or prospective portfolio companies or other investment vehicles of the NexPhase Funds. Such fees will be in addition to any management fees or carried interest paid by the NexPhase Funds to NPC. Additionally, a portfolio company will reimburse NPC for expenses. This creates a conflict of interest between NPC and its affiliates and the NexPhase Funds and their investors because the amounts of these fees and reimbursements may be substantial and the NexPhase Funds and their investors generally do not have an interest in these fees and reimbursements. NPC determines the amount of these fees for related services and reimbursements in its own discretion, subject to agreements with sellers, buyers, and management teams, the board of directors of or lenders to portfolio companies, and/or third party co-investors in its transactions, and the amount of such fees and reimbursements may not (except in connection with the reductions described below) be disclosed to investors in the NexPhase Funds. NPC and its affiliates will in some circumstances offset the amount of management fees paid by the applicable NexPhase Fund in connection with the receipt of the applicable Fund's share of such fees. The amount and nature of this offset varies from Fund to Fund, and is set forth in the Governing Documents of the applicable fund. In certain circumstances, NPC expects that co-investors (such as entities through which NPC and certain employees and affiliates of NPC invest alongside the NexPhase Funds), lenders, consultants or other parties will negotiate the right to share in such fees, and such shared fees generally not offset or reduce any management fee.

Given the collaborative nature of NPC's business and the portfolio companies in which NexPhase Clients have invested, NPC expects to have an incentive to use or to recommend products or services of one portfolio company to another, which may involve fees, commissions, servicing payments or other compensation. Potential conflicts of interest arise in making such recommendations, as NPC expects to have an incentive to maintain goodwill between it and its former, existing and prospective portfolio companies, and as a result the products or services recommended may not necessarily be the best or lowest cost option. Discounted prices or better terms offered by a portfolio company to NPC, any other portfolio company or Third Parties may affect the returns of the portfolio company.

NPC has an incentive to recommend the products or services of certain investors in the NexPhase Clients, certain Third Parties, or their related businesses to the NexPhase Clients or their portfolio companies for use or purchase, even though the products or services recommended may not necessarily be the best available to the NexPhase Clients or the portfolio companies.

Portfolio companies controlled by a NexPhase Client may provide services to certain NexPhase Client investors. NPC has an incentive to cause the portfolio company to favor those investors relative to other portfolio company clients or customers in terms of pricing or otherwise, which could adversely affect the portfolio company's profitability to the NexPhase Client. Additionally, the portfolio company could recommend to its clients or customers that they invest in a NexPhase Client.

NPC and/or its affiliates reserve the right to engage in business opportunities arising from a NexPhase Client's investment in a portfolio company (for example, without limitation, entering into a joint venture with a portfolio company or making a proprietary investment in a portfolio company).

NPC has service providers, including for example, investment bankers, outside legal counsel and pension consultants, who may be investors in NexPhase Clients and/or who provide services to businesses that are competitors of NPC. NPC will a conflict of interest with the NexPhase Clients in recommending the retention or continuation of a service provider to a NexPhase Client or a portfolio company if such recommendation, for example, is motivated by a belief that the service provider will continue to invest in such NexPhase Client or will provide NPC information about markets and industries in which NPC operates or is interested or will provide other services that NPC believes are beneficial to NPC. There is a possibility that NPC, because of such belief or for other reasons, will favor such retention or continuation even if a better price and/or quality of service could be obtained from another person.

Certain members of a NexPhase Client's advisory committee are, or in the future may be, officers or directors of, or otherwise affiliated with, investors in another NexPhase Fund. The general partner of a NexPhase Fund reserves the right from time to time to utilize the services of investors and their affiliates on terms determined by NPC to be fair and equitable to the relevant NexPhase Client under the circumstances.

NPC Employees, Operating Partners or Executive Advisory Board members often serve as directors of portfolio companies. Employees are prohibited from receiving consulting, management or other fees personally from portfolio companies. In addition, employees of NPC may leave the employment of NPC or its affiliates and become an officer or employee of a portfolio company.

