

# **Five Point Energy LLC Part 2A of Form ADV**

## **The Brochure**

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This brochure provides information about the qualifications and business practices of Five Point Energy LLC (“Five Point”). If you have any questions about the contents of this brochure, please contact the Chief Compliance Officer, Doug Wilkinson, at (713) 351-0704. 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.

Being a “registered investment adviser” or describing Five Point as being “registered” does not imply a certain level of skill or training.

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

## **Item 2        Material Changes**

Five Point Energy LLC (“**Five Point**”) is a registered investment adviser with the United States Securities and Exchange Commission (the “**SECBrochure**”) filed March 27, 2019, Five Point has raised the following Funds:

Five Point Energy Fund I-C LP

Five Point Energy Fund II-B LP

Five Point Energy Fund III LP

Additional updates have been made throughout this Brochure to provide greater clarity, but such changes are not believed to be material. Investors are encouraged to read this entire Brochure carefully.

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## Item 4      **Advisory Business**

### A.      Background and Principal Owners

Five Point Energy LLC (“**Five Point**” or “**Manager**”), founded in 2011, operates as an energy-focused investment management firm targeting energy assets within the North American midstream energy infrastructure sector. Five Point is headquartered in Houston, Texas and is principally controlled and managed by David Capobianco and Matthew Morrow (the “**Principals**”). Five Point currently provides discretionary investment advisory and management services for private equity funds:

- Five Point Energy Fund I LP (“**Fund I**”)
- Five Point Energy Fund I-A LP (“**Fund I-A**”)
- Five Point Energy Fund I-B (“**Fund I-B**”)
- Five Point Energy Fund I-C LP (“**Fund I-C**”)
- Five Point Energy Fund II LP (“**Fund II**”)
- Five Point Energy Fund II-A LP (“**Fund II-A**”)
- Five Point Energy Fund II-B LP (“**Fund II-B**”)
- Five Point Energy Fund III LP (“**Fund III**”)

(each a “**Fund**” and, collectively, the “**Funds**”). Five Point’s managed investment vehicles will typically be formed as limited partnerships with affiliate(s) of Five Point acting as the general partners.

### B.      Types of Advisory Services

Currently, Five Point provides investment advisory and management services to the Funds.

As described in more detail in each Fund’s private placement memoranda, management agreements and partnership agreements (the “**Governing Fund Documents**”), Fund I, Fund II, and Fund III were each formed to seek long-term capital appreciation through one or more investments in the midstream energy infrastructure sector in the United States and Canada.

Five Point’s investment advisory services to the Funds include sourcing, investigating, analyzing, structuring and negotiating potential investments, monitoring the performance of portfolio companies, and advising the Funds as to disposition opportunities. Five Point tailors its advisory services to each Fund in accordance with each Fund’s investment strategy, as disclosed in each Fund’s Governing Fund Documents. Additional specific details of the Manager’s advisory services are set forth in the applicable Fund’s Governing Fund Documents and are further described below in *Item 8, “Methods of Analysis, Investment Strategies and Risk of Loss.”*

Limited partner interests in the Funds are not registered under the Securities Act of 1933, as amended (the “**Securities Act**”), and the Funds are not registered under the Investment Company Act of 1940, as amended (the “**Investment Company Act**”). Accordingly, interests in the Funds are offered and sold exclusively to Investors satisfying the applicable eligibility and suitability requirements for private transactions applicable to each Fund.

Five Point may invest alongside strategic, financial or other third party co-investors, and may offer to certain of the Funds’ investors (the “**Investors**”) or other persons the opportunity to participate in co-invest vehicles that will invest in certain portfolio companies alongside the Funds. As of the date of this filing, the only five such co-invest vehicles established by Five Point are Fund I-A, Fund I-B, Fund I-C, Fund II-A, and Fund II-B. The fee structure of a co-invest vehicle will typically differ from that of the principal investing Fund. Such co-invest vehicles typically invest and dispose of their investments in the

applicable portfolio company at the same time and on the same terms as the respective Funds. Additional information surrounding conflicts of interest with respect to co-invest vehicles are further described below in *Item 10 -- Other Financial Industry Activities and Affiliations*.

C. Tailoring of Advisory Services

As noted in Item 4(B) above, Five Point will tailor the advisory services provided to each Fund to meet the investment strategy set forth in each Fund's Governing Fund Documents. However, Five Point will not tailor its advisory services to the needs of the individual Investors, and Investors may not impose restrictions on the securities or types of securities in which each Fund invests.

D. Wrap Fee Programs

Five Point does not offer or participate in wrap fee programs.

E. Assets Under Management

As of December 31, 2019, Five Point advises \$3,499,749,063 assets under management on a discretionary basis. Five Point does not manage any client assets on a non-discretionary basis.

## Item 5 Fees and Compensation

### A. Five Point Compensation

The Governing Fund Documents of each Fund set forth in detail the fee structure relevant to each Fund. Investors and prospective investors in the Funds should refer to the Governing Fund Documents for the applicable Fund for a detailed description of the investment management fee calculations and carried interest distributions.

### B. How Five Point Collects Fees

Five Point typically receives compensation from fees based on a percentage of assets under management, carried interest distributions, and payment of certain other fees or expenses as disclosed in the Governing Fund Documents. Investors should review carefully the Governing Fund Documents to fully understand all of the fees and expenses that will be incurred by the Funds.

As compensation for investment advisory services rendered to Fund I, Fund II, and Fund III, Five Point receives a management fee based on committed capital through the investment period and on invested capital thereafter. In general, the management fee will vary between 1.7% and 2% of committed capital or the cost of investments per annum, charged quarterly in advance, although certain Investors may pay lower fees depending on the timing or amount of their subscription to the Fund, or certain other factors that are outlined in the Governing Fund Documents. Such fee is payable on a *pro rata* basis for any period that is less than a full quarterly period. Five Point or an affiliated entity, in its sole discretion, may waive or reduce the management fee to be paid by any Investor, including Investors that are principals, employees or affiliates of Five Point, or relatives of such persons, and for certain large or strategic investors. This has occurred for certain investors in Fund I, Fund II, and Fund III.

Five Point or an affiliated entity may also receive a carried interest or other performance-based allocation from the Funds. Fund I, Fund II, and Fund III are subject to a “European Style” distribution “waterfall” under which aggregate capital contributions (in respect of realized and unrealized investments) and an 8% preferred return on capital are paid or returned to limited partners prior to 20% performance-based distributions being made to Five Point or an affiliated entity, subject to prior “catch-up” distributions to Five Point or an affiliated entity. Five Point or an affiliated entity may, in its sole discretion, waive or reduce the carried interest or other performance-based distributions to be paid by any Investor, including Investors that are principals, employees or affiliates of Five Point, or relatives of such persons, although Five Point has not done so to date. An additional discussion of carried interest distributions is included in *Item 6 – Performance-Based Fees and Side-by-Side Management* below.

