



Item 1 - Cover Page



Silverpeak Credit Partners LP  
Part 2A of Form ADV Brochure

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THIS BROCHURE PROVIDES INFORMATION ABOUT THE QUALIFICATIONS AND BUSINESS PRACTICES OF SILVERPEAK CREDIT PARTNERS LP ("SILVERPEAK" OR THE "ADVISER"). IF YOU HAVE ANY QUESTIONS ABOUT THE CONTENTS OF THIS BROCHURE, PLEASE CONTACT OUR DIRECTOR OF OPERATIONS AND CHIEF COMPLIANCE OFFICER (THE "CCO") GARRETT YUAN AT 813-397-3745.

NEITHER THE U.S. SECURITIES AND EXCHANGE COMMISSION, NOR THE STATE OF DELAWARE, NOR ANY STATE SECURITIES AUTHORITY, HAS PASSED UPON THE ADEQUACY OR ACCURACY OF THIS BROCHURE. REGISTRATION AS AN INVESTMENT ADVISER DOES NOT IMPLY A CERTAIN LEVEL OF SKILL OR TRAINING. ADDITIONAL INFORMATION ABOUT THE ADVISER IS AVAILABLE ON THE SEC'S WEBSITE AT [WWW.ADVISERINFO.SEC.GOV](http://WWW.ADVISERINFO.SEC.GOV).



## **ITEM 2 - MATERIAL CHANGES**

Silverpeak has made no material changes to the last version of this Brochure dated December 15, 2020.



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## ITEM 4 - ADVISORY BUSINESS

- A. **General Description of Advisory Firm.** Silverpeak Credit Partners LP ("Silverpeak" or the "Adviser") is a Limited Partnership formed in August 2015 under the laws of the state of Delaware. Silverpeak is controlled by its general partner, Silverpeak Credit Manager LLC, a Delaware limited liability company. The Managing Members of Silverpeak Credit Manager LLC are indirectly Kaushik Amin, Mark Walsh, and Brett Bossung (the "SP Principals"). Adam Hagfors, Managing Partner and Chief Investment Officer ("CIO"), Vaibhav Kumar, Partner and Portfolio Manager, and Brian Rigert, Partner and Portfolio Manager are collectively herein referred to as the "SP Credit Principals". Vaibhav Kumar and Brian Rigert are herein referred to as the "Portfolio Managers".

Silverpeak is part of the "Silverpeak Group", which is defined as: the general partners of the Funds (as defined below), the Funds, Silverpeak, the SP Principals, the SP Credit Principals and their respective members, principals, officers, directors, employees, agents, affiliates and representatives.

- B. **Description of Advisory Services.** Silverpeak provides advisory services on a discretionary or non-discretionary basis to its Clients, which include co-investments, separately managed accounts and pooled investment vehicles for sophisticated institutional investors. Silverpeak has particular expertise in investing and trading in a variety of credit products. These credit products may include investments in special situations (lending), securitized products, structured credit products, single-name credit products, credit default swaps and other derivatives.

Silverpeak currently manages these seven Fund groups:

1. Silverpeak CLO LP, a Cayman Islands exempted limited partnership ("CLO Fund I").
2. Silverpeak CLO II LP, a Cayman Islands exempted limited partnership ("CLO Fund II")
3. Silverpeak CLO III LP, a Cayman Islands exempted limited partnership ("CLO Fund III")
4. Silverpeak Credit Opportunities LP ("Credit Opportunities Master Fund"), a Cayman Islands exempted limited partnership, which is the master fund for two feeder funds. Silverpeak Credit Opportunities Offshore Fund LP ("Credit Opportunities Offshore Feeder Fund"), a Cayman Islands exempted limited partnership, serves as the offshore feeder fund, and Silverpeak Credit Opportunities Onshore Fund LP ("Credit Opportunities Onshore Feeder



Fund"), a Cayman Islands exempted limited partnership, serves as the onshore feeder fund. Silverpeak Credit Opportunities AIV LP ("Credit Opportunities AIV Fund"), a Delaware exempted limited partnership, which is the fund for one feeder fund. Silverpeak Credit Opportunities Offshore Fund AIV LP ("Credit Opportunities Offshore AIV Feeder Fund"), a Delaware exempted limited partnership, serves as the offshore feeder fund. The Credit Opportunities Master Fund, the Credit Opportunities Offshore Feeder Fund, the Credit Opportunities Onshore Feeder Fund, Credit Opportunities AIV Fund and Credit Opportunities Offshore AIV Feeder Fund are herein collectively referred to as the "Credit Opportunities Fund Group".

5. Silverpeak Special Situations Lending LP ("Special Situations Lending Master Fund"), a Delaware limited partnership, which is the master fund for three feeder funds.
  - Silverpeak Special Situations Lending Offshore Fund LP ("Special Situations Lending Offshore Feeder Fund"), a Delaware limited partnership, serves as the offshore feeder fund, and
  - Silverpeak Special Situations Lending Onshore Fund LP ("Special Situations Lending Onshore Feeder Fund"), a Delaware limited partnership, serves as the onshore feeder fund, and
  - Silverpeak Special Situations Lending TE Fund LP ("Special Situations Lending TE Feeder Fund"), a Delaware limited partnership.The Special Situations Lending Master Fund, the Special Situations Lending Offshore Feeder Fund, the Special Situations Lending Onshore Feeder Fund and the Special Situations Lending TE Feeder Fund are herein collectively referred to as the "Special Situations Lending Fund Group".
6. Silverpeak Credit Opportunities Co-Invest 1, LLC, a Delaware Limited Liability Company ("Co-Invest 1")
7. Silverpeak Credit Opportunities Co-Invest 2, LLC, a Delaware Limited Liability Company ("Co-Invest 2")

CLO Fund I, CLO Fund II and CLO Fund III, are collectively herein referred to as the "CLO Funds". Co-Invest 1 and Co-Invest 2, are collectively herein referred to as the "Co-Invest Funds". The CLO Funds, Credit Opportunities Fund Group, Special Situations Lending Fund Group together with the Co-Invests, are herein referred to as the "Funds".

CLO Fund I, CLO Fund II, CLO Fund III, Credit Opportunities Fund Group and Co-Invest 1 are currently closed to new investors. The Special Situations Lending Fund Group is a new fund launch and held its first close on 09/18/2020.

The CLO Funds, the Credit Opportunities Fund Group and the Special Situations Lending Fund Group may conduct their investment activities through an intermediate special purpose vehicle, when applicable, which in turn will



invest some or all its assets in a trading special purpose vehicle. The intermediate special purpose vehicles and trading special purpose vehicles for the Funds are as follows:

No.	Fund	Intermediate SPV 1 (Domicile)	Intermediate SPV 2 (Domicile)	Trading SPV (Domicile)
1	Silverpeak CLO LP	Silverpeak CLO Cayman Holdings LP (Cayman)	Bluerock Institutional High Income Credit Fund LLC (Delaware)	Silverview CLO Owner LLC (Delaware)
2	Silverpeak CLO II LP	Silverpeak CLO II Cayman Holdings LP (Cayman)	-	Silverview CLO II Owner LLC (Delaware)
3	Silverpeak CLO III LP	Silverpeak CLO III Cayman Holdings LP (Cayman)	-	Silverview CLO III Owner LLC (Delaware)
4	Silverpeak Credit Opportunitites Onshore Fund LP	Silverpeak Credit Opportunitites LP (Cayman)	Silverpeak Credit Opportunitites Holdings LP (Cayman)	Silverpeak Credit Opportunitites Owner LLC (Delaware)
-	Silverpeak Credit Opportunitites Offshore Fund LP	Silverpeak Credit Opportunitites LP (Cayman)	Silverpeak Credit Opportunitites Holdings LP (Cayman)	Silverpeak Credit Opportunitites Owner LLC (Delaware)
-	Silverpeak Credit Opportunitites Offshore Fund AIV LP	Silverpeak Credit Opportunitites US Holdings LLC (Delaware)	-	Silverpeak Credit Opportunitites AIV LP (Delaware)
5	Silverpeak Special Situations Lending Offshore Fund LP	Silverpeak Special Situations Lending Holdings LP (Delaware)	-	Silverpeak Special Situations Lending LP (Delaware)
-	Silverpeak Special Situations Lending Onshore Fund LP	-	-	Silverpeak Special Situations Lending LP (Delaware)
-	Silverpeak Special Situations Lending TE Fund LP	-	-	Silverpeak Special Situations Lending LP (Delaware)
6	Silverpeak Credit Opportunitites Co- Invest 1 LLC	-	-	-
7	Silverpeak Credit Opportunitites Co- Invest 2 LLC	-	-	-

Unless otherwise indicated, references herein to the investment activities of a particular Fund mean the investment activities of that Fund through its intermediate special purpose vehicle as well as its trading special purpose vehicle. Other references to the Funds may, to the extent appropriate, include the intermediate special purpose vehicle and/or the trading special purpose vehicle.

Silverpeak manages two separately managed account which are herein referred to collectively as the “SMAs”. In addition, from time to time, Silverpeak may create other investment vehicles in which the Funds own a direct or indirect interest and which are formed to acquire investments as part of a Fund's investment program (the “Fund Investment Vehicles”) and/or offer co-lending opportunities through limited partnerships or other entities formed to effect such co-lending opportunities (each a “Co-Investment”, collectively “Co-Investments”). As of December 31, there are two Co-Investments.

From time to time herein, the Funds, SMAs and Co-Investments may be referred to collectively as “Clients” of Silverpeak. Investors in the Funds, SMAs and Co-Investments are herein referred to as “Investors”.

- C. **Availability of Tailored Services for Individual Clients.** Silverpeak does not tailor its advisory services to the individual needs of Investors in the Fund and does not accept Investor-imposed investment restrictions with respect to the Funds.



The SMAs and Co-Investments are subject to investment objectives, guidelines, restrictions, fee arrangements and other terms that are individually negotiated with the SMAs or Co-Investment's Investor.

- D. **Wrap Fee Programs.** Silverpeak does not participate in wrap fee programs.
- E. **Clients Assets Under Management.** Silverpeak's regulatory assets under management as of December 31, 2020 for the Funds, the SMAs and the Co-Investments are approximately \$259,770,728. All assets managed by Silverpeak are managed on a discretionary and non-discretionary basis.



## ITEM 5 - FEES AND COMPENSATION

A. **Advisory Fees and Compensation.** Silverpeak or its affiliates generally receive management fees and performance-based (carried interest) fees from Clients. Advisory Agreements describe the fee structures relevant to each in full. Advisory Agreements includes (a) the offering memorandum, limited partnership agreement or limited liability agreement of the Funds and the investment management agreement, operating agreement or any other similar agreement of the SMAs and/or Co-Investments. The following is a summary of the fees charged to the Funds, SMAs and Co-Investments.