NPC has in the past and reserves the right in the future to enter into certain side letter arrangements with certain investors in a NexPhase Fund providing such investors with different or preferential rights or terms, including, but not limited to, different fee structures (including discounted or rebated compensation terms), information rights, specialized reporting, priority co-investment rights or targeted co-investment amounts, and liquidity or transfer rights. Side letters may also relate to strategic relationships under which an investor agrees to make capital commitments to multiple Funds. Except where required by the Governing Documents, other investors will not receive copies of side letters or related provisions, and as a general matter, the other investors have no recourse against a Fund, the relevant general partner or any of their affiliates in the event that certain investors have received additional and/or different rights and/or terms as a result of such side letters. As a consequence of one or more limited partners being excused or excluded, or from regulatory or other factors limiting their participation in investments, the aggregate returns realized

by participating limited partners could be adversely affected in a material manner by the unfavorable performance of particular investments.

NPC and the NexPhase Clients will generally engage common legal counsel and other advisers in a particular transaction, including a transaction in which there may be conflicts of interest. Members of the law firms engaged to represent the NexPhase Clients are permitted to be investors in a NexPhase Client, and may also represent one or more portfolio companies or investors in a NexPhase Client. In the event of a significant dispute or divergence of interest between NexPhase Clients, NPC and/or its affiliates, the parties may engage separate counsel in the sole discretion of NPC and its affiliates, and in litigation and other circumstances separate representation may be required. Additionally, NPC and the NexPhase Clients may engage other common service providers. In such circumstances, there may be a conflict of interest between NPC and the NexPhase Clients in determining whether to engage such service providers, including the possibility that NPC may favor the engagement or continued engagement of such persons if it receives a benefit from such service providers, such as lower fees, that it would not receive absent the engagement of such service provider by the NexPhase Clients.

NPC reserves the right to, in its discretion, have or cause NexPhase Clients and/or their portfolio companies to have, ongoing business dealings, arrangements or agreements with persons who are former employees or executives of NPC. NexPhase Clients, and/or their portfolio companies have in the past and expect in the future bear, directly or indirectly, the costs of such dealings, arrangements or agreements. In such circumstances, there can be a conflict of interest between NPC and NexPhase Clients (or their portfolio companies) in determining whether to engage in or to continue such dealings, arrangements or agreements, including the possibility that NPC will favor the engagement or continued engagement of such persons even if a better price and/or quality of service could be obtained from another person.

In certain circumstances, a NexPhase Client has in the past and may in the future invest in a pooled investment vehicle that is advised by, or that has another business or other relationship with, NPC or its related persons. In such a case, investors in such NexPhase Client will bear not only the direct management fees and other expenses associated with their investment in the NexPhase Client, but also the expenses and fees associated with the investment in the underlying pooled investment vehicle, some of which fees and expenses will be paid to NPC or its related persons. Additionally, the interests of the NexPhase Client, as an investor, can conflict with the interests of the underlying pooled investment vehicle or NPC or its related persons in their capacity as service providers to the underlying pooled investment vehicle, which would create a conflict of interest for NPC. To seek to address these conflicts of interest, consent of the advisory committee of the relevant NexPhase Fund or Moelis Fund is generally required prior to any such investment.

The Governing Documents of NexPhase Clients generally permit the general partner of each such client to cause such client to distribute such general partner's share of securities resulting from an investment disposition by such client to such general partner or its affiliates in kind, while disposing of limited partners' share of such securities and distributing the net cash proceeds of such sale of securities to the limited partners. This ability creates conflicts of interest between the general partners and the limited partners of the applicable NexPhase Client, because the general partner may have an incentive to cause the NexPhase Client to exit an investment at a time that may result in limited partners receiving a lesser return on such investment than would be the case

if the general partner was prohibited from receiving its proceeds from investments in kind (or was otherwise required to receive its share of investment proceeds in the same form as limited partners).