Five Point does not receive any compensation from Fund I-A or Fund I-B. Under certain circumstances as described in the Governing Fund Documents, Five Point could receive compensation in the way of fees and/or carried interest from Fund I-C, Fund II-A, and Fund II-B; this is discussed in the Governing Fund Documents. Additional information surrounding conflicts of interest with respect to co-invest vehicles are further described below in *Item 10 -- Other Financial Industry Activities and Affiliations*.

### C. Other Fees and Expenses

The Governing Fund Documents set forth in detail the costs and expenses to be borne by each Fund. In general, all costs and expenses related to a Fund’s operations will be borne by that Fund, including fees, costs and expenses related to the evaluation, purchase, holding and sale of portfolio investments (to the extent not reimbursed by a portfolio company or other party); expenses incurred in connection with transactions not consummated (currently, Five Point utilizes Side Car co-investments which invest in only a portfolio company upon its creation; therefore, no unconsummated deal costs would be incurred by these

Side Cars); travel and entertainment expenses related to the foregoing (including, as may be applicable, business class or first class flights); insurance premiums; taxes, including the preparation of such Fund's financial statements, tax returns and Schedule K-1s, and the representation of the Fund or the Partners regarding tax matters; custodial, banking and administration expenses; appraisal and valuation expenses; fees and expenses of accountants, counsel and consultants; costs and expenses of the Advisory Committee and the annual meeting which are allocated solely to Fund I, Fund II, and Fund III; certain regulatory and compliance expenses as relates specifically to the Fund and its portfolio companies, including Form PF, U.S. Treasury forms and FATCA compliance, but excluding the costs of the Manager's general compliance with the Investment Advisers Act of 1940 (the "*Advisers Act*"); litigation expenses; costs of winding up and liquidating the Fund; and other extraordinary expenses.

Five Point does not expect to charge portfolio companies directors' fees, transaction fees, monitoring fees, advisory fees, break-up fees and other similar fees. To the extent that any such fees are received, Five Point will reduce the management fee by an amount equal to 100% of such fees, net of any unreimbursed expenses incurred by Five Point in connection with unconsummated transactions.

Each Fund will bear all legal and other expenses incurred in the formation of such Fund and the offering of such Fund's interests (other than any placement fees). Organizational expenses in excess of the limit described in each Fund's governing documents, if any, and any placement fees, will be paid by the Fund but borne by the Manager through a 100% offset against the management fee.

Generally, Five Point or an affiliated entity will pay the compensation and overhead expenses of the personnel who act on their behalf. On occasion, personnel of Five Point may provide accounting, reporting, data processing, legal, environmental, investment-level management and servicing, market research, and other similar services to the Funds that would otherwise be performed by third parties. In each instance, subject to Advisory Committee approval, the Funds will reimburse Five Point at cost for such services, including employment costs and related overhead expenses, as reasonably determined by Five Point, provided that such reimbursements will not exceed the amount payable if such services were provided by third parties on an arms' length basis. To date, only costs related to Geographical Information Systems services ("GIS Services") and IT services ("IT Services") provided by Five Point personnel have been charged to the portfolio companies owned by the Funds. Additionally, certain Legal services (together with GIS Services and IT Services, the "Shared Services") may be charged to Fund III. Five Point allocates the cost of such Shared Services between portfolio companies in the manner that it determines is reasonable under the circumstances.

To the extent that any fees, costs and expenses are incurred for the benefit of more than one Fund, Five Point may allocate such expenses amongst the Funds (or, in certain cases, amongst the relevant Fund and Five Point). Any such allocation would be made on a basis reasonably believed by Five Point to be fair and equitable based on relevant facts, such as the relative size of the participating Fund, the activity of the Fund and the particular circumstances that caused the expense to be incurred with respect to each entity. Five Point will evaluate, and change, any such allocation practices to ensure that such allocation are based on a sound method.

Typically, each portfolio company bears its own expenses. However, in the case of certain portfolio companies that are held jointly by more than one Fund, expenses pertaining to such portfolio companies are allocated based on the relative value of the investment that is made by each such Fund.

Although Five Point does not generally use the services of broker-dealers to effect investment transactions for the Funds, in the event that it does use a broker-dealer for limited purposes for a specific Fund, such Fund will incur brokerage and other transaction costs. See *Item 12 – Brokerage Practices* for more information.

D. Advance Payment

Investors will pay management fees quarterly in advance until the termination of the respective Fund. Installments of the management fee payable for any period other than a full quarterly period will be adjusted on a pro rata basis according to the actual number of days in such period.

E. Compensation for Sales of Securities

Neither Five Point nor any of its supervised persons accepts compensation for the sale of securities or other investment products at the current time.



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

As described in *Item 5 – Fees and Compensation* above, Five Point advises Fund I, Fund II, and Fund III in which Five Point or an affiliated entity will receive a performance-based distribution in the form of a carried interest based on a share of the fund's profits on distributions derived from the disposition of investments. Five Point may in the future raise additional pooled investment vehicles in which performance-based compensation is earned. As previously noted, Five Point does not receive any compensation from Fund I-A or Fund I-B, and could, under certain circumstances, receive performance-based compensation from Fund I-C, Fund II-A, and Fund II-B.

Such carried interest may create an incentive for Five Point to make investments on behalf of an investment vehicle that are riskier or more speculative than would be the case if Five Point did not charge carried interest based on investment profits. In addition, the method of calculating the carried interest may result in conflicts of interest between Five Point or the affiliated entity, on the one hand, and the Investors, on the other hand, with respect to the management and disposition of investments, including the timing and sequence of such dispositions. However, Five Point believes this incentive is mitigated by the investment by the relevant general partner of the relevant investment vehicle and the fact that losses will reduce the performance of the relevant vehicle and thus, Five Point's or the affiliated entity's compensation. Five Point also seeks to address these potential conflicts through careful vetting of investment opportunities by Five Point's investment professionals and also, through disclosure of investments to limited partners by way of quarterly reports.

If Five Point were to advise additional pooled investment vehicles in the future, Five Point may be incentivized to favor one client over another if the calculation of incentive distributions differed between the clients. However, such potential conflicts are mitigated by restrictions on forming a new fund that would compete with its currently investing funds for similar investments until such current fund(s) are substantially invested or committed for investment or until the end of its investment period. Additionally, Five Point has adopted certain policies and procedures regarding the allocation of investment opportunities that would be applicable if an investment were to be appropriate for more than one investment vehicle.