### Management Fees

- CLO Funds. Investors in the CLO Funds are charged a quarterly management fee equal to 0.375% (i.e., 1.5% per annum) of capital commitments during the commitment period. After the commitment period, the management fee for any calendar quarter will be equal to 0.375% (i.e., 1.5% per annum) of invested capital (including amounts borrowed by the Fund to fund the acquisition of an investment) at the beginning of such calendar quarter less the amount of capital invested (including amounts borrowed by the Fund to fund the acquisition of an investment) with respect to a specific investment if (i) the amount has been returned to the Fund or a Fund Investment Vehicle as a result of a disposition or other realization of such investment or (ii) there has been a complete write-off of such investment.
- Credit Opportunities Fund Group. Investors in the Credit Opportunities Offshore Feeder Fund, Credit Opportunities Onshore Feeder Fund and Credit Opportunities Offshore AIV Feeder Fund are charged a quarterly management fee equal to 0.375% (i.e., 1.5% per annum) of (i) the aggregate amount of investment contributions (including unrecouped bridge financing contributions), less (ii) the aggregate amount of the investment contributions with respect to each portfolio investment that has been disposed of, otherwise realized or completely written off to the Fund or a Fund Investment Vehicle (collectively, "Invested Capital"). Commencing with the first full quarter after the expiration of the investment period, the management fee will be equal to 0.375% (i.e., 1.5% per annum) of the net asset value of the Fund (prior to the allocation of accrued and unpaid carried interest) as of the last day of the applicable calendar quarter preceding when the management fee is due (as determined pursuant to the limited partnership agreement).
- Special Situations Lending Fund Group. Investors in the Special Situations Lending Onshore Feeder Fund, Special Situations Lending Offshore Feeder Fund and Special Situations Lending TE Feeder Fund, commencing as of the initial close date, are charged a quarterly management fee equal to





0.375% (i.e., 1.5% per annum) of the aggregate cost of all portfolio investments (including bridge financings) held by the Fund (which cost shall include, less (i) any fees and expenses capitalized into the cost of, and any accrued original issue discount or market discount (including origination and exit fees) related to, any investment and (ii) the cost attributable to any Leverage Facility used for the purposes of, or related to, making any investment), reduced by (x) any dispositions or realizations (partial or full) and (y) total write-offs that have not been subsequently reversed (collectively, "Invested Capital"). Calculation of the Management Fee with respect to Invested Capital will be based upon the amount of Invested Capital measured as of the last day of the applicable calendar quarter in which the Management Fee is due (as determined pursuant to the Partnership Agreement).

- Co-Invest Funds. Investors pay fees pursuant to the Advisory Agreement with Silverpeak.
- SMA and Co-Investments. Investors pay fees pursuant to any individually negotiated Advisory Agreement with Silverpeak.

#### **Performance Based Fees**

- For all Clients. If applicable, a "carried interest" performance-based fee from "distributable cash", is payable to the general partner of the Client pursuant to a "waterfall" formula approximately equal to 20% of gains subject to make-whole and an 8% per annum compounding preferred returns provision. The general partner of the Client is subject to a "Clawback Payment" as further described in the Advisory Agreement of each Client.
- Co-Invest Funds. Investors pay performance-based fees pursuant to the Advisory Agreement with Silverpeak.
- SMA and Co-Investments. Investors pay performance-based fees pursuant to any individually negotiated Advisory Agreement with Silverpeak.

#### **Reduction of Fees**

- Note that the general partner of a Fund may, in its sole discretion, reduce or waive the management fee or carried interest fee for certain large or strategic Investors or for Investors who are members of the Silverpeak Group. Therefore, some Fund Investors may pay more or less than other Fund Investors for the same management services.

#### **SMAs, Co-Investments**

- Management fees and incentive compensation arrangements imposed upon any SMAs and Co-Investments which may be established in the future will be as set forth in such SMA and Co-Investment's Advisory Agreements. These terms may, in the sole discretion of the general partner, vary from the management fee and incentive compensation amounts payable by Investors in the relevant Fund and may be lower.



## B. Payment of Fees

- CLO Funds. Management fees charged are deducted from the Fund's assets. Management fees are calculated and paid quarterly in advance based on the committed (during the commitment period) and invested capital (after the commitment period) of the Fund as of the first day of the quarter. The "carried interest" performance-based fees are calculated and payable when cash proceeds derived by the Fund or the Fund Investment Vehicles are available for distribution in accordance with the distribution waterfall described in the Offering Memorandum. The Fund will pay amounts designated for distribution to Investors as promptly as practicable following receipt thereof by the Fund, generally quarterly; provided that the general partner of the Fund may make distributions at other times in its sole discretion. An Investor's quarterly account statement shows an Investor's holdings in the Fund net of all fees and expenses.
- Credit Opportunities Fund Group. Management fees charged are deducted from the Fund's assets. Management fees are calculated and paid in arrears as of the last day of each calendar quarter based on the invested capital (during the commitment period) and net asset value (after the commitment period) of the Fund as of the last day of the calendar quarter preceding when the management fee is due. The "carried interest" performance-based fees are calculated and payable when cash proceeds derived by the Fund or the Fund Investment Vehicles are available for distribution in accordance with the distribution waterfall described in the Offering Memorandum. The Fund will pay amounts designated for distribution to Investors as promptly as practicable following receipt thereof by the Fund, generally quarterly; provided that the general partner of the Fund may make distributions at other times in its sole discretion. An Investor's quarterly account statement shows an Investor's holdings in the Fund net of all fees and expenses.
- Special Situations Lending Fund Group. Management fees charged are deducted from the Fund's assets. Management fees are calculated and paid in arrears as of the last day of each calendar quarter based on the invested capital (during and after the commitment period) of the Fund as of the last day of the calendar quarter preceding when the management fee is due. The "carried interest" performance-based fees are calculated and payable when cash proceeds derived by the Fund or the Fund Investment Vehicles are available for distribution in accordance with the distribution waterfall described in the Offering Memorandum. The Fund will pay amounts designated for distribution to Investors as promptly as practicable following receipt thereof by the Fund, generally quarterly; provided that the general partner of the Fund may make distributions at other times in its sole discretion. An Investor's quarterly account statement shows an Investor's holdings in the Fund net of all fees and expenses.



- Co-Invest Funds. Investors pay fees pursuant to the Advisory Agreement with Silverpeak.
- SMA's and Co-Investments. Investors pay fees pursuant to any individually negotiated Advisory Agreement with Silverpeak.

C. **Other Fees and Expenses.** Investors typically bear fees and expenses in addition to those described above and in Item 6. The below summary includes but is not limited to, the fund fees and expenses for each respective Fund. For a complete list of the Funds fees and expenses, please reference the Offering Memorandum of each respective Fund.

- CLO Funds. CLO Fund fees and expenses are borne by the Funds (and indirectly the Investors in the Fund) and include but are not limited to the following: legal, accounting (including third-party accounting services), audit, tax preparation and tax compliance (e.g., FBAR, FATCA, ERISA), tax structuring and other professional fees and expenses, PFIC tax reporting expenses, administrator fees and expenses, organizational expenses<sup>1</sup>, research expenses (including research-related travel), Bloomberg related fees and expenses, broken-deal expenses<sup>2</sup>, fees and expenses related to Intex structured products analytics, Xtract Research related fees and expenses, Finomial related fees and expenses, expenses of third-party valuation agents (if any), portfolio and risk systems expenses, investment expenses such as interest on margin accounts and other indebtedness, brokerage fees and commissions, custodial fees, bank service fees, insurance (including D&O and E&O insurance), Fund compliance expenses (including expenses related to various filings (or portions thereof) the Fund is required to make or Silverpeak is required to make as a result of managing the Fund's portfolio, including Form PF, CFTC filings (if any) and Annex IV under the AIFMD, and fees and expenses related to registration, filing and/or reporting requirements in any jurisdiction in which the limited partnership interests are offered or sold), the fees and expenses of the Fund's limited partner advisory board (if any), extraordinary expenses (such as the cost of litigation or indemnification expenses, if any), its pro-rata share of the administrative and other expenses of the Intermediate SPV and the Trading SPV and other expenses (including all other customary expenses) related to the purchase, sale, preservation, workout, transmittal or other disposition of Fund assets.
- Credit Opportunities Fund Group. The Fund (and indirectly the Investors) will pay all fees, costs, expenses, liabilities and obligations relating to the Fund

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<sup>1</sup> Organizational expenses may include tax structuring fees related to the set-up of Fund Investment Vehicles.

<sup>2</sup> Broken-deal expenses are allocated only to Clients which were considered by Silverpeak to be potential participants in a proposed investment which was not consummated.



and/or its activities, business, portfolio investments or actual or potential investments (to the extent not borne or reimbursed by a portfolio investment or potential portfolio investment), including all fees, costs, expenses, liabilities and obligations relating or attributable to: (i) activities with respect to the structuring, organizing, negotiating, consummating, financing, refinancing, acquiring, bidding on, owning, managing, monitoring, operating, holding, hedging, restructuring, trading, taking public or private, selling, valuing, winding up, liquidating, or otherwise disposing of, as applicable, the Fund's portfolio investments and the its 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, investment bankers, lenders, third-party diligence 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; (ii) indebtedness of, or guarantees made by, the Fund, the general partner or any "affiliated partner" on behalf of the Fund (including any credit facility, letter of credit or similar credit support), including interest with respect thereto, or seeking to put in place any such indebtedness or guarantee; (iii) financing, interest on margin accounts, bank service fees, commitment, origination and similar fees and expenses; (iv) broker, dealer, finder, underwriting (including both commissions and discounts), loan administration, private placement fees, sales commissions, investment banker, finder and similar services; (v) brokerage, sale, custodial, depository, trustee, record keeping, account and similar services; (vi) legal, accounting, including third-party accounting services, research (including research-related travel, Bloomberg related fees and expenses, fees and expenses related to Xtract research or any similar services, Intex or any similar programs and fees and expenses related to Finomial or any similar programs), auditing, administration (including fees and expenses associated with the Fund's third-party administrator and administration or reporting software, if any), information, appraisal, advisory, valuation (including third-party valuations, appraisals or pricing services), portfolio and risk systems, consulting (including consulting and retainer fees and other compensation paid to the Silverpeak Group or any of its members, consultants performing investment initiatives and other similar consultants), tax preparation, tax compliance, tax structuring and other professional services; (vii) reverse breakup, termination and other similar fees; (viii) directors and officers liability, errors and omissions liability, crime coverage and general partnership liability premiums and other insurance and regulatory expenses; (ix) filing, title, transfer, registration and other similar fees and expenses; (x) printing, communications, marketing and publicity;