NPC reserves the right, from time to time, to establish certain investment vehicles through which certain employees of NPC or its affiliates, certain business associates, other “friends of the firm,” or other persons can invest alongside one or more NexPhase Funds in one or more investment opportunities. Such vehicles generally are contractually required, as a condition of investment, to purchase and sell each investment opportunity at substantially the same time, and on substantially the same terms, as the applicable NexPhase Fund that is invested in that investment opportunity. Such co-investment vehicles generally do not pay carried interest or management fees. Further, employees and related persons of NPC have, and are expected to continue to have, capital investments in prospective portfolio companies, directly or indirectly, as well as in investment vehicles (including private funds) sponsored by potential competitors, and therefore will have additional conflicting interests in connection with these investments.

In borrowing on behalf of a NexPhase Fund, NPC is subject to conflicts of interest between repaying its obligations and retaining such borrowed amounts for the benefit of the NexPhase Fund, and in circumstances where interest accrues on any such outstanding borrowings at a rate lower than the relevant NexPhase Fund’s preferred return, is expected to have incentives to cause the NexPhase Fund to borrow in this manner rather than drawing down capital commitments. Where a preferred return begins to accrue after capital contributions are due (regardless of when the NexPhase Fund borrows, makes the relevant investment or pays expenses) and ceases to accrue upon return of these capital contributions, the use of borrowing to shorten the period between calling and returning capital limits the amount of time the preferred return will accrue. In circumstances where there is not a preferred return on funds borrowed in advance or in lieu of calling capital, Fund-level borrowing typically will reduce the amount of preferred return to which the limited partners would otherwise be entitled had the general partner called capital, and thus could result in the relevant general partner receiving carried interest sooner than it would without borrowing. In addition, when the management fee is calculated as a percentage of invested capital, a limited partner will pay management fees on borrowed amounts used to fund investments that have not yet been realized even though such amounts would not accrue preferred return as described above. It is expected that the costs relating to the establishment and/or maintenance of a subscription line of credit will be significant, and there can be no assurance that the benefits to limited partners will be commensurate with such costs.

In the case of all conflicts of interest, the determination by NPC as to which factors are relevant, and the resolution of such conflicts, will be made using its reasonable judgment, but in its sole discretion. In resolving conflicts, NPC will consider various factors, including the interests of the applicable NexPhase Funds and other clients with respect to the immediate issue and/or with respect to their longer term courses of dealing. Certain procedures for resolving specific conflicts of interest are set forth below. When conflicts arise, the following factors may mitigate, but will not eliminate, conflicts of interest:

- A NexPhase Client will not make an investment unless NPC believes that such investment is an appropriate investment considered solely from the viewpoint of such NexPhase Client;

- Many important conflicts of interest will generally be resolved by set procedures, restrictions or other provisions contained in the relevant Governing Documents for NexPhase Clients;
- Generally, each NexPhase Client has established an advisory committee, consisting of representatives of investors not affiliated with NPC. The advisory committees meet as required to consult with NPC as to certain potential conflicts of interest. On any issue involving actual conflicts of interest, NPC will be guided by its good faith discretion;
- Where NPC deems appropriate, unaffiliated Third Parties may be used to help resolve conflicts, such as the use of an investment banker to opine as to the fairness of a purchase or sale price;
- Prior to subscribing for interests in a NexPhase Client, each investor receives information relating to significant potential conflicts of interest arising from the proposed activities of the NexPhase Client as more fully described in the relevant Governing Documents; and
- NPC and certain of its affiliates have adopted written policies establishing information “walls” designed to limit communication between business units investing in equity securities and debt securities of companies. These policies restrict the transfer of confidential information between these business units, subject to certain exceptions provided in the policies. These policies also establish procedures for communications among employees of different business units to guard against unlawful and inappropriate disclosure of material, nonpublic information. It is expected that when NPC vacates its current office space leased from MAM, such information walls will no longer be necessary.

## **Item 12. Brokerage Practices**

### ***A. Selection of Broker-Dealers***

Our business is advising the NexPhase Funds and sub-advising the Moelis Funds on making opportunistic private equity, mezzanine and distressed investments in private securities.

Accordingly, as a general matter we do not advise our clients on investments in public securities, and generally do not transact a marketable securities business through broker-dealers. However, in situations where we need to select a broker-dealer, we will consider a variety of factors, including, without limitation, the broker’s execution capabilities, including block positioning, research, financial stability, ability to maintain confidentiality, delivery timelines and ability to obtain best execution for all client securities transactions.