Five Point is aware that certain conflicts may arise by virtue of its determination to forego compensation with respect to Fund I-A and Fund I-B, including the possibility that Five Point could be motivated to allocate investment opportunities to fee paying clients (such as Fund I or Fund II) as described above, rather than to co-invest vehicles that don't pay fees. However, Fund I-A and Fund I-B were each raised for the sole purpose of investing in a single portfolio company and make no other investments, and as such Five Point's incentive to favor Fund I or Fund II are mitigated. In addition, with regard to the risk that Fund I investors may bear additional fees to compensate for the absence of fees at Fund I-A and Fund I-B, fees and expenses borne by Fund I are, in Five Point's view, appropriate and with applicable incentives for Five Point to make appropriate investments for Fund I. Furthermore, the work Five Point performs in managing and monitoring Fund I-A's and Fund I-B's sole investments, is not increased by virtue of the existence of Fund I-A or Fund I-B (i.e., approximately the same time would be committed to the investment by Five Point professionals if Fund I-A or Fund I-B theoretically did not exist). Because (a) investors in Fund I are not bearing greater fees than otherwise by virtue of the structure or existence of Fund I-A or Fund I-B and (2) Five Point believes its opportunities at Fund I to earn performance based fees, together with management fees, adequately compensate Five Point for its time, service and skill in providing investment services to Fund I (including managing Fund I-A's and Fund I-B's investments), Five Point does not believe Fund I investors are disadvantaged (including by way of any potential for Five Point to take additional risk at Fund I) by the Fund I-A or Fund I-B structure. As discussed in *Item 10 – Other Financial Industry Activities and Affiliations*, Five Point is highly focused on managing conflicts of

interest. Five Point has adopted policies and procedures designed to address and mitigate potential conflicts of interest in respect of any side-by-side investment management activities.

## **Item 7        Types of Clients**

As noted in Item 4, Five Point provides portfolio management services to the Funds. In the future, the Manager may provide portfolio management services to additional investment vehicles that operate as exempt investment pools under the Investment Company Act of 1940, as amended. The Investors participating in Five Point investment vehicles may include individuals, banks or thrift institutions, sovereign wealth funds, pension and profit-sharing plans, trusts, estates, charitable organizations or other corporations or business entities and also may include, directly or indirectly, principals or other employees of Five Point. Details concerning applicable suitability criteria and minimum investment commitments are set forth in the respective Governing Fund Documents. Five Point, in its sole discretion, may waive or accept less than the minimum investment commitment.

Investors in the Funds are required to be both “accredited investors,” as defined under the Securities Act of 1933, as amended (the “*Securities Act*”), and “qualified purchasers,” as defined under the Investment Company Act of 1940, as amended. Generally, an “accredited investor” includes (a) a person with an individual net worth, or joint net worth with the person’s spouse, that exceeds \$1,000,000 (excluding the value of such persons primary residence) and (b) a person with income exceeding \$200,000 in each of the two most recent years or joint income with a spouse exceeding \$300,000 for those years and a reasonable expectation of the same income level in the current year. A “qualified purchaser” generally includes a person who owns not less than \$5,000,000 in investments or a company which owns not less than \$25,000,000 in investments.

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

### **A.        Analysis and Strategies**

Five Point invests primarily in private equity in the North American midstream energy infrastructure sector and seeks to capitalize on the significant infrastructure required to support the production growth of oil, condensate, natural gas liquids (“**NGL**”) and natural gas from new shale producing basins. Target portfolio companies will typically be focused within the first 25 miles of the wellhead. Five Point seeks to partner with, develop and support strong management teams through buyout and growth capital investments in the midstream energy infrastructure sector and will target businesses and greenfield development opportunities that it believes are poised to benefit from the need by oil and gas producers for new midstream infrastructure to gather, process, transport and store oil and gas production from the wellhead to end markets, as well as the gathering and disposal activities of produced water. Five Point will seek opportunities in which it can be the lead or controlling investor in order to implement meaningful, post-acquisition value-add initiatives.

Five Point believes that the Principals’ experience investing in and operating companies in the energy infrastructure sector, and the network of industry contacts developed over that period, will enable Five Point to identify suitable investment opportunities.

Five Point conducts rigorous due diligence on each prospective portfolio company and/or management team, which involves, among other things, inspecting the books and records of the company, interviewing management, and analysis of the company within the North American midstream energy infrastructure sector. Five Point may also consult with professional advisors, including lawyers, accountants and tax professionals, in the course of evaluating or making a transaction.

Investing in securities involves the risk of loss. The purchase of interests in a Fund involves a number of significant risks, including but not limited to those listed below, that should be carefully considered by potential Investors before making any investment. Additional risks factors are disclosed in the Governing Fund Documents of the relevant Funds. As a result of these risks, and other risks inherent in any investment, there can be no assurance that a Fund will meet its investment objectives or otherwise be able to carry out its investment program successfully or that an Investor will receive a return of its capital. The possibility of partial or total loss of capital exists and Investors must be prepared to bear capital losses that might result from investing in a Fund.

Certain portfolio companies are owned jointly by multiple Funds, including co-investment vehicles that invest alongside Fund I and Fund II, and certain portfolio companies that are owned jointly by Fund I and Fund II. Five Point expects that the joint ownership model will continue with Fund III. Currently, there is no intention to have any Fund retain its interest in a jointly-owned portfolio company singularly, particularly in the case of a co-investment vehicle that invests alongside a principal investing Fund. Therefore, the exit strategy for these portfolio companies is for each Fund to dispose of its investment in parallel to the other Fund’s or Funds’ disposition. The risk with this approach is that the timing of a Fund’s termination could be delayed pending the disposition of the jointly-owned portfolio company. Additionally, there is the risk that the timing of disposition of investments held jointly by a combination of Fund I, Fund II, and Fund III may advantage one Fund over another Fund due to factors such as where each principal investing Fund is in its life cycle. Five Point addresses this risk by making investment decisions in the best interest of each Fund and by consulting with the Advisory Committee of each involved Fund to the extent that there is a potential conflict of interest between the Funds.

Five Point utilizes a subscription line credit facility (“Facility”) to better-manage the timing and frequency of capital calls made to the Funds. The Facility is held at CitiBank and has terms that are considered market. Since the Facility is drawn in advance of issuing capital calls to the Funds, the timing of called

capital is delayed, thus increasing the Net IRR for the Fund completing the borrowing. Five Point does not believe the Net IRR variance caused by utilizing the Facility is material and its effect on the Funds' financial statements is not misleading to investors.

## B. Material Risks

### Certain Economic Risks Relating to the Funds

#### *Nature of Investment*

An investment in the Funds requires a long-term commitment with no certainty of return. Although some investments may generate current income, many investments will generate little or no near-term cash flows to Investors as a return of capital and the realization of gains, if any, will generally occur only upon the partial or complete disposition of an investment. Many of the Funds' investments will be highly illiquid, and there can be no assurance that the Funds will be able to realize returns on such investments in a timely manner. Consequently, dispositions of such investments may require a lengthy time period or may result in distributions in kind to Investors. Additionally, the Funds typically will acquire securities that cannot be sold except pursuant to a registration statement filed under the Securities Act, or in a private placement or other transaction exempt from registration under the Securities Act and that complies with any applicable non-U.S. securities laws. Certain of the Funds' investments may be in businesses with little or no operating history. Certain of the Funds' investments may be in businesses with high levels of debt or may be investments in leveraged acquisitions; leveraged acquisitions by their nature require companies to undertake a high ratio of fixed charges to available income. Leveraged investments are inherently more sensitive to declines in revenues and to increases in expenses. The Funds' investments will be concentrated in the North American midstream energy industry; therefore, adverse changes in the industry could materially adversely affect the Funds (see "***Certain Risks Associated with Investments in the Midstream Energy Industry and Related Assets***" below). Since the Funds may only make a limited number of investments, and since the Funds' investments generally will involve a high degree of risk, poor performance by a small set of the investments could severely affect the total returns to the Investors.