(xi) the preparation, distribution or filing of Fund-related or investment-related financial statements or other reports, tax returns, tax estimates, Schedule K1s, or any other administrative, compliance or regulatory filings or reports (including Form PF and any filings or reports contemplated by the alternative investment fund managers directive or any similar law, rule or regulation), or other information, including fees and costs of any third-party service providers and professionals related to the foregoing; (xii) developing, licensing, implementing, maintaining or upgrading any web portal, extranet tools, computer software or other administrative or reporting tools (including subscription-based services) for the benefit of the Fund or the limited partners; (xiii) any activities with respect to protecting the confidential or non-public nature of any information or data; (xiv) to the extent provided in the partnership agreement, or otherwise approved by the general partner in its sole discretion, activities or proceedings of the advisory board (including any reasonable out-of-pocket costs and expenses incurred by representatives of the general partner, the advisory board members, permitted observers and other persons in attending or otherwise participating in meetings of the advisory board); (xv) indemnification (including any fees, costs and expenses incurred in connection with indemnifying any partner or other person pursuant to the partnership agreement 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 partnership agreement), except as otherwise set forth in the partnership agreement; (xvi) actual, threatened or otherwise anticipated litigation, mediation, arbitration or other dispute resolution process, including any judgment, other award or settlement entered into in connection therewith; (xvii) any annual limited partner meeting or other periodic, if any, meetings of the limited partners and any other conference or meeting with any limited partner(s); (xviii) except as otherwise determined by the general partner in its sole discretion, any fee, cost, expense, liability or obligation relating to any alternative investment vehicle or its activities, business, portfolio investments or actual or potential investments (to the extent not borne or reimbursed by a portfolio investment of such alternative investment vehicle) that would be a Fund expense or organizational expense if it were incurred in connection with the Fund, and any expenses incurred in connection with the formation, management, operation, termination, winding up and dissolution of any feeder vehicles related to the Fund to the extent not paid by the investors investing in such entities; (xix) the termination, liquidation, winding up or dissolution of the Fund; (xx) defaults by Partners in the payment of any capital contributions; (xxi) amendments to, and waivers, consents or approvals pursuant to, the constituent documents of the Fund, the general partner and related entities and any alternative investment vehicle of the Fund, including the preparation,



distribution and implementation thereof; (xxii) complying with any law or regulation related to the activities of the Fund (including regulatory expenses of the general partner incurred in connection with the operation of the Fund and legal fees and expenses); (xxiii) any litigation or governmental inquiry, investigation or proceeding involving the Fund, including the amount of any judgments, settlements or fines paid in connection therewith, except as set forth in the partnership agreement; (xxiv) unreimbursed costs and expenses incurred in connection with any transfer or proposed transfer by a limited partner; (xxvi) any taxes, fees and other governmental charges levied against the Fund and all expenses incurred in connection with any tax audit, investigation settlement or review of the Fund (except to the extent that the Fund is reimbursed therefor by a partner or such tax, fee or charge is treated as having been distributed to the partners pursuant to the partnership agreement); (xxvii) distributions to the partners and other expenses associated with the acquisition, holding and disposition of the Fund's investments, including extraordinary expenses; (xxviii) compliance or regulatory matters related to the Fund, except as set forth in the partnership agreement; (xxx) any travel, lodging, meals or entertainment relating to any of the foregoing, including in connection with consummated and unconsummated investment and disposition opportunities; (xxix) all costs and expenses associated with operating a feeder vehicle, the Intermediate SPV, the Trading SPV or any other entity that holds portfolio investments, including all expenses associated with its management, operation, winding-up, liquidating and dissolution and with preparing and distributing such entities' financial statements, tax returns and other reports; (xxxii) any placement fees; and (xxxiii) any other fees, costs, expenses, liabilities or obligations approved by the advisory board (if any).

- Special Situations Lending Fund Group. The Fund (and indirectly the Investors) will pay, or reimburse the General Partner for, all other fees, costs, expenses, liabilities and obligations relating to the Fund and/or its activities, business, portfolio investments or actual or potential investments (to the extent not borne or reimbursed by a portfolio investment or potential portfolio investment), including but not limited to all fees, costs, expenses, liabilities and obligations relating or attributable to: (i) activities with respect to the structuring, organizing, negotiating, consummating, financing, refinancing, acquiring, bidding on, owning, managing, monitoring, operating, holding, hedging, restructuring, trading, taking public or private, selling, valuing, winding up, liquidating, or otherwise disposing of, as applicable, the Fund's portfolio investments and 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, investment bankers, lenders, third-party diligence 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; (ii) indebtedness of, or guarantees made by, the Fund, the General Partner or any "affiliated partner" on behalf of the Fund (including any Leverage Facility, letter of credit or similar credit support), including interest with respect thereto, or seeking to put in place any such indebtedness or guarantee; (iii) financing, interest on margin accounts, bank service fees, commitment, origination and similar fees and expenses; (iv) broker, dealer, finder, underwriting (including both commissions and discounts), loan administration, private placement fees, sales commissions, investment banker, finder and similar services; (v) brokerage, sale, custodial, depository, trustee, record keeping, account and similar services; (vi) legal, accounting, including third-party accounting services, research (including research-related travel, Bloomberg related fees and expenses, fees and expenses related to Xtract Research or any similar services, Intex or any similar programs and fees and expenses related to Finomial or any similar programs), auditing, administration (including fees and expenses associated with the Fund's third-party administrator and administration or reporting software, if any), information, appraisal, advisory, valuation (including third-party valuations, appraisals or pricing services), portfolio and risk systems, consulting (including consulting and retainer fees and other compensation paid to the Silverpeak Group or any of its members, consultants performing investment initiatives and other similar consultants), tax preparation, tax compliance, tax structuring and other professional services; (vii) reverse breakup, termination and other similar fees; (viii) directors and officers liability, errors and omissions liability, crime coverage and general partnership liability premiums and other insurance and regulatory expenses; (ix) filing, title, transfer, registration and other similar fees and expenses; (x) printing, communications, marketing and publicity; (xi) the preparation, distribution or filing of Fund-related or investment-related financial statements or other reports, tax returns, tax estimates, Schedule K-1s, or any other administrative, compliance or regulatory filings or reports (including Form PF and any filings or reports contemplated by the Alternative Investment Fund Managers Directive or any similar law, rule or regulation), or other information, including fees and costs of any third-party service providers and professionals related to the foregoing; (xii) developing, licensing, implementing, maintaining or upgrading any web portal, extranet tools, computer software or other administrative or reporting tools (including subscription-based services) for the benefit of the Fund or the Limited Partners; (xiii) any activities with respect to protecting the confidential or non-public nature of any information or data; (xiv) to the extent provided in the Partnership Agreement, or otherwise approved by



the General Partner in its sole discretion, activities or proceedings of the Advisory Board (including any reasonable out-of-pocket costs and expenses incurred by representatives of the General Partner, the Advisory Board members, permitted observers and other Persons in attending or otherwise participating in meetings of the Advisory Board); (xv) indemnification (including any fees, costs and expenses incurred in connection with indemnifying any Partner or other person pursuant to the Partnership Agreement 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 Partnership Agreement), except as otherwise set forth in the Partnership Agreement; (xvi) actual, threatened or otherwise anticipated litigation, mediation, arbitration or other dispute resolution process, including any judgment, other award or settlement entered into in connection therewith; (xvii) any annual Limited Partner meeting or other periodic, if any, meetings of the Limited Partners and any other conference or meeting with any Limited Partner(s); (xviii) except as otherwise determined by the General Partner in its sole discretion, any fee, cost, expense, liability, tax, charge or obligation relating to any alternative investment vehicle or its activities, business, portfolio investments or actual or potential investments (to the extent not borne or reimbursed by a portfolio investment of such alternative investment vehicle) that would be a Fund expense or organizational expense if it were incurred in connection with the Fund, and any expenses incurred in connection with the formation, management, operation, termination, winding up and dissolution of any feeder vehicles related to the Fund to the extent not paid by the investors investing in such entities; (xix) the termination, liquidation, winding up or dissolution of the Fund; (xx) defaults by Partners in the payment of any capital contributions; (xxi) amendments to, and waivers, consents or approvals pursuant to, the constituent documents of the Fund, the General Partner and related entities and any alternative investment vehicle of the Fund, including the preparation, distribution and implementation thereof; (xxii) complying with any law or regulation related to the activities of the Fund (including regulatory expenses of the General Partner incurred in connection with the operation of the Fund and legal fees and expenses); (xxiii) any litigation or governmental inquiry, investigation or proceeding involving the Fund, including the amount of any judgments, settlements or fines paid in connection therewith, except as set forth in the Partnership Agreement; (xxiv) unreimbursed costs and expenses incurred in connection with any transfer or proposed transfer by a Limited Partner; (xxv) any taxes, fees and other governmental charges levied against the Fund and all expenses incurred in connection with any tax audit, investigation settlement or review of the Fund (except to the extent that the Fund is reimbursed therefor by a Partner or such tax, fee or charge is treated as having been distributed to





the Partners pursuant to the Partnership Agreement); (xxvi) distributions to the Partners and other expenses associated with the acquisition, holding and disposition of the Fund's investments; (xxvii) any extraordinary expenses; (xxviii) any expenses related to complying with FATCA (as defined below) and any similar law, intergovernmental agreement or other legal or administrative requirement promulgated or agreed to by any jurisdiction, including CRS (as defined below), applicable to the Fund, including the cost of any services provided by the Fund's administrator with respect thereto; (xxix) expenses of members of the Silverpeak Group for providing accounting, back-office, investor relations, legal and/or tax services to the Fund (based on a good-faith, pro rata, time-based allocation made by the General Partner); (xxx) compliance or regulatory matters related to the Fund, except as set forth in the Partnership Agreement; (xxxi) any travel, lodging meals or entertainment relating to any of the foregoing, including in connection with consummated and unconsummated investment and disposition opportunities; (xxxii) all costs and expenses associated with operating any Fund Vehicle, including any entity that holds portfolio investments, including all expenses associated with its management, operation, winding-up, liquidating and dissolution and with preparing and distributing such entities' financial statements, tax returns and other reports; (xxxiii) any Placement Fees; (xxxiv) compliance with applicable anti-money laundering procedures, laws and/or regulations and know-your-customer procedures, laws and/or regulations; and (xxxv) any other fees, costs, expenses, liabilities or obligations approved by the Advisory Board.

- Co-Invest Funds. The Co-Invest Funds will bear the fees and expenses specified in the Advisory Agreement with Silverpeak.
- SMA's and Co-Investments. The SMA's and Co-Investments will bear the fees and expenses specified in its individually negotiated Advisory Agreement with Silverpeak.
- From time to time, as a service to Investors of the Credit Opportunities Fund Group, Special Situations Lending Fund Group, Co-Investments and Co-Invest Funds, when applicable, the Firm may provide certain administrative support and record-keeping. While it does not consider this to be a fee related to any investment business, this administrative expense may be charged as a de minimis flat administrative expense.