#### ***1) Research and Other Soft Dollar Benefits***

Given the nature of the investments made on behalf of clients, we do not typically make investments in listed companies. As a result, we do not have any soft dollar arrangements in place that would require us to give any specified amount of brokerage to any broker-dealer. From time



to time, we receive unsolicited research from brokers, dealers and banks through which we execute portfolio trades or hold accounts. In circumstances in which we use such research, we reserve the right to consider the quality and ability to receive research as a factor in the selection of brokers, dealers and banks executing portfolio trades. Even in these cases, the broker-dealers are still evaluated in accordance with the criteria listed under Item 12A above.

## **2) *Brokerage for Client Referrals***

We do not consider whether we, or a related person, receive client referrals from a broker-dealer or a third party when selecting or recommending broker-dealers. On occasion, we will engage the MCP broker-dealer to solicit capital on behalf of the NexPhase Funds. We do not consider the MCP broker-dealer's success or failure in raising capital when selecting or otherwise recommending a broker-dealer.

## **B. *Aggregation of Orders of Securities for Client Accounts***

Given the nature of the investments we make on behalf of our clients, we do not typically make investments in listed companies. We do not routinely aggregate the purchase or sale of securities for various client accounts. However, when the NexPhase Funds or other clients conduct trading through a broker-dealer, we will seek to aggregate orders whenever practicable and cost-efficient. Our aggregation practices seek to treat all clients participating in the transaction in an equitable manner.

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

### **A. *Periodic Review of Client Accounts***

Our investment team professionals and financial operations professionals review the operations of our affiliated Funds and other clients on an ongoing basis. These professionals monitor operations, overall performance, financial performance and strategic direction of each portfolio company. Each portfolio company provides us with regular reports regarding its financial status and performance, except in the rare instances where our control is limited, in which case we receive public information. Portfolio companies controlled by the NexPhase Funds generally provide monthly reports, whereas portfolio companies not controlled by the Funds generally provide reports on a quarterly basis. Our Investment Committee also performs quarterly comprehensive reviews of each portfolio company.

### **B. *Factors that Trigger a Review of Client Accounts***

Our investment professionals review the portfolio companies on an ongoing basis.

### **C. *Reports to Clients***

We deliver written financial reports, including information relevant to each of our clients' (and, where applicable, their investors') investments with us on a quarterly basis. Clients (and, where applicable, their investors) also receive written annual reports following the end of each fiscal year that include audited financial statements (including a balance sheet and a statement of income or

loss) and a summary of the portfolio companies for the applicable investment program. All investors in our client are invited to our annual investor meeting.

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

##### ***A. Client Referrals***

Generally, we do not accept economic benefits from a person who is not a client for providing investment advice or other advisory services to our clients, however, on occasion, we receive management fees, monitoring fees or similar fees, or reimbursements of certain expenses, from portfolio companies in which a NexPhase Fund has invested. To seek to address this potential conflict, all or a portion of such fees generally offset the management and/or sponsor fees paid by our clients, and are disclosed in the private offering materials.

##### ***B. Compensation for Client Referrals***

While not a client solicitation arrangement, NPC has in the past and in the future expects from time to time, to engage one or more persons to act as a placement agent for a NexPhase Fund in connection with the offer and sale of interests to certain potential investors. Such persons generally will receive a fee in an amount equal to a percentage of the capital commitments for interests made by such potential investors to such NexPhase Fund that are subsequently accepted. Such NexPhase Fund generally will, subject to any limitations set forth in its Governing Documents, reimburse such fees. Any fees payable to any such placement agents generally will be borne by NPC indirectly through an offset against the management fee under the Governing Documents, although related expenses incurred pursuant to the relevant placement agent or similar agreement, including but not limited to placement agent travel, meal and entertainment expenses, typically are borne by the relevant Fund(s). As described above, M&C was given the right to act as placement agent in connection with the capital raise of the NPC Fund III.

Any placement agents utilized will be registered broker-dealers or registered representatives of a SEC broker-dealer.