Certain of the Funds' investments may be in businesses operating or organized outside of the United States. Such investments will involve risks not typically associated with investments in the securities of U.S. companies. For instance, investments in non-U.S. businesses (i) may require significant government approvals under corporate, securities, exchange control, non-U.S. investment and other similar laws and regulations, (ii) may require financing and structuring alternatives and exit strategies that differ substantially from those commonly used in the United States and (iii) will expose the Fund to potential losses arising from changes in foreign currency exchange rates. The foregoing factors may increase transaction costs and adversely impact the value of the Fund's investments in non-U.S. portfolio companies.

#### *Valuation*

Due to the nature of Five Point's investments, as described above, the valuation of such investments involves uncertainties and judgments, and if such valuations should prove to be incorrect, the net asset value of the Funds could be adversely affected.

#### *Competitive Nature of Five Point's Business*

Five Point will be competing for investment against other groups, including other private equity investment and hedge funds, large and well-capitalized industrial groups, project developers and operators, strategic companies, such as MLPs and oil and gas production companies, and commercial, investment and merchant banks. Some of these competitors could have financial and strategic resources significantly in excess of those of Five Point, may be willing to provide financing and other operational assistance to

midstream energy companies on more favorable terms than Five Point and may make competing offers for investment opportunities that are identified by Five Point. It is possible that competition for appropriate investment opportunities may increase, thus reducing the number of opportunities available to the Funds and adversely affecting the terms upon which investments can be made. Consequently, Five Point may be unable to identify a sufficient number of attractive investment opportunities for the Funds to meet their investment objectives. Other investors may make competing offers for investment opportunities that are identified, and even after an agreement in principle has been reached with the board of directors or owners of an acquisition target, consummating the transaction is subject to a myriad of uncertainties, only some of which are foreseeable or within the control of Five Point or the general partners.

#### *Dependence on Key Personnel*

The success of the Funds depends in substantial part on the skill and expertise of the Principals and other employees of the Manager. There can be no assurance that the Principals or other employees of the Manager will continue to be employed by the Manager throughout the life of the Funds. The loss of key personnel could have a material adverse effect on the Funds.

#### *Lack of Operating History*

Although certain Five Point employees have had extensive experience investing in the midstream energy infrastructure sector, Five Point has a somewhat-limited operating history upon which to evaluate its performance.

#### *Restrictions on Transfer and Withdrawal*

Interests in the Funds have not been registered under the Securities Act or any other applicable securities laws. There is no public market for these interests, and none is expected to develop. In addition, these interests are not transferable except with the consent of the relevant general partner, which may be withheld by the general partner in its sole discretion and are subject to the terms and conditions of the Governing Fund Documents. Investors generally may not withdraw capital from the Funds. Consequently, Investors may not be able to liquidate their investments prior to the end of the Funds' terms.

#### *Side Letters*

The general partners and the Funds may enter into other written agreements ("**Side Letters**") with one or more Investors. These Side Letters may entitle an Investor to make an investment in the Funds on terms other than those described herein. Any such terms, including with respect to (i) economic arrangements (including alternative fee or other compensation arrangements), (ii) opting out of particular investments, (iii) reporting obligations of the Funds, (iv) transfer to affiliates, (v) co-investment opportunities, (vi) withdrawal rights due to adverse tax or regulatory events, (vii) consent rights to certain Governing Fund Document amendments or (viii) any other matters described therein, may be more favorable than those offered to any other Investors. If the general partners or the Funds enter into a Side Letter entitling an Investor to opt out of a particular investment or withdraw from the Funds, any election to opt out or withdraw by such Investor may increase any other Investors' *pro rata* interest in that particular investment (in the case of an opt-out) or all future investments (in the case of a withdrawal). Side Letters may be available only to an Investor after such Investor has become a limited partner of the Fund.

#### *No Right to Control the Fund's Operations*

Investors will not have an opportunity to evaluate for themselves the relevant economic, financial and other information regarding the investments to be made by Five Point on behalf of the Funds. Investors must rely entirely on the general partners and Five Point to conduct and manage, respectively, the affairs of

the Funds. No assurance can be given that the Funds will be successful in obtaining suitable investments, or that if such investments are made, the objectives of the Funds will be achieved.

#### *Lack of Diversification*

The Funds may generally invest up to 25% of their assets in any one investment and will initially concentrate their investments in a limited number of entities engaged in the ownership, operation and development of midstream energy companies and related assets. The Funds' investments will not be broadly diversified within this asset class. The Funds may, therefore, be subject to greater risk of loss than a more broadly diversified fund.

#### *Limited Due Diligence*

Pursuant to its investment strategy, the Funds may acquire stakes in target companies without direct discussions with the management of such companies. Therefore, the due diligence information on which the Funds rely may be difficult to obtain, limited in scope or inaccurate.

#### *Investments in Leveraged Companies*

The Funds may invest in securities of highly leveraged companies. While these investments are likely to be particularly risky, they also may offer the potential for correspondingly high returns. In addition, each of the Funds' portfolio companies or their assets may be pledged to third parties, including senior lenders and could be foreclosed upon or otherwise acquired by such parties under certain circumstances, including an incipient or un-remedied default. Under certain circumstances, payments to the Funds and distributions by the Funds to Investors may be reclaimed if any such payment is later determined to have been a preferential payment.

#### *Credit Support*

The Funds may make contingent funding commitments to portfolio companies and provide credit support for such obligations. Such credit support may take the form of a guarantee, a letter of credit or a pledge of a portion of the Funds' capital commitments. Such funding commitments may be secured by an assignment of the general partners' rights to draw down capital from Investors and in such event, Investors may be required to acknowledge and consent to such assignment. Utilization of the credit support will result in fees, expenses and interest costs to the Funds. In the event that one or more Investors fail to satisfy a drawdown or otherwise default on their contribution obligations pursuant to the credit support, such amount would be drawn from non-defaulting Investors on a *pro rata* basis up to the remaining amount of their respective unfunded capital commitments. In addition, the credit support may limit Investors' ability to use their interests in the Funds as collateral for other indebtedness.