### **Brokerage a Transaction Costs; Employee Expense**

- For all Clients. As noted above, the Funds will incur brokerage and other transaction costs. Please see Item 12 regarding Silverpeak's brokerage practices. In addition, note that the costs of any trading error will be borne by the Fund, unless an error is the result of bad faith, gross negligence, or willful misconduct by Silverpeak.



As noted above, each Fund may bear a portion of the expenses of certain employees and/or consultants of members of the Silverpeak Group (which may include employees and/or consultants of Silverpeak), who provide accounting, back-office, legal and/or tax services to the Fund, such as salaries, payroll taxes, employee benefits and insurance (such expenses, collectively, "Employee Expenses"). Silverpeak will allocate a pro-rata share of the Employee Expenses to the Fund based on its good faith determination of the amount of time such employees provide their services to the Fund, versus the time they provide their services to Silverpeak, any other member of the Silverpeak Group, or other private funds managed by any member of the Silverpeak Group.

Silverpeak will be responsible for and will pay all overhead expenses of an ordinary and recurring nature such as rent, its compliance expenses, supplies, secretarial expenses, stationery, charges for furniture and fixtures, employee insurance, payroll taxes and compensation of employees.

### **Expense Allocation**

- For all Clients. To ensure that expenses are allocated fairly, reasonably and equitably among the Clients, Silverpeak has established an Expense Allocation Policy and accompanying procedures. Where it has been deemed appropriate to allocate all or part of an expense to multiple Clients, Silverpeak will allocate the relevant expense among the applicable Clients pro-rata based on assets under management of the respective Client. In the quarter in which a Client is initially launched, committed capital will be used to calculate assets under management. Subsequent to the end of the quarter in which the Client holds its final close, allocation will be based on assets under management. Expenses for each month will be allocated to each Client based on the prior month's assets under management. Silverpeak, however, may deviate from these pro-rata allocations where the nature of the expense or other relevant factors would make it fair, reasonable and equitable to do so. When considering whether to allocate in a different manner with respect to a particular expense, Silverpeak may consider the following factors, among others: relative use of the product or service, the nature or source of the product or service, and the relative benefits derived by the Client or any other relevant factors. Where Silverpeak determines that an allocation methodology other than the above-referenced pro-rata approach is appropriate, Silverpeak may charge all or part of the expense to particular Client(s). In such instances, Silverpeak will document the allocation decision and rationale.

Where co-investors make investments in parallel with one or more Clients,



any and all expenses will be allocated between the participating Client(s) and the co-investors pro-rata based on the amount of their respective co-investment.

Silverpeak has established various oversight committees to review the allocation of fees and expenses amongst its Clients, including any Fund Investment Vehicles and/or Co-Investments that it may establish in the future.

#### **D. Prepayment of Fees**

- For the Funds. As noted in Item 5(B) above, the Fund's management fee is paid quarterly in advance (for the CLO Funds) and in arrears (for the Credit Opportunities Fund Group and the Special Situations Lending Fund Group). The performance-based fee is payable upon reaching the required waterfall hurdles described above. The management fee will be pro-rated for any period that is less than a full calendar quarter. Once charged to an Investor's account, there is no refund of any of the fees and expenses that have been charged. However, note that performance-based fees paid to a general partner of a Fund are subject to clawback upon the Fund's liquidation under certain circumstances as further described in the Offering Memorandum of the Fund.
- For the SMAs and Co-Investments. Investors pay fees pursuant to the Advisory Agreement with Silverpeak.

#### **E. Additional Compensation and Conflicts of Interest**

- No supervised person of Silverpeak accepts compensation for the sale of securities or other investment products.

### **ITEM 6 - PERFORMANCE FEE ALLOCATION AND SIDE-BY-SIDE MANAGEMENT**

The existence of a "carried interest" performance-based compensation structure may create an incentive for Silverpeak to make more speculative investments on behalf of Clients than it would otherwise make in the absence of such performance-based compensation. However, this risk is mitigated to some extent because: (i) "carried interest" is based on the success of the Fund or SMA as a whole, and not on any single investment in the portfolio, and (ii) members of the Silverpeak Group have made significant personal capital commitments to the Funds. These reduce the incentive to take excessive risk by aligning Silverpeak's and its personnel's financial interests with those of Investors.

When an Adviser and its investment personnel manage more than one Client account, a potential exists for one Client account to be favored over another



Client account. In addition, Silverpeak and its investment personnel have a greater incentive to favor Client accounts that pay Silverpeak (and indirectly its investment personnel) higher performance-based fees. As part of its fiduciary duty, Silverpeak has adopted and implemented policies and procedures intended to address conflicts of interest relating to the management of multiple accounts and the allocation of investment opportunities. The relevant oversight committee is tasked with identifying and addressing potential Silverpeak's conflicts of interest. In addition, the Funds may establish a limited partner advisory board, which would be comprised of representatives of selected Investors, and would provide non-binding advice and counsel as requested by the general partner of a Fund in connection with potential conflicts of interest related to that Fund. Silverpeak will act as a fiduciary with regard to all Client accounts and therefore will not allocate investment opportunities based on anticipated compensation or profits to itself, its affiliates, partners or employees. See Item 12(B) regarding Silverpeak's allocation and aggregation policy.

## **ITEM 7 - TYPES OF CLIENTS**

Silverpeak provides investment advisory services to the Funds, SMAs and Co-Investments.

- For the Funds. The specified minimum initial investment amount for the Special Situations Lending Offshore Feeder Fund, Special Situations Lending Onshore Feeder Fund or Special Situations Lending TE Feeder Fund is \$5 Million. CLO Fund I, CLO Fund II, CLO Fund III and Credit Opportunities Fund Group are currently closed to new investors. Special Situations Lending Fund Group has not held its initial close.

Note that Silverpeak may negotiate separate agreements, commonly referred to as "side letters" with individual Fund Investors. The side letter provisions, which are not found in the Fund's governing documents, may entitle these investors to different terms and conditions related to minimum investment, fees, reporting, liquidity, and/or notifications, among other terms. Silverpeak reserves the right, but does not have the obligation, to negotiate a side letter with Investors.

- For the SMAs and Co-Investments. The SMAs and Co-Investments each have an individually negotiated minimum investment requirement and minimum account size requirement which are specified in each Advisory Agreement with Silverpeak.

## **ITEM 8 - METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**



A. Methods of Analysis and Investment Strategies. Please consult the Offering Memoranda of the Funds for a complete description of the methods of analysis and investment strategy utilized by Silverpeak. Set forth below are summaries of the methods and strategies utilized by the Funds. The SMAs and Co-Investments may employ similar strategies pursuant to the terms of their individual Advisory Agreement.

- CLO Funds. Silverpeak employs a fundamental, opportunistic credit investment strategy and seeks to maximize risk-adjusted returns in new issue and secondary issue first loss equity tranches of collateralized loan obligations ("CLOs"). Silverpeak's investment strategy relies primarily on four central components: (i) Silverpeak's ability to identify Investments that it believes have good fundamental value; (ii) sourcing specific Investments that meet Silverpeak's value criteria; (iii) risk management and monitoring of the Client's portfolio; and (iv) Silverpeak's ability to construct a portfolio of CLO equity with a return profile over time that demonstrates increased total return.

Silverpeak will construct a portfolio of CLO equity by taking into account, with respect to the portfolio providing the source of payment for each CLO, a number of factors including:

- Number and investment style of the Portfolio Managers managing each such portfolio;
- Industry exposure of borrowers on loans underlying each such portfolio;
- Quality of distinct underlying borrowers in each such portfolio.

Silverpeak seeks to create a portfolio of CLO equity and to employ a buy-and-hold strategy. The portfolio management team of Silverpeak continually considers various default, prepayment, recovery and reinvestment scenarios.

- Credit Opportunities Fund Group. The investment objective of the Credit Opportunities Fund Group is to maximize its total return while preserving capital. The Adviser intends to seek to achieve this investment objective primarily through a strategy of investing in a variety of credit products. These credit products may include investments in special situations, securitized products, structured credit products, single-name credit products, credit default swaps and other derivatives. The Adviser intends to pursue investment opportunities primarily in the U.S., but may look to European, Asian or other developed or emerging markets as well. Investments will primarily be on the debt side of the investing universe, although the Fund may also invest in equity and equity-like investments that are expected to behave similarly to debt instruments, such as exchange



traded funds ("ETFs"), preferred stock, closed-end funds and other similar investments.

In furtherance of the investment objective of the Credit Opportunities Fund Group described above, the Adviser intends to invest in special situations, structured credit products and single-name credit products, including collateralized loan obligations ("CLO"), commercial mortgage securities ("CMBS"), asset-backed securities ("ABS"), corporate and bank-issued bonds, loans and participations, collateralized debt obligations ("CDO"), commercial mortgage mezzanine loans and participations ("Mezzanine Loans"), mortgage-backed securities ("MBS"), including residential mortgage-backed securities ("RMBS"), real estate investment trust ("REIT") stock and other equity securities and indices, Enhanced Equipment Trust Certificates, interest-only ("IO") securities and inverse IO securities, public and private U.S. and non-U.S. consumer-receivable-backed securities, whole residential and commercial mortgage loans and participations, consumer loans and participations, various single-name and index credit default swaps (cleared and uncleared), loan acquisitions and other loan-related activities such as the acquisition of non-qualified mortgage loans and the acquisition and resolution of pools of U.S. and non-U.S. non-performing loans and/or real estate owned following foreclosure.

The Adviser intends to carry out the Credit Opportunities Fund Group's investment process and risk control procedures by applying various valuation tools including its own risk and valuation methodology. In particular, the Adviser believes that attractive risk-adjusted returns can be produced by systematically discovering mis-valued credit risk, structural nuances and other opportunities in single-name credit and structured credit products. The Adviser will attempt to take advantage of inefficiencies that result from, among other things:

- inconsistency of performance across deals, issuers, and sectors;
- heterogeneity of securities from both a collateral and structural perspective; and
- structural complexity.

The Adviser will attempt to identify and capture these opportunities. Given the distressed and at times, illiquid nature of many of the assets contemplated by the Adviser, the investment performance of the Credit Opportunities Fund Group may be considerably more volatile than that of more conventional private investment funds. The Adviser will attempt to consistently achieve attractive risk-adjusted returns through a complex, top-down evaluation process of individual securities as well as the bottom-up nature of optimal portfolio construction.





- Special Situations Lending Fund Group. The investment objective of the Fund is to maximize the Fund's total return while preserving capital. The General Partner intends to achieve the Fund's investment objectives by identifying overlooked fundamental value in 'lower' middle market companies through special "private" situations lending. The Fund's investments will primarily be focused on private loans, on the debt side of the investing universe, and in some cases, additional equity upside through warrants. The General Partner intends to pursue investment opportunities primarily based in the United States. The Fund is industry agnostic and expects to lend in various special situations. Such special situations may include but are not limited to lending to specialty finance companies, lending to finance acquisitions or other situations. Such lending may be secured or unsecured and any such security may consist of cash flows, international trade receivables, royalty streams or other special types of collateral. The Fund will invest in (or lend to) companies involved in or undergoing work-outs, liquidations, spin-offs, reorganizations, bankruptcies or other catalytic changes or similar transactions.