#### **Item 15. Custody**

All NexPhase Funds' certificated securities and other required assets are held in custody by unaffiliated broker/dealers or banks; however, we have access to client accounts since an affiliate serves as the general partner of each NexPhase Fund. The NexPhase Funds are audited on an annual basis in accordance with generally accepted accounting principles (GAAP) and the financial statements are distributed to each limited partner. The audited financial statements will be distributed within 120 days of each NexPhase Fund's fiscal year end. Limited partners should carefully review these statements, and should compare these statements to any account information provided by us.

NPC maintains custody of assets in the name of one or more NexPhase Funds with the following qualified custodian(s):

- City National Bank

## **Item 16. Investment Discretion**

We have complete discretionary authority to manage the portfolios of each NexPhase Fund. This authority is not limited by the NexPhase Client Funds' Governing Documents. However, NPC has in the past and expects in the future to enter into "side letter" arrangements with certain limited partners whereby the terms applicable to such limited partners investment in a NexPhase Fund can be altered or varied, including, in some cases, the right to opt-out of certain investments for legal, tax, regulatory or other similar reasons.

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

### **A. *Authority to Vote Client Securities***

Although our investment programs do not typically involve publicly-traded securities, where such securities are involved, we believe our policies and procedures are reasonably designed to ensure that proxies are voted in the best interests of clients and to recognize and resolve any material conflicts of interest that may arise in the course of such voting. The relevant NPC investment staff vote proxies in accordance with our proxy voting guidelines, unless a NexPhase Client's ownership of securities is subject to a voting agreement or shareholders' agreement, in which case any such voting or shareholders' agreement will control in the event of a conflict between the terms of such agreement and our proxy voting guidelines.

Our proxy voting guidelines require our Investment Committee or its designee to review all proxies prior to submission. The Investment Committee or a designee coordinates the receipt of each proxy, the communication of the votes to Third Parties, and the maintenance of all supporting documentation.

Our general policy is to vote proxy proposals, amendments, consents or resolutions relating to portfolio companies of NexPhase Clients, (collectively, "proxies") in a manner that serves the best interest of such NexPhase Client, as determined by us in our discretion, taking into account relevant factors, including, without limitation:

- the impact on the value of the returns of the relevant NexPhase Client;
- alignment of portfolio company management's interest with the relevant NexPhase Client, including establishing appropriate incentives for management; and
- the ongoing relationship between the relevant NexPhase Client, and the portfolio companies in which it invests, including the continued or increased availability of portfolio information.

For routine matters, we generally vote proxies in accordance with the recommendation of the portfolio company's management, unless we believe such recommendation is not in the best interest of the client. For non-routine matters, such as changing the state of incorporation or extending shareholders' rights, we typically vote in support of management, but decide these matters on a case-by-case basis.

When any proxy raises material conflicts between us or our employees and one of our clients, such conflict will be fully disclosed to the Chief Compliance Officer. In the event of a conflict, we will vote the proxy in a manner we determine to be in the best interest of the client, provided that such vote is against our own interest in the matter. If we believe we should vote in a way that may also benefit, or be perceived to benefit, our own interest, then we must take action in accordance with the client's relevant Governing Documents, which generally includes disclosure of the facts surrounding any such conflict to the advisory committee of the applicable NexPhase Client and obtaining its consent before voting such proxy.

We will maintain a file or database of (i) our proxy voting policies and procedures; (ii) proxy statements received regarding client securities; (iii) records of votes cast by us on behalf of clients; (iv) records of client requests for proxy voting information; and (v) any documents prepared by us that were material to the voting decision, for two years in our offices and for three years in an easily accessible location.

Investors in the NexPhase Funds and our other clients may request further information regarding our proxy voting policies and procedures, or how we have voted on specific proxies, by contacting Andrew Goldfarb, Chief Compliance Officer, by e-mail at [agoldfarb@nexphase.com](mailto:agoldfarb@nexphase.com) or by telephone at 212-878-6006.

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

NPC does not require prepayment of management fees more than six months in advance or have any other events requiring disclosure under this item of the Brochure.