#### *Third Party Co-Investors*

The Funds may invest alongside strategic, financial or other third-party co-investors. The Funds' ability to achieve certain co-investment objectives assumes that Five Point will be able to identify such co-investors and 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 possibility that a co-investor may at any time have economic or business interests or goals that are not consistent with those of the Funds, may be in a position to take action contrary to the Funds' investment objectives, or may default on its obligations. While the Funds intend to mitigate these risks contractually through co-investment agreements, there can be no assurance that they will be successful in doing so. In addition, under certain circumstances the Funds may be liable for actions of their co-

investors. To reduce the possibility of liability, the Funds will seek to hold its assets through limited liability entities and, where appropriate, obtain indemnities from co-investors.

#### *Reliance on Management of Portfolio Companies*

While it is the intent of Five Point to invest in companies with proven operating management in place, there can be no assurance that such management will continue to operate successfully. A management team could take significant time to locate and execute an investment, if ever. Although Five Point will monitor the performance of each investment, the Funds will rely upon management to operate the portfolio companies on a day-to-day basis.

#### *Distributions in Kind*

Although, under normal circumstances, the Funds intend to make distributions in cash, it is possible that under certain circumstances (including the liquidation of the Funds), distributions may be made in kind and could consist of securities for which there is no readily available public market.

#### *Risks Upon Disposition of Investments*

In connection with the disposition of an investment in a portfolio company, the Funds may be required to make representations about the business and financial affairs of the portfolio company typical of those made in connection with the sale of any business, or may be responsible for the contents of disclosure documents under applicable securities laws. The Funds may also be required to indemnify the purchasers of such investment or underwriters to the extent that any such representations or disclosure documents turn out to be incorrect, inaccurate or misleading. These arrangements may result in contingent liabilities, which might ultimately have to be funded by Investors. The Governing Fund Documents contain provisions to the effect that if there is any such claim in respect of a portfolio company, it will be funded by Investors to the extent that they have received distributions from the Funds, subject to certain limitations.

#### *Certain Tax Risks*

Investments in properties in the energy sector may be subject to numerous taxes and fees by the jurisdiction in which such companies are organized or operate.

The Funds may invest in entities, such as limited partnerships and limited liability companies, which are treated as pass-through entities for U.S. tax purposes. Investors will be subject to tax on their distributive share of the taxable income of such entities allocated to the Funds, even if they do not receive corresponding cash distributions. Investment in these entities is also likely to cause U.S. tax-exempt investors to be allocated unrelated business taxable income, and to cause non-U.S. investors to be allocated income effectively connected with the conduct of a U.S. trade or business. In addition, because the Funds' tax return is prepared using the tax information passed through to it by such entities, any delay in the Funds' receipt of such tax information could cause a corresponding delay in the Investors' receipt of the Funds' tax information.

#### *Risk Arising from Provision of Managerial Assistance*

Five Point typically will designate directors to serve on the boards of directors of portfolio companies. The designation of representatives and other measures contemplated could expose the assets of the Funds to claims by a portfolio company, its security holders and its creditors, including claims that a Fund is a controlling person and thus is liable for securities laws violations of a portfolio company. These measures also could result in certain liabilities in the event of the bankruptcy or reorganization of a portfolio company; could result in claims against the Funds if the designated directors violate their fiduciary or other



duties to a portfolio company or fail to exercise appropriate levels of care under applicable corporate or securities laws, environmental laws or other legal principles; and could expose a Fund to claims that it has interfered in management to the detriment of a portfolio company. While Five Point intends to manage the Funds in a way that will minimize the exposure to these risks, the possibility of successful claims cannot be precluded.

#### *Certain Risks Associated With Investments in the Midstream Energy Industry and Related Assets*

As described above, Five Point invests primarily in the North American midstream energy infrastructure sector. This sector is subject to numerous operational, competitive, political, regulatory, and other risks that are described more fully in the Governing Fund Documents. As a result, the performance of the Funds may be more susceptible to factors affecting this sector than if the Funds were more broadly diversified.

#### *Commodity Prices*

The operation and cash flows of certain of the Funds' midstream energy industry portfolio investments will depend, in substantial part, upon prevailing market prices for commodities such as oil and natural gas. A decline in commodity prices could adversely impact drilling activity and future volume growth, which could have adverse consequences on Fund investments.

#### *Broken Deal Expenses*

Investments in the midstream energy industry often require extensive due diligence activities prior to acquisition, the expenses relating to which can be quite substantial. Due diligence costs include among others: feasibility and technical studies; preliminary engineering costs and marketing studies; environmental reviews; legal costs; and bid preparation and submission costs. In the event that the Funds' prospective investment is not finalized, Five Point or its affiliates has discretion to allocate these expenses solely to the principal investing fund (which is either Fund I, Fund II, or Fund III at the present time).

#### *Diverse Membership*

The Investors are expected to include taxable and tax-exempt entities and may include persons or entities organized in various jurisdictions. As a result, conflicts of interest may arise in connection with decisions made by the general partner that may be more beneficial for one type of investor than for another type of limited partner. In addition, the Funds may make investments that may have a negative impact on related investments made by the investors in separate transactions. In selecting investments appropriate for the Funds, the general partner will consider the investment objectives of the Funds as a whole, not the investment objectives of any Investor individually.

#### *Infectious Illness Outbreak*

The Asia Pacific region has experienced a number of outbreaks of infectious illnesses in recent decades, including swine flu, avian influenza, SARS and the 2019-nCoV ("Coronavirus"). In December 2019, an initial outbreak of the Coronavirus was reported in Hubei, China. Since then, a large number of cases have subsequently been confirmed, including in every province of China and in other areas of the world, including Europe and the United States. The Coronavirus outbreak has resulted in numerous deaths and the imposition of local, municipal and national governmental "work from home" and other quarantine measures, border closures and other travel restrictions, and has caused significant social unrest and commercial disruption in a number of jurisdictions. The World Health Organization has declared the Coronavirus outbreak a Public Health Emergency of International Concern, as well as a pandemic.

The continuing spread of the Coronavirus is likely to have a material adverse impact on portfolio investments, local economies in the affected jurisdictions and also on the global economy. Quarantine measures and travel restrictions have led to a disruption in global travel and weakened demand for oil, and the Coronavirus outbreak has similarly disrupted other energy markets. In addition to these developments having potential adverse consequences for portfolio investments which the Funds invest and the value of the Funds' investments therein, the operations of the General Partner, Five Point and the Funds in certain jurisdictions could be adversely impacted, including through quarantine measures and travel restrictions imposed in particular on key personnel of the General Partner and Five Point, and any related health issues of such personnel. In addition, the Funds' operations could be disrupted if any member of the General Partner, Five Point or any other key personnel of the General Partner or Five Point contracts the Coronavirus and/or any other infectious disease. Any of the foregoing events could materially and adversely affect the General Partner and Five Point's ability to source, manage and divest its investments and its ability to fulfill its investment objectives. Similar consequences may arise with respect to other comparable infectious diseases.