The Fund will seek to take advantage of the attractive market opportunity and the supply-demand imbalance of capital for primarily lower middle market companies in the United States. The Investment Manager's ability to provide privately negotiated flexible investments and certainty of execution is increasingly important and particularly relevant in the current investment environment. Given the ongoing technical imbalance seen in the market and continued bank retrenchment, coupled with the significant amounts of private equity dry powder and expansive future M&A outlook, the Investment Manager is in a unique position to capitalize on the attractive and sustainable investing environment on behalf of the Fund's investors. The Fund maintains a disciplined approach in its evaluation of potential investments, with a keen focus on capital preservation and risk adjusted return. The Investment Manager has identified several criteria that are important to its investment selection. The criteria below is a partial list to provide general guidelines for investments; however, not all of these criteria will be met by each investment in which the Fund will invest. The Fund's investment strategy will be focused on the following components:

- Drive Directly Originated Investments. The Fund will pursue a multi-channel origination strategy designed to uncover a broad set of investment opportunities. The Fund will primarily source deals directly from financial advisers, professional advisers (i.e. accountants and legal counsel), personal and professional network, other investment companies, management teams, intermediaries and, to a lesser extent, from commercial and investment banks. The Investment Manager



believes that this multi-source origination strategy leads to a broad set of investment opportunities with greater asset selectivity and better long-term credit decisions.

- Capitalize on Significant and Attractive Market Opportunity. The Fund will seek to take advantage of the attractive market opportunity and supply-demand imbalance, which it believes is primarily driven by (i) decreased bank participation in leveraged transactions due to consolidation and heightened regulatory pressures, (ii) healthy demand trends and (iii) limited competition with few players able to offer privately negotiated, customized agreements and certainty of execution. There has been a significant and ongoing shift in the leveraged lending landscape driven by established and pending regulatory action that have caused traditional financing sources to curtail credit risk exposure or scale back their lending efforts. The Investment Manager believes that its ability to be a scaled total solutions provider to portfolio companies will enable it to win more deals.
  - Focus on Risk-Adjusted Returns. The Investment Manager seeks to leverage its experience and proprietary deal flow to identify attractive risk-adjusted return opportunities. By evaluating comparable companies and deal structures, the Investment Manager should be able to identify and execute investments with attractive relative leverage and pricing.
  - Free Cash Flow / Liquidity Event. The Investment Manager will focus on companies that will provide a steady stream of cash flow to repay the loans and/or companies whose business models, revenue growth and expected cash flows offer attractive exit possibilities. Such companies are often candidates for strategic acquisition by larger industry participants, acquisitions by private equity investors, and initial public offerings of common stock or other capital markets transactions.
  - Leadership Approach to Transactions. The Investment Manager will generally seek the Fund to act as the lead investor and/or hold a majority or controlling position of the tranche in each investment. The Investment Manager believes this active role leads to greater control over deal terms and more favorable deal structures, documentation, fees, pricing and post-closing control. The Investment Manager also believes that a self-origination strategy allows for a controlled due diligence along with direct access to management.
- Co-Invest Funds. The investment objective of the Credit Opportunities Fund Group is to maximize the Fund's total return while preserving capital.





**B. Material Risks of the Adviser's Investment Strategies, Methods of Analysis and Types of Securities.** A summary of the material risks inherent to the strategies employed by Silverpeak for its Clients is set forth below. Please see the Offering Memorandum of the Funds, the Advisory Agreement of the SMAs and the Co-Investments, as applicable, for a complete description of all risks.

**C. Risk Factors for All Clients**

- Investment Risks. There can be no assurance that the Funds, SMAs and Co-Investments will return a profit or that cash will be available for distributions. An investment in either the Funds, the SMAs or Co-Investments involves risk and an Investor may lose some or all of its investment. There also can be no assurance that investment objectives will be achieved. As with any investment, the value of an investment may decrease as well as increase, due to a variety of factors, including general economic conditions and market factors. Additionally, investment decisions made by Silverpeak may not always be profitable. Clients, at any given time, may incur significant losses. Losses can occur for a number of reasons, including but not limited to an overall decline in the underlying market, a lack of liquidity in the underlying markets, excessive volatility in a particular market, government intervention or monetary and/or fiscal policies of a specific region or country.

An investment in either the Funds, the SMAs or Co-Investments is speculative. Investors should not invest in either the Funds, the SMAs or Co-Investments unless they are fully able to bear the financial risks of their investment and are fully able to sustain the possible loss of their entire investment.

- Dependence on Key Personnel. The ability of Silverpeak to manage Clients' affairs currently depends to a large extent on Messrs. Hagfors, Kumar and Rigert. There can be no assurance that Messrs. Hagfors, Kumar and Rigert will remain affiliated with Silverpeak or will otherwise be able to continue to carry on their current duties.
- Other Obligations of the Key Persons of Silverpeak. The working time of the SP Credit Principals will be subject to potential future commitments to other business activities, investments and investment funds. It is possible that Silverpeak will form other investment funds or vehicles in the future which may have the same or similar investment objectives as the current Clients.
- Custody Risk. There are risks involved in dealing with the custodians who settle Client trades. Under certain circumstances, the securities and other



assets deposited with the custodian or broker may not be clearly identified as being assets of the Client and hence the Client could be exposed to a credit risk with regard to such parties. In addition, there may be practical, or time problems associated with enforcing the Client's rights to its assets in the case of an insolvency of any such party.

The Funds maintain custody accounts with their custodian, U.S. Bank, N.A. Although Silverpeak will monitor the custodian and believes that U.S. Bank, N. A. is an appropriate custodian for the Fund, there is no guarantee that it, or any other custodian that the Fund (or any other Client) may use from time to time, will not become insolvent. While both the Bankruptcy Code and the Securities Investor Protection Act of 1970 seek to protect customer property in the event of a failure, insolvency or liquidation of a broker-dealer, there is no certainty that, in the event of a failure of a broker-dealer that has custody of Client assets, the Client would not incur losses due to its assets being unavailable for a period of time, ultimately less than full recovery of its assets, or both. Note that Silverpeak is not deemed to have "custody" of the SMAs account assets.

A Client and/or its custodian may appoint sub-custodians in certain non-U.S. jurisdictions to hold the assets. The custodian may not be responsible for cash or assets which are held by sub-custodians in certain non-U.S. jurisdictions, nor for any losses suffered by the Client as a result of the bankruptcy or insolvency of any such sub-custodian. The Client may therefore have a potential exposure on the default of any sub-custodian and, as a result, many of the protections which would normally be provided to a Client by a custodian will not be available. Custody services in certain non-U.S. jurisdictions remain undeveloped and, accordingly, there is a transaction and custody risk of dealing in certain non-U.S. jurisdictions. Given the undeveloped state of regulations on custodial activities and bankruptcy in certain non-U.S. jurisdictions, the ability of a Client to recover assets held by a sub-custodian in the event of the sub-custodian's bankruptcy would be in doubt.

### **Risk Factors for the CLO Funds**

- Nature of Investment. Investment in either the Funds or the SMAs requires a long-term commitment with no certainty of return. Silverpeak will invest in first loss equity tranches of CLOs that are collateralized by a diverse portfolio consisting primarily of below investment grade U.S. senior secured loans. The Clients' returns will depend on many factors, including primarily the performance of the CLOs in which the Clients will invest, the performance of the CLO and loan markets generally, the availability and liquidity of investment opportunities falling within the Clients' investment objectives



and policies, the level and volatility of interest rates, conditions in the financial markets, and Silverpeak's ability to successfully operate its business and execute Silverpeak's investment strategy. There can be no assurance that the Clients' investment strategy will be successful.

- Market Risks. Financial market disruptions may have a negative effect on the valuations of the investments and on the potential for liquidity events involving the investments. In the future, non-performing assets in Clients' portfolios may cause the value of their investment portfolios to decrease. Conversely, in the event of sustained market improvement, the Clients may have access to only a limited number of potential investment opportunities, which also would result in limited returns. Depending on market conditions, Clients may incur substantial realized losses and may suffer additional unrealized losses in future periods, which may adversely affect its business, financial condition and/or the value of the investments.

Furthermore, the value of each CLO in which the Clients may invest can be affected by a number of factors, including: (a) changes in the market's perception of the related CLO collateral; (b) economic and political factors such as interest rates, levels of unemployment and taxation, which can have an impact on defaults and losses incurred with respect to the related CLO collateral; (c) changes in the market's perception of the adequacy of credit support built into the relevant CLO's structure to protect against losses caused by defaults by obligors of the underlying loans in the related CLO collateral; (d) changes in the perceived creditworthiness of the obligors of the underlying loans, the related CLO issuer, or any other party to the related CLO transaction; and/or (e) the speed at which the underlying loans within the related CLO collateral are repaid or prepaid (whether voluntarily or due to default).

The occurrence of any such events may have a material adverse effect on the value of the Investments.

The ability of CLO issuers to make payments with respect to their equity tranche may depend on the recovery or condition of the economy, the credit markets and other financial markets and there is no assurance that this condition will not deteriorate or improve. In addition, the market value and future performance of any underlying asset acquired by CLO issuers may be negatively affected by current and future economic conditions. The business, financial condition or results of operations of the respective obligors of the underlying assets may be adversely affected by deteriorating economic and business conditions. Delinquencies, non-accruals and credit losses generally increase during economic slowdowns or recessions. To the extent that economic and business conditions



deteriorate, the number of non-performing assets is likely to increase, and the value of the underlying assets is likely to decrease.

- First Loss Positions. CLOs typically will have no significant assets other than CLO collateral. Accordingly, distributions from the Investments are and will be payable solely from the cashflows from the CLO collateral. Payments to the Clients are and will be met only after payments due on the notes forming the senior and mezzanine tranches of a CLO from time to time have been made in full. Payment of interest and principal on the equity, senior and mezzanine tranches will be the sole responsibility of the CLO issuer and will not be guaranteed or insured by any party, including the manager(s) of the CLO issuer or any affiliates of such manager(s).

Subordination of various classes of a CLO's equity tranche will affect their right to and ultimate payment of interest and principal. Certain coverage tests and other requirements of the CLO indenture may require an early and mandatory redemption of the more senior classes of CLO securities, which will reduce or even eliminate amounts available to make payments on more junior classes of CLO securities, resulting in a deferral of interest or loss of principal. Following an event of default and acceleration of the senior notes, all principal and interest will be paid sequentially, until all more senior CLO securities are redeemed in full. It is possible for certain CLO securities to be in default, not receiving principal or interest payments and unable to effect any liquidation or dissolution of the issuer of the CLO. As Clients will invest only in the first loss equity tranche of CLOs, Clients will absorb any initial losses with respect to a CLO's underlying assets.