#### *Oil Market Volatility*

Certain international oil producers, including Saudi Arabia and Russia, have recently announced efforts to increase the production of crude oil, resulting in reduced oil prices and a volatile international oil market. The impact on oil prices has been compounded by weak demand for oil as a result of the Coronavirus outbreak. The recent significant decline in the prevailing price for oil may adversely affect the value of the Funds' investments and its income from its investments. This price volatility also makes it difficult to budget for, and project the return on, acquisitions and development projects. In addition, the evolving quarantine measures, border closures and other travel restrictions related to the outbreak of Coronavirus could have an ongoing impact on the demand for oil, which may also adversely affect the value of the Funds' investments and its income from its investments.

## **Item 9        Disciplinary Information**

There have been no legal or disciplinary events involving Five Point or any of its employees that would be material to an Investor's evaluation of Five Point.

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

### **A.      Broker-Dealer Registration**

Five Point and its personnel are not registered as a broker-dealer or a registered representative of a broker-dealer, nor is there any pending application to register.

### **B.      Futures and Commodities Registration**

Five Point is not registered as a futures commission merchant, commodity pool operator, commodity trading advisor, or associated party of any of those, nor does it have any pending application to register as such.

### **C.      Related Persons**

Five Point serves as the manager of the Funds and, either directly or through affiliated entities, serves as the general partner (or in a similar capacity) to the Funds.

### **D.      Conflicts of Interest**

The Manager does not recommend or select other investment advisers for its clients. The Manager also has no other business relationships with such advisers that will create a material conflict of interest.

Advisory agreements between Five Point and/or its affiliates and its Funds require Five Point and its affiliates to act in a manner that it considers fair, reasonable and equitable in allocating investment opportunities to such clients but do not otherwise impose any specific obligations or requirements concerning the allocation of time, effort or investment opportunities to its Funds or any restrictions on the nature or timing of investments for the proprietary account of Five Point, its affiliates or their respective principals, or for other accounts which Five Point or its affiliates may manage. Five Point professionals are not obligated to devote any specific amount of time to the affairs of any Fund

On occasion, the general partners of a Fund may form co-invest vehicles managed by Five Point, including where a Fund transaction would require more capital than would be permitted under diversification or other limits as set forth in its offering documents or where the general partner determines that a full allocation to the principal investing Fund (which currently is Fund I, Fund II, or Fund III) is not appropriate based on reasonable factors (which are consistent with the principal investing Fund's offering documents). Such co-invest vehicles will invest in portfolio companies in which one or more Funds will make or has made an investment. As discussed in Item 4 as well as Item 5 in respect of Fund I-A, Fund I-B, Fund I-C, Fund II-A, and Fund II-B, the fee structure of co-invest vehicles is expected to differ from a principal investing fund managed by Five Point.

If fee structures differ between Five Point managed investment vehicles, such as between a principal investing fund and a co-invest vehicle or between concurrently investing principal investing funds, conflicts of interests could arise in respect of such situation, including (1) the possibility of Five Point taking greater risk for an investment vehicle where it earns performance based compensation, (2) the possibility that fees charged to fee paying clients could be set at a higher level to account for lower or no fees charged at another vehicle and (3) the possibility that the adviser would favor fee paying client in respect of investment allocations. Five Point is strongly focused on mitigating such conflicts arising in the case of differential fee or expense structures and, as discussed in detail in Item 6, Five Point believes that, in respect of Fund I-A, Fund I-B, Fund I-C, Fund II-A, and Fund II-B at the current time, such conflicts are in fact substantially mitigated. For example, while there is a theoretical risk that the fee structure of Fund I, Fund II, or Fund III could incentivize Five Point to make larger and more risky investments in Fund I, Fund II, or Fund III

(as its investors bear a full fee load, including a performance fee), Fund I, Fund II, or Fund III is Five Point's only principal investing fund at the current time. At this time, Fund I is only making follow-on investments, while Fund II and Fund III are in their Investment Periods.

The allocation of co-investment opportunities by Five Point to its Fund investors or outside investors creates certain conflicts, including the possibility of certain investors receiving preferential or more favorable investment terms not available to other investors. Five Point is fully committed to mitigating such conflicts, including by providing its investors with full disclosure of its allocation practices. These co-investment allocation practices may result in the following: (1) investors who are not invested in the principal investing Fund ("**Investing Fund LPs**"), or who have a smaller investment in the principal investing Fund, are less likely to be offered the opportunity to participate in any given co-investment opportunity; (2) the actual number of co-investment opportunities made available to the Investing Fund LPs or to any other investors may be significantly higher or lower than the number of co-investment opportunities made available to investors of other Five Point Funds and (3) third party strategic investor(s) may be provided co-investment opportunities instead of Investing Fund LPs and/or other investors to the extent Five Point determines that such investor(s) would potentially provide a strategic benefit to a particular investment or a principal investing Fund. Additionally, if a portion of any such co-invest vehicle remains unclaimed, then Five Point, in its sole discretion, may provide its affiliates an opportunity to participate in the co-investment opportunity based on various factors including but not limited to: relative capital invested by such affiliates in Five Point investment vehicles and/or overall compensation levels, and may be limited by factors such as accreditation (including compensation). Five Point maintains written allocation procedures related to the allocation of co-investment opportunities consistent with the foregoing. The investment opportunities in Fund I-A, Fund I-B, and Fund I-C were offered to Fund I investors on a pro rata basis, but such allocation may differ in the future. The investment opportunities in Fund II-A and Fund II-B were offered to Fund II Side Car Investors (those who had committed at least \$10 million to Fund II and had elected to be a Side Car Partner) on a pro rata basis, but such allocation may differ in the future.

Expenses borne by the Funds are allocated among any parallel funds, co-invest vehicles, and other entities that shared in the activities generating such expenses with certain limitations as described above in *Item 5 – Fees and Compensation*. Notwithstanding this, Five Point or any affiliated entity may in its sole discretion determine whether to allocate any unconsummated investment expenses with respect to potential investment in which co-investment participation is contemplated to solely the principal investing Fund (which are Fund I, Fund II, and Fund III at the present time) and/or to its co-investors (or the applicable co-invest vehicle, if any).

Five Point maintains written allocation protocols and policies setting forth pre-determined criteria and allocates investment opportunities in a fair and equitable manner based on such written protocols. Among other things, such protocols provide that investments are appropriately allocated in a manner consistent with the investment strategy (including risk and return profile) of an applicable Fund.

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

Five Point has a fiduciary responsibility to treat its clients fairly and to avoid actual or potential conflicts of interest. The employees of Five Point have an obligation to act solely in the best interests of Five Point's clients and to make full and fair disclosure of all material facts, particularly where the clients' interests may conflict with the interests of Five Point or its employees.