- Limited Liquidity. All of the investments are intended to be long-term investments, not trading investments. The liquidity in the market for the investments changes and may be limited or withdrawn. There is no guarantee that any party to a CLO transaction will make a secondary market in relation to the CLO securities. There can be no assurance that a secondary market for any particular CLO securities will develop or, if a secondary market does develop, that it will provide the holders of CLO securities with liquidity of investment or that it will continue for the life of such notes. As a result, Clients may have to hold particular investments for an indefinite period of time or until their early redemption date or maturity date. Where a market does exist, to the extent that an investor wants to sell its securities, the price may, or may not, be at a discount from the outstanding principal amount.
- Leverage and Volatility. The notes evidencing the equity tranche of a CLO, in effect, are highly leveraged investments in the underlying collateral of the CLO. Therefore, changes in the market value of the notes could be



greater than the change in the market value of the underlying CLO collateral, which themselves are subject to credit, liquidity and interest rate risk. Where a CLO replaces its CLO collateral, or where the composition of a CLO portfolio changes for any other reason, in a way that results in a net loss, the effect upon the market value of the notes will be amplified as a result of such leverage.

Notes evidencing the equity tranche of a CLO are the most subordinated tranche of securities issued by a CLO and all payments of principal and interest on the notes are fully subordinated to those of the CLO's debt securities and to the payment of the costs, fees and expenses for which the CLO issuer is responsible. For such notes, interest and principal payments are not fixed, but are a function of the magnitude of the residual amounts or "excess cash" available to make such payments. As a result, payments on the notes will be made by the relevant CLO issuer to the extent of available funds, and no payments thereon will be made until, amongst other things, (a) payments of such costs, fees and expenses have been made, and (b) interest and principal then due has been paid on the CLO's senior and mezzanine secured notes. For a typical CLO, the non-payment of interest or principal on the notes themselves will not cause an event of default in relation to any CLO issuer.

As such notes represent the most junior securities in the leveraged capital structure, and the most subordinated liabilities, of a CLO, changes in the market value of the notes will be greater than changes in the market value of the underlying assets of the relevant CLO issuer, which themselves are subject to credit, liquidity, interest rate and other risks, and will generally magnify the notes investors' opportunities for gain and risk of loss. In certain scenarios, the notes may be subject to a partial or entire loss of invested capital. In particular, any deterioration in performance of the asset portfolio of a CLO issuer, including defaults and losses, a reduction of realized yield or other factors, will be borne first by holders of the notes prior to the rest of the capital structure.

- Highly Competitive Market for Investment Opportunities; Lack of Diversification; Concentration. The activity of identifying and sourcing investments is highly competitive and involves a high degree of uncertainty. Silverpeak will be competing for investments with many other investment funds, as well as individuals, financial institutions, and other institutional investors. Competition for investments may have the effect of increasing the costs, thereby reducing investment returns to the Clients. Additional funds with similar investment objectives also may be formed in the future by other unrelated parties. There can be no assurance that Silverpeak will be able to identify and complete sufficiently attractive Investments to meet its



investment objective. In addition, the Clients' portfolios will consist solely of CLO equity securities, for which there is a limited market. Non-diversification among types of investments involves an increased risk of loss to the Clients. Further, the Clients may hold a few relatively large (in relation to its capital) positions, with the result that a loss in any such position could have a material adverse impact on the Clients' portfolios.

- Illiquidity in the CLO, Leveraged Finance and Fixed Income Markets. Events in the CLO leveraged finance and fixed income markets contributed to a severe liquidity crisis in global credit markets in recent years, as a result of which leveraged loans have experienced substantial price fluctuations and reduced liquidity. During periods of higher price volatility and reduced liquidity, a CLO issuer's ability to acquire or dispose of assets at a price and time that is advantageous to holders of interests in the Clients may be severely impaired. As a result, in periods of rising market prices, a CLO issuer may be unable to participate in price increases fully to the extent that it is unable to acquire desired positions quickly; and a CLO issuer's inability to dispose fully and promptly of positions in declining markets may exacerbate losses suffered by the investors in the CLO equity when assets are sold. Furthermore, significant additional risks for investors in the equity tranche of a CLO exist. Those risks include, among others, (i) the possibility that the prices at which the assets can be sold by a CLO issuer will have deteriorated from their effective purchase price, (ii) the possibility that opportunities for a CLO issuer to sell its assets in the secondary market may be impaired or restricted by the related indenture, and (iii) increased illiquidity of the equity tranche of a CLO because of reduced secondary trading in collateralized loan obligation securities. These additional risks may affect the returns on the interests in the Funds and the SMAs.
- Credit Ratings are not a Guarantee of Quality. The following considerations apply, to the extent relevant, to the ratings of the CLO's underlying assets: Credit ratings of assets represent the opinions of Moody's Investors Service, Inc., Fitch Ratings, Inc., Standard & Poor's Rating Services or another nationally recognized statistical rating organization (each, a "Rating Agency") regarding their credit quality and are not a guarantee of quality or performance. A credit rating is not a recommendation to buy, sell or hold assets and may be subject to revision or withdrawal at any time by the assigning Rating Agency, including to the extent a CLO issuer does not comply with its covenants to enable the Rating Agencies to comply with their obligations under Rule 17g-5 of the U.S. Securities Exchange Act of 1934 (the "Exchange Act"). In the event that a rating assigned to any CLO's assets is lowered for any reason, no party is obligated to provide any additional support or credit enhancement with respect to such assets. Rating Agencies attempt to evaluate the safety of principal and interest





payments and do not evaluate the risks of fluctuations in market value; therefore, ratings may not fully reflect the true risks of an investment. Also, Rating Agencies may fail to make timely changes in credit ratings in response to subsequent events, so that an underlying obligor's current financial condition may be better or worse than a rating indicates. Consequently, credit ratings of any CLO's assets should be used only as a preliminary indicator of investment quality and should not be considered a completely reliable indicator of investment quality. Rating reductions or withdrawals may occur for any number of reasons and may affect numerous assets at a single time or within a short period of time, with material adverse effects upon the equity tranche of a CLO. It is possible that many credit ratings of assets included in or similar to the CLO's assets will be subject to significant or severe adjustments downward.

- Future Actions of any Rating Agency. The Rating Agencies may change their published ratings criteria or methodologies at any time in the future. Furthermore, the Rating Agencies may retroactively apply any such new standards to its prior ratings. There can be no assurance that the Rating Agencies will continue to assign ratings utilizing the same methods and standards utilized today despite the fact that the underlying asset might still be performing fully to the specifications set forth in its underlying instrument. Any change in such methods and standards could result in a significant rise in the number of lower rated assets included in the CLO's assets, which could cause a CLO issuer to fail to satisfy its coverage tests on subsequent determination dates.

A Rating Agency may revise or withdraw its ratings as a result of a failure by the responsible party to provide it with information requested by such Rating Agency or comply with any of its obligations contained in the engagement letter with such Rating Agency, including the posting of information provided to the Rating Agency on a website that is accessible by rating agencies that were not hired in connection with the issuance of CLO notes. Any such revision or withdrawal of a rating as a result of such a failure could result in a CLO issuer's failure to comply with coverage tests (such as the OC test or the IC test) resulting in cash flow being diverted away from the equity tranche of such CLO and may adversely affect the value of the equity tranche of a CLO held by the Funds.

### **Risk Factors for the Credit Opportunities Fund Group**

- **The Fund's Investment Program.** All investments risk the loss of capital. Silverpeak believes that the Fund's investment program and research techniques moderate this risk through a careful selection of securities and other financial instruments. The level of analytical sophistication, both



financial and legal, necessary for successful returns on the Fund's investments is unusually high. There can be no assurance that Silverpeak will evaluate correctly the nature and magnitude of the various factors that could affect the value of the Fund's investments. No guarantee or representation is made that the Fund's program will be successful. In general, the Fund's investment program is expected to include investments across the liquidity spectrum. The Fund's investment program will generally concentrate on securities and assets that are believed to be inefficiently priced as a result of business, financial, market, legal or other uncertainties. The investments in each segment may include debt, equity, and synthetic instruments. Certain risks attendant to the Fund's investment strategy are described below.

- **Counterparty Risk.** In connection with its investment activities, the Fund will be dependent upon one or more counterparties. Certain assets of the Fund may also be held by one or more prime brokers or custodians. As evidenced by the bankruptcy of Lehman Brothers Holdings Inc., the failure of a prime broker can have a devastating impact on investment vehicles (like the Fund). In connection with the completion of certain investments, the Fund may be dependent upon one or more asset managers and/or financial intermediaries. These asset managers typically have staff that specialize in converting the assets and portfolios into cash and may also assist in acquisition, origination and/or valuation activities. If any counterparty used by the Fund becomes insolvent or files for bankruptcy, the Fund could suffer losses and its financial performance could be materially and adversely affected. In addition, the insolvency or bankruptcy of any counterparty that is in possession of any assets of the Fund (including any prime broker) could undermine the Fund's access to such assets on a temporary or permanent basis and result in a partial or complete loss of the related investments. The failure of a counterparty to fulfill its obligations may have a material adverse effect on the related investment and the overall performance of the Fund.

Some of the markets in which the Fund may effect transactions are "over-the-counter" or "interdealer" markets. The participants in such markets are typically not subject to the same credit evaluation and regulatory oversight as are members of "exchange-based" markets. This exposes the Fund to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a dispute over the terms of the contract (whether or not bona fide) or because of a credit or liquidity problem, thus causing the Fund to suffer a loss. Such "counterparty risk" is accentuated for contracts with longer maturities where events may intervene to prevent settlement, or where the Fund has concentrated its transactions with a single or small group of counterparties. The Fund is not restricted from dealing with any particular counterparty or from concentrating any or all





of its transactions with one counterparty. Moreover, the Fund may not accurately evaluate the creditworthiness of its counterparties or such evaluation may prove insufficient. The lack of a complete and “foolproof” evaluation of the financial capabilities of the Fund's counterparties and the absence of a regulated market to facilitate settlement may increase the potential for losses by the Fund.

The Fund is subject to the risk of failure of any of the exchanges on which its positions trade or of their clearinghouses. Because securities owned by the Fund that are held by broker-dealers are generally not held in the Fund's name, the bankruptcy of any such broker-dealer could have a greater adverse impact on the Fund than if such securities were registered in the Fund's name.

In situations where the Fund is required to post margin or other collateral with a counterparty, the counterparty may fail to segregate the collateral or may commingle the collateral with the counterparty's own assets. As a result, in the event of the counterparty's bankruptcy or insolvency, the Fund's excess collateral may be subject to the conflicting claims of the counterparty's creditors, and the Fund may be exposed to the risk of a court treating the Fund as a general unsecured creditor of the counterparty, rather than as the owner of such collateral.

- **Misrepresentation, Fraud and Misconduct.** Of significant concern in lending and investing is the possibility of material misrepresentation or omission by a counterparty. Such inaccuracy or incompleteness may adversely affect the valuation of the collateral underlying the investment or may adversely affect the ability of the Fund to perfect or effectuate a lien on the collateral securing the investment. The Fund generally relies upon the accuracy and completeness of representations made by counterparties but cannot guarantee such accuracy or completeness. Under certain circumstances, payments to the Fund may be reclaimed if any such payment or distribution is later determined to have been a fraudulent conveyance or a preferential payment.

Instances of fraud and other deceptive practices committed by third parties in connection with any financial asset in which the Fund invests may undermine the general partner's due diligence efforts with respect to such investments, and if such fraud is discovered, negatively affect the valuation of the Fund's investments. In addition, when discovered, financial fraud may contribute to overall market volatility, which can negatively impact the Fund's investment program. Misconduct by employees of the management company, the general partner or by third-party service providers could cause significant losses to the Fund. Employee misconduct may include binding the Fund to transactions that exceed authorized limits



or present unacceptable risks and unauthorized trading activities or concealing unsuccessful trading activities (which, in either case, may result in unknown and unmanaged risks or losses). Losses could also result from actions by third-party service providers, including, without limitation, failing to recognize trades and misappropriating assets. In addition, employees and third-party service providers may improperly use or disclose confidential information, which could result in litigation or serious financial harm, including limiting the Fund's business prospects or future marketing activities. No assurances can be given that the due diligence performed by the general partner or the management company will identify or prevent any such misconduct.

- **Broad Investment Charter; Unspecified Investments; Insufficient Investment Opportunities.** The Fund has a broad investment charter and only a few formal constraints on the type of investments in which the Fund may invest. There can be no guarantee that the general partner or the management company will be able to identify a sufficient number of investment opportunities for the Fund to enable it to invest fully the Commitments in opportunities that satisfy the Fund's investment objectives, or that such investment opportunities will lead to successful investments by the Fund. The activity of identifying, completing and realizing an attractive investment opportunity is highly competitive and involves a high degree of uncertainty. The Fund will compete for the acquisition of investments with many other investors, some of which will have greater resources than the Fund. Such competitors may include other private investment funds as well as individuals, financial institutions and other institutional investors. Additional funds with similar investment objectives may be formed in the future by other unrelated parties. In addition, the availability of investment opportunities generally will be subject to market conditions as well as, in some cases, the prevailing regulatory or political climate. Therefore, identification of attractive investment opportunities is difficult and involves a high degree of uncertainty, and competition for such opportunities may become more intense. Moreover, as proceeds from the sale of the Fund's initial investments are realized, the proceeds may be reinvested in investments of a kind other than those in which the Fund expects to invest initially. There can be no assurance that the SP Credit Principals will be able to identify segments of the market providing returns that meet the Fund's objectives or that such markets will exist.
- **Lower Credit Quality Securities.** There are no restrictions on the credit quality of the investments of the Fund. Securities in which the Fund may invest may be deemed by rating agencies to have substantial vulnerability to default in payment of interest and/or principal. Other securities may be unrated. Lower-rated and unrated securities in which the Fund may invest have large uncertainties or major risk exposures to adverse conditions and are considered to be predominantly speculative. Generally, such securities



offer a higher return potential than higher-rated securities but involve greater volatility of price and greater risk of loss of income and principal. The market values of certain of these securities (such as subordinated securities) also tend to be more sensitive to changes in economic conditions than higher-rated securities. Declining real estate values, in particular, will increase the risk of loss upon default, and may lead to a downgrading of the securities by rating agencies. The value of such securities may also be affected by changes in the market's perception of the entity issuing or guaranteeing them, or by changes in government regulations and tax policies. In general, the ratings of nationally recognized rating organizations represent the opinions of these agencies as to the quality of securities that they rate. These ratings may be used by the general partner as initial criteria for the selection of portfolio securities. Such ratings, however, are relative and subjective; they are not absolute standards of quality and do not evaluate the market value risk of the securities. It is also possible that a rating agency might not change its rating of a particular issue on a timely basis to reflect subsequent events.

- **Synthetic Investment Strategies.** The Fund may use customized derivative instruments, such as swap or notional principal contracts and related derivative transactions including, but not limited to, total return swaps, interest rate swaps, credit default swaps, the use of forward contracts, put and call options, floors, collars or other similar arrangements and derivative transactions that are valued in relation to one or more underlying securities, commodities, financial benchmarks or indices. Markets for such instruments may be illiquid, highly volatile and subject to interruption. The value of a derivative depends largely upon price movements in the underlying asset. Therefore, many of the risks applicable to trading the underlying asset are also applicable to derivatives trading. The Fund may be exposed to certain risks should the general partner use derivatives as a means to implement synthetically its investment strategies. If the Fund enters into a derivative instrument whereby it agrees to receive the return of a security or financial instrument or a basket of securities or financial instruments, it will typically contract to receive such returns for a predetermined period of time. During such period, the Fund may not have the ability to increase or decrease its exposure. In addition, such customized derivative instruments are expected to be highly illiquid and it is possible that the Fund will not be able to terminate such derivative instruments prior to their expiration date or that the penalties associated with such a termination might impact the Fund's performance in a material adverse manner. Many of the protections afforded to participants on organized exchanges and in a regulated environment are not available in connection with these transactions. The swap markets with respect to non-cleared swaps are "principals' markets," in which performance with respect to a swap contract is the responsibility only of the counterparty to the contract, and not of any exchange or



clearinghouse. As a result, the Fund will be subject to the risk of the inability or refusal to perform with respect to non-cleared swap contracts on the part of the counterparties with whom the Fund will trade. Transactions in certain derivatives are required to be cleared on a U.S. national exchange and are subject to regulatory oversight, while other derivatives are subject to risks of trading in the “over-the-counter” markets or on non-U.S. exchanges. In particular, the Dodd-Frank Act requires clearing and exchange trading of those products mandated by the U.S. Commodity Futures Trading Commission (the “CFTC”) and the SEC. The European Market Infrastructure Regulation (“EMIR”) has similar requirements applicable to derivatives traded in Europe. Such requirements may make it more difficult and costly for the Fund to enter into tailored or customized transactions and may also render certain strategies in which the Fund might otherwise engage impossible or so costly that they will no longer be economical to implement. The CFTC currently requires the clearing of certain interest rate and credit index derivatives. Additional products are expected to be required to be cleared in the future. However, other swaps will not necessarily be cleared through registered clearinghouses, and therefore may not be subject to the protections afforded to participants in cleared swaps (for example, centralized counterparty, guaranteed funds, customer asset segregation and mandatory margin requirements).

- Senior Loans. Senior secured loans are generally rated below investment grade or may also be unrated. As a result, the risks associated with senior secured loans are similar to the risks of below investment grade fixed-income instruments, although senior secured loans are senior and secured in contrast to other below investment grade fixed-income instruments, which are often subordinated or unsecured. Investment in senior secured loans rated below investment grade is considered speculative because of the credit risk of their issuers. Such companies are more likely than investment grade issuers to default on their payments of interest and principal owed to the Fund, and such defaults could have a materially adverse effect on the Fund's performance. An economic downturn would generally lead to a higher non-payment rate, and a senior secured loan may lose significant market value before a default occurs. Moreover, there is a risk that the collateral securing such loans may decrease in value over time, may be difficult to sell in a timely manner, may be difficult to appraise and may fluctuate in value based upon the success of the business and market conditions, including as a result of the inability of the borrower to raise additional capital, and, in some circumstances, the Fund's liens could be subordinated to claims of other creditors. Consequently, the fact that a loan is secured does not guarantee that the Fund will receive principal and interest payments according to the loan's terms, or at all, or that the Fund will be able to collect on the loan should it be forced to enforce its remedies. There may be less readily available and reliable information



about most senior secured loans than is the case for many other types of securities, including securities issued in transactions registered under the Securities Act or registered under the U.S. Securities Exchange Act of 1934, as amended. As a result, the general partner and the management company will rely primarily on their own evaluation of a borrower's credit quality rather than on any available independent sources. Therefore, the Fund will be particularly dependent on the analytical abilities of Silverpeak.

- **Subordinated Loans or Securities.** Certain of the Fund's investments may consist of loans or securities, or interests in pools of securities, that, in either case, are subordinated or may be subordinated in right of payment and ranked junior to other securities issued by, or loans made to obligors. If an obligor experiences financial difficulty, holders of its more senior securities will be entitled to payments in priority to the Fund. Some of the Fund's asset-backed investments may also have structural features that divert payments of interest and/or principal to more senior classes of loans or securities backed by the same assets when loss rates or delinquency exceeds certain levels. This may interrupt the income the Fund receives from its investments, which may lead to the Fund having less income to allocate or distribute to the investors. In addition, many of the obligors are highly leveraged and many of the Fund's investments may be in securities which are unrated or rated below investment grade. Such investments are subject to additional risks, including an increased risk of default during periods of economic downturn, the possibility that the obligor may not be able to meet its debt payments and limited secondary market support, among other risks.
- **Special Situations.** The Fund may invest in (or lend to) companies involved in or undergoing work-outs, liquidations, spin-offs, reorganizations, bankruptcies or other catalytic changes or similar transactions. Such investments may include debtor-in-possession financing. In any investment opportunity involving any such type of special situation, there exists the risk that the contemplated transaction either will be unsuccessful, will take considerable time or will result in a distribution of cash or a new security with a value less than the purchase price of the security or other financial instrument in respect of which such distribution is received. Similarly, if an anticipated transaction does not in fact occur, the Fund may be required to sell its investment at a loss. Because there is substantial uncertainty concerning the outcome of transactions involving financially troubled companies in which the Fund may invest, there is a potential risk of loss by the Fund of its entire investment in such companies.
- **Mezzanine Investments.** The Fund's mezzanine investments (if any) may be unsecured and made in companies whose capital structures have significant indebtedness ranking ahead of the investments, all or a significant portion of which may be secured. While the investments may benefit from the same or similar financial and other covenants as those enjoyed by the indebtedness ranking ahead of the investments and may





benefit from cross-default provisions and security over the assets of the issuer, some or all of such terms may not be part of particular investments. Moreover, the ability of the Fund to influence an issuer's affairs, especially during periods of financial distress or following insolvency, is likely to be substantially less than that of senior creditors. Mezzanine investments generally are subject to various risks, including, without limitation: (i) a subsequent characterization of an investment as a "fraudulent conveyance"; (ii) the recovery as a "preference" of liens perfected or payments made on account of a debt in the 90 days before a bankruptcy filing; (iii) equitable subordination claims by other creditors; (iv) lender liability claims by the issuer of the obligations; and (v) environmental liabilities that may arise with respect to collateral securing the obligations.