### **A. Code of Ethics**

Five Point has adopted a written Code of Ethics to ensure that Five Point fulfills its role as a fiduciary to the Funds. The Code of Ethics is designed to address and avoid potential conflicts of interest and is applicable to all employees. The fiduciary principles that govern personal investment activities of employees will be, at a minimum, the following: (1) to place the interests of clients first at all times; (2) to conduct personal securities transactions in a manner that is consistent with Rule 204A-1 of the Advisers Act and in such a manner so as to avoid any actual or potential conflict of interest, or any abuse of an individual's position of trust and responsibility; and (3) to provide clients with advisory services in a way that never takes inappropriate advantage of Five Point's position. Five Point has a policy that the interest and privacy of clients always comes first and all employees will conduct themselves in accordance with the highest standards of integrity, honesty and fair dealing. The Code of Ethics generally requires employees and certain household members to report personal securities transactions and holdings and to obtain pre-clearance before making certain personal investments, as further detailed in the Code of Ethics. Five Point monitors compliance with the Code on an ongoing basis, and employees may be subject to disciplinary actions as severe as dismissal for certain infractions.

Should any potential conflicts of interest arise or should any violations of the Code of Ethics occur, employees have an ongoing responsibility to report such conflicts or violations to the Chief Compliance Officer, who will address such conflicts or violations on a case-by-case basis. Five Point may also consult an Advisory Committee comprised of certain limited partners of the Funds with regard to certain conflicts. The responsibilities of the Advisory Committee are described fully in the Governing Fund Documents. Any decisions of the Advisory Committee with respect to conflicts are binding on the limited partners.

A copy of Five Point's Code of Ethics is available upon request by an Investor or a prospective Investor from the Chief Compliance Officer.

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

The general partner of each Fund has an investment in the relevant Fund, and certain Five Point employees may also invest in the Funds, typically through the general partner. As such, Five Point's related persons participate in every transaction made by the Funds. While investments by related persons of Five Point are intended to align interests of Five Point and its related persons with those of the Funds, such investments may create conflicts of interest. To address any such conflicts, the investment arrangements are described and agreed upon in the Governing Fund Documents of each Fund. Generally, investments and disposals are made on the same economic terms for all Investors, including for Five Point's related persons investing directly or through the general partner, and each investment is made pro rata among the Investors, including Investors that are related persons of Five Point, so that Five Point's related persons may not receive more favorable terms. Additionally, Five Point's related persons will generally not have greater exposure to certain investments through the Funds except as otherwise described below.

Except as discussed below, Five Point does not recommend that its Funds invest in securities in which any related person has a material prior financial interest. As discussed above, through their personal

investment in the general partner of the Funds, Five Point's related persons will indirectly hold the same or similar partnership interests as other Investors in the Funds and an interest in the same underlying securities.

Mr. Capobianco, a Five Point principal, has a significant direct equity interest in Twin Eagle Resource Management Holdings ("**TERM**") which holds Five Point's interest in Twin Eagle Resource Management ("**Twin Eagle**"), the principal portfolio company of Fund I-A and a portfolio company of Fund I. Mr. Capobianco invested in TERM as part of the first phase of an equity commitment from Five Point and its affiliates, followed by investments by Fund I-A and Fund I. In connection with the TERM investment, Fund I-A and Fund I purchased a portion of Mr. Capobianco's original interest in TERM for \$6,833,873, an amount equal to his acquisition cost (\$6,700,000) plus 8% interest (\$127,760) and costs incurred or amounts paid to fund expenses with respect to TERM (\$6,113). Mr. Capobianco retained a portion of his original interest in TERM. To the extent any expenses related to the investment in TERM are borne directly by either Fund I-A or Fund I investors, Mr. Capobianco similarly bears a portion of any such expenses pro rata to the capital invested in TERM between Mr. Capobianco, Fund I-A and Fund I. Mr. Capobianco's interest in TERM may give rise to potential conflicts including Mr. Capobianco theoretically being motivated to devote a disproportionate amount of time to Fund I-A. However, the Manager is focused on operating Fund I-A and Fund I as required pursuant to their Governing Fund Documents and consistent with their investment mandate, and such conflict is further mitigated by, among other things, Mr. Capobianco's personal indirect stake in Fund I and its investments.

C. Personal Securities Investing

Under certain circumstances, related persons of Five Point employees may also be offered the opportunity to co-invest in individual transactions entered into by the Funds. Such co-investment rights may result in the Fund investing less capital than it otherwise would have in such transactions. Each such related personal transaction would be separately identified and made strictly in accordance with the Code of Ethics and the Governing Fund Documents. Such co-investment opportunities may only be offered if Five Point determines that such co-investment is consistent with Five Point's fiduciary duty to the Funds.

D. Personal Securities Trading

As discussed in Item 11.A. above, Five Point has put procedures in place to adequately monitor the personal securities transactions entered into by its employees and related persons. In addition, to avoid the misuse of material non-public information or confidential client information, Five Point maintains a restricted list of securities in which Five Point and its employees may not trade.

## **Item 12      Brokerage Practices**

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

As noted in Item 4, Five Point will primarily offer investment advice with regard to a broad range of energy-related private investments, rather than advice and execution with respect to securities traded through a broker. To the extent Five Point transacts in public securities (*e.g.*, on an exit or partial exit), or transacts in other non-private equity investments (*e.g.*, certain derivatives used for hedging purposes), Five Point will seek to obtain best execution. In general, this means obtaining the best net results so that the Client's costs paid or amounts received are most favorable under all of the circumstances. If Five Point engages a broker for a specific transaction, such broker will generally be selected on the basis of obtaining the best overall terms available based on a variety of factors, including the following: the ability to achieve prompt and reliable executions at favorable prices; the operational efficiency with which transactions are effected; the financial strength, integrity and stability of the broker, the quality and comprehensiveness of related services considered to be of value; and the competitiveness of commission rates in comparison with other brokers satisfying the other selection criteria. Five Point, as a matter of policy, does not expect to enter into soft dollar arrangements with respect to transactions for the Funds. If Five Point determines to use soft dollars in the future, it will endeavor to do so within the "safe harbor" provided by Section 28(e) of the Securities and Exchange Act of 1934 and implement appropriate policies and procedures at that time. Although Five Point may receive proprietary research from certain brokerage firms, it will generally not take the value of such research into account when selecting a broker. In every case, Five Point will select a brokerage firm that it believes is in the best interest of the Funds.

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

Five Point investment vehicles may concurrently invest in a single portfolio company. To date Five Point investment vehicles have made concurrent investments and Five Point reserves the right to make additional concurrent investments in the future. In the event that concurrent investments in the same portfolio company are made by more than one Five Point investment vehicle, Five Point will seek to mitigate any such conflicts that may arise in respect of investment allocation among such vehicles, including by ensuring that investments are allocated in an equitable and reasonable manner and otherwise consistent with the Governing Fund Documents based on factors set forth therein. Due to the nature of its business, Five Point does not expect to be aggregating the purchase and sales of securities on behalf of its Funds in a manner applicable to investment managers that manage public securities for multiple client accounts. However, Five Point may do so in the future. If aggregation of orders of public securities were done, investment vehicles participating in aggregated trades would receive the average price achieved for such trades.



## Item 13      **Review of Accounts**

### A.      Periodic Review of Client Accounts

All investments are carefully reviewed by the Principals prior to any investment being made on behalf of the Funds. The Principals meet regularly to monitor portfolio company activities and discuss other matters related to current portfolio company holdings, such as market outlook and company fundamentals, including the evaluation of additional investment opportunities in the case of each Fund. These professionals will monitor operations, financial performance and strategic direction of each investment owned by the Funds.

### B.      Other Types of Review

Five Point has established a separate “***Advisory Committee***” for Fund I, Fund II, and Fund III whose voting members consist of investor representatives. The relevant Advisory Committee will ordinarily meet with the Manager or an affiliate on a periodic basis and at the Manager’s or affiliate’s discretion. Items and matters which the Advisory Committee will consider and act on include, but are not limited to, potential conflicts of interest and methods of valuation.

### C.      Reports to Clients regarding their Accounts

Five Point provides Investors with (i) audited annual financial statements of the relevant Fund; (ii) quarterly statement of capital account related to investments in the Funds; (iii) a quarterly report containing an overview of the investment activity of the relevant Fund, including valuations; and (iv) on an annual basis, such other information as is necessary for the preparation of tax returns. All such reports are written.

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

### A.      Other Compensation

No person, other than the Funds, provides an economic benefit to Five Point in exchange for providing investment advice or other advisory services to the Funds.

### B.      Client Referrals

In certain circumstances, Five Point may, pursuant to a written agreement, compensate third parties for introducing prospective Investors to a Fund. Such compensation will be paid in compliance with applicable SEC rules and other applicable laws and regulations.

In connection with the launch and marketing of Fund I, Five Point engaged Mercury Capital Advisors, LLC (“**Mercury**”), a nationally recognized third-party marketing firm and an SEC registered broker-dealer, as a placement agent. Pursuant to a written agreement between Five Point and Mercury, Mercury received a monthly retainer (creditable against any success fees and capped at an aggregate amount) and success fees based on investor commitments (for investors sourced or introduced by Mercury) to Fund I, plus reimbursed expenses. Although Mercury Fees are paid from the assets of Fund I, all Mercury fees offset investor management fees on a dollar for dollar basis. This agreement between Five Point and Mercury expired on its terms as of 18 months from the date of execution, August 1, 2013.

In connection with the marketing of Fund II, Five Point engaged Eaton Partners, LLC (“**Eaton**”), a nationally recognized third-party marketing firm and an SEC registered broker-dealer, as a placement agent. Pursuant to a written agreement between Five Point and Eaton, Eaton received a monthly retainer (capped at an aggregate amount) and success fees based on investor commitments (for investors sourced or introduced by Eaton) to Fund II plus reimbursed expenses. Although Eaton’s fees are paid from the assets of Fund II, all Eaton fees offset investor management fees on a dollar for dollar basis. This agreement between Five Point and Eaton expires on its terms as of Fund II’s date of Final Closing, which will occur on or before March 31, 2018.

In connection with the marketing of Fund III, Five Point engaged Eaton Partners, LLC (“**Eaton**”), a nationally recognized third-party marketing firm and an SEC registered broker-dealer, as a placement agent. Pursuant to a written agreement between Five Point and Eaton, Eaton will receive success fees based on aggregate investor commitments (irrespective if these investors were sourced or introduced by Eaton) to Fund III plus reimbursed expenses. Although Eaton’s fees are paid from the assets of Fund III, all Eaton fees offset investor management fees on a dollar for dollar basis. This agreement between Five Point and Eaton will expire on its terms as of Fund III’s date of Final Closing, which will occur on or before August 15, 2020.

## **Item 15      Custody**

Five Point is deemed to have custody of Fund assets under Rule 206(4)-2 of the Advisers Act because of the authority that Five Point and/or its affiliates have over those assets. All Fund assets that are not exempt under Rule 206(4)-2 are maintained at a qualified custodian who provides statements to the Funds and to Five Point on a regular basis. Each Fund is subject to an annual audit by an independent public accountant that is registered with, and subject to inspection by, the Public Company Accounting Oversight Board. The audited financial statements are prepared in accordance with U.S. generally accepted accounting principles and distributed to each Investor within 120 days of each Fund's fiscal year end.

## **Item 16      Investment Discretion**

As dictated by the Governing Fund Documents, Five Point has full discretionary authority to manage the Funds and, therefore, will not be required to obtain, and will not seek, approval from the respective Fund or the Investors of the Fund with respect to Five Point's investment decisions.

The Funds' investment strategy is set forth in detail in each Fund's respective Governing Fund Documents and/or additional governing documents (if any). Individual Investors will not have the ability to impose limitations on Five Point's discretionary authority. There will not be any separate classes for Investors. All Investors will receive identical interests.

Prospective investors will be provided with the Governing Fund Documents prior to their investment and will be encouraged to carefully review all offering materials and to be sure that the proposed investment in the respective Fund is consistent with their investment goals and tolerance for risk. Prospective investors will also be required to execute a subscription agreement, in which they will make various representations including representations regarding their suitability to invest in that privately placed investment pool.

## **Item 17      Voting Client Securities**

Five Point invests primarily in private companies which typically do not issue proxies. On occasion, Five Point may invest in private companies that go public, in which case such companies will issue proxies. Five Point has adopted proxy voting policies and procedures designed to ensure that Five Point votes proxies in the best interest of its clients. Investors may not direct Five Point's proxy voting decisions. Five Point maintains a record of all proxies voted on behalf of the Funds. Investors may contact Five Point using the information on the front cover of this Brochure for a copy of its proxy voting policy or for information with respect to a specific vote.

As is typical of private equity investing, Five Point generally approves one or more of its employees to act as representatives on the board of directors of portfolio companies on behalf of the Funds. In situations where Five Point votes the proxy for a company for which an employee or employees of Five Point serve on the board of directors, Five Point has determined that this does not inherently present a conflict of interest as (a) the employee is on the board of directors as a representative of the Funds and (b) the sole purpose of this representation is to ensure that the Funds' interests are protected. Therefore, Five Point believes the interests of the Funds and of these representatives are aligned with respect to proxy voting and otherwise. If a situation arises where a conflict with respect to proxies occurs, Five Point will take appropriate steps to resolve such conflict, such as having the CCO notified to the extent a conflict of interest is identified with respect to a proxy vote, and determining the appropriate course of action, which may include, but is not limited to, relying on the voting recommendation of a third-party voting service or abstaining for such vote.

## **Item 18      Financial Information**

### **A.      Prepayment of Fees**

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

### **B.      Financial Condition**

Five Point is not currently aware of any financial condition that is reasonably likely to impair its ability to meet contractual commitments to clients.

### **C.      Bankruptcy**

Five Point has never been the subject of a bankruptcy petition.