- **Credit Risk; Collateral.** One of the fundamental risks associated with the Fund's investments is credit risk, which is the risk that a borrower will be unable or unwilling to make principal and interest payments on its outstanding debt obligations, including the Fund's investment, when due. The Fund's returns to limited partners would be adversely impacted if a borrower to which the Fund lends becomes unable to make such payments when due. There can be no assurance that the liquidation of any collateral related to an investment would satisfy the borrower's obligation in the event of non-payment of scheduled interest or principal payments with respect to such investment, or that such collateral could be readily liquidated. In addition, in the event of bankruptcy of a borrower, the Fund could experience delays or limitations with respect to its ability to realize the benefits of the collateral securing an investment. Under certain circumstances, collateral securing an investment may be released without the consent of the Fund. Moreover, the Fund's security interest (with respect to investments in secured debt) may be unperfected for a variety of reasons, including the failure to make required filings by lenders and, as a result, the Fund may not have priority over other creditors as anticipated. First priority lien investments made by the Fund may, in certain cases, provide a first priority lien over some, but not all, of the assets of the relevant borrower. The Fund may also invest in second-lien debt investments and may, for example, to the extent they receive such assets in a restructuring, hold high-yield securities, marketable and non-marketable common and preferred equity securities and other unsecured investments each of which involves a higher degree of risk than senior first-lien secured debt investments including the re-use and subsequent loss of such collateral by the borrower. Furthermore, the Fund's right to payment and its security interest, if any, may be subordinated to the payment rights and security interests of senior lenders (with respect to some or all of the assets of a portfolio investment). Certain of these investments may have an interest-only payment schedule, with the principal amount remaining outstanding and at risk until the maturity of the investment. In such cases, the ability of



the issuer of a portfolio investment to repay the principal of an investment may be dependent upon a liquidity event or the long-term success of the company, the occurrence of which is uncertain. In addition, companies in which the Fund invests could present a high degree of business and credit risk. Companies in which the Fund invests could deteriorate as a result of, among other factors, an adverse development in their businesses, a change in the competitive environment or the continuation or worsening of the current (or any future) economic and financial market downturns and dislocations. As a result, companies that the Fund expected to be stable or improve may operate, or expect to operate, at a loss or have significant variations in operating results, may require substantial additional capital to support their operations or maintain their competitive position, or may otherwise have a weak financial condition or be experiencing financial distress. The terms of derivative arrangements entered into by the Fund may provide that related collateral given to, or received by, the Fund may be pledged, lent, re-hypothecated or otherwise re-used by the collateral taker for its own purposes. If collateral received by the Fund is reinvested or otherwise re-used, the Fund is exposed to the risk of loss on that investment. Should such a loss occur, the value of the collateral will be reduced, and the Fund will have less protection if the counterparty defaults. Similarly, if the counterparty reinvests or otherwise re-uses collateral received from the Fund and suffers a loss as a result, it may not be in a position to return that collateral to the Fund should the relevant transaction complete, be unwound or otherwise terminate and the Fund is exposed to the risk of loss of the amount of collateral provided to the counterparty.

- Investments in Asset-Backed Securities. The Fund may invest in ABS, including (but not limited to) RMBS, CMBS and CDOs. The Fund may invest in any tranche of an ABS, including the unrated tranches. ABS are primarily exposed to the performance and credit risk of the underlying collateral, which may include consumer receivables, commercial loans, investment grade credit, high-yield credit and leveraged loans. ABS can also be subject to interest rate, foreign exchange, liquidity and counterparty risk. The general partner may actively expose the Fund to these risks through ABS investments; however, there can be no guarantee that the general partner will be successful in making the right selections. There may be no established, liquid secondary market for many of the ABS the Fund may purchase. The lack of such an established, liquid secondary market may have an adverse effect on the market value of such ABS and the Fund's ability to sell them. Further, ABS may be subject to certain transfer restrictions that may further restrict liquidity. Finally, the Fund may engage in enforcement actions, litigation and settlement discussions that may expose the Fund to additional expenses, legal proceedings and restrict its trading activities. There is no assurance that any of these enforcement actions or other activist efforts by the Fund will prove successful.



- Risks Relating to Investment in RMBS. The Fund may invest certain of its assets in RMBS and become holders of RMBS. Holders of RMBS bear various risks, including credit, market, interest rate, structural and legal risks. RMBS represent interests in pools of residential mortgage loans secured by residential mortgage loans. Such loans may be prepaid at any time. Residential mortgage loans are obligations of the borrowers thereunder only and are not typically insured or guaranteed by any other person or entity, although such loans may be securitized, and the securities issued in such securitization may be guaranteed or credit enhanced. The rate of defaults and losses on residential mortgage loans will be affected by a number of factors, including general economic conditions and those in the area where the related mortgaged property is located, the borrower's equity in the mortgaged property and the financial circumstances of the borrower. If a residential mortgage loan is in default, foreclosure of such residential mortgage loan may be a lengthy and difficult process and may involve significant expenses. Furthermore, the market for defaulted residential mortgage loans or foreclosed properties may be very limited. At any one time, a portfolio of RMBS may be backed by residential mortgage loans with disproportionately large aggregate principal amounts secured by properties in only a few states or regions. As a result, the residential mortgage loans may be more susceptible to geographic risks relating to such areas, such as adverse economic conditions, adverse events affecting industries located in such areas and natural hazards affecting such areas, than would be the case for a pool of mortgage loans having more diverse property locations. In addition, the residential mortgage loans may include so-called "Jumbo" mortgage loans, having original principal balances that are higher than is generally the case for residential mortgage loans. As a result, such portfolio of RMBS may experience increased losses.

Each underlying residential mortgage loan in an issue of RMBS may have a balloon payment due on its maturity date. Balloon residential mortgage loans involve a greater risk to a lender than self-amortizing loans, because the ability of a borrower to pay such amount will normally depend on its ability to obtain refinancing of the related mortgage loan or sell the related mortgaged property at a price sufficient to permit the borrower to make the balloon payment, which will depend on a number of factors prevailing at the time such refinancing or sale is required, including, without limitation, the strength of the residential real estate markets, tax laws, the financial situation and operating history of the underlying property, interest rates and general economic conditions. If the borrower is unable to make such balloon payment, the related issue of RMBS may experience losses. Prepayments on the underlying residential mortgage loans in an issue of RMBS will be influenced by the prepayment provisions of the related mortgage notes and may also be affected by a variety of economic,





geographic and other factors, including the difference between the interest rates on the underlying residential mortgage loans (giving consideration to the cost of refinancing) and prevailing mortgage rates and the availability of refinancing. In general, if prevailing interest rates fall significantly below the interest rates on the related residential mortgage loans, the rate of prepayment on the underlying residential mortgage loans would be expected to increase. Conversely, if prevailing interest rates rise to a level significantly above the interest rates on the related mortgages, the rate of prepayment would be expected to decrease. Prepayments could reduce the yield received on the related issue of RMBS.

- Structural and Legal Risks of RMBS. Residential mortgage loans in an issue of RMBS may be subject to various federal and state laws, public policies and principles of equity that protect consumers, which among other things may regulate interest rates and other charges, require certain disclosures, require licensing of originators, prohibit discriminatory lending practices, regulate the use of consumer credit information and regulate debt collection practices. Violation of certain provisions of these laws, public policies and principles may limit the servicer's ability to collect all or part of the principal of or interest on a residential mortgage loan, entitle the borrower to a refund of amounts previously paid by it, or subject the servicer to damages and sanctions. Any such violation could result also in cash flow delays and losses on the related issue of RMBS. RMBS may have structural characteristics that distinguish them from other asset-backed securities. The rate of interest payable on RMBS may be set or effectively capped at the weighted average net coupon of the underlying mortgage loans themselves. As a result of this cap, the return to investors is dependent on the relative timing and rate of delinquencies and prepayments of mortgage loans bearing a higher rate of interest. In general, early prepayments will have a greater impact on the yield to investors. Federal and state law may also affect the return to investors by capping the interest rates payable by certain mortgagors. The Service Members Civil Relief Act of 2003 provides relief for soldiers and members of the reserve called to active duty by capping the interest rates on their mortgage loans at 6% per annum. Certain RMBS may provide for the payment of only interest for a stated period of time. In addition, structural and legal risks of RMBS include the possibility that, in a bankruptcy or similar proceeding involving the originator or the servicer (often the same entity or affiliates), the assets of the issuer could be treated as never having been truly sold by the originator to the issuer and could be substantively consolidated with those of the originator, or the transfer of such assets to the issuer could be voided as a fraudulent transfer. Challenges based on such doctrines could result also in cash flow delays and losses on the related issue of RMBS. The RMBS the Fund may invest in may or may not be guaranteed or insured by a governmental agency, instrumentality or other person. Distributions on RMBS will depend



solely upon the amount and timing of payments and other collections on the related underlying mortgage loans.

- **Commercial Mortgage Backed Securities.** The Fund may invest in CMBS and other mortgage-backed securities, including subordinated tranches of such securities. The value of CMBS will be influenced by factors affecting the value of the underlying real estate portfolio, and by the terms and payment histories of such CMBS. Some or all of the CMBS contemplated to be acquired by the Fund may not be rated or may be rated lower than investment-grade securities, by one or more nationally recognized statistical rating organizations. Lower-rated or unrated CMBS, or “B-pieces,” have speculative characteristics and can involve substantial financial risks as a result. The prices of lower credit quality securities have been found to be less sensitive to interest rate changes than more highly rated investments, but more sensitive to adverse economic or real estate market conditions or individual issuer concerns. Securities rated lower than “B” by the rating organizations can be regarded as having extremely poor prospects of ever attaining any real investment standing and may be in default. Existing credit support and the owner’s equity in the property may be insufficient to protect the Fund from loss. As an investor in subordinated CMBS in particular, the Fund will be first in line among debt holders to bear the risk of loss from delinquencies and defaults experienced on the collateral. The Fund may acquire subordinated tranches of CMBS issuances. In general, subordinated tranches of CMBS are entitled to receive repayment of principal only after all principal payments have been made on more senior tranches and also have subordinated rights as to receipt of interest distributions. Such subordinated tranches are subject to a greater risk of nonpayment than are senior tranches of CMBS or CMBS backed by third-party credit enhancement. In addition, an active secondary market for such subordinated securities is not as well developed as the market for certain other mortgage-backed securities. Accordingly, such subordinated CMBS may have limited marketability and there can be no assurance that a more efficient secondary market will develop.

The value of CMBS and other mortgage-backed securities in which the Fund may invest generally will have an inverse relationship with interest rates. Accordingly, if interest rates rise, the value of such securities will decline. In addition, to the extent that the mortgage loans which underlie specific mortgage-backed securities are prepayable, the value of such mortgage securities may be negatively affected by increasing prepayments, which generally occur when interest rates decline. Mortgage loans on commercial properties underlying MBS often are structured so that a substantial portion of the loan principal is not amortized over the loan term but is payable at maturity and repayment of the loan principal, and thus, often depends upon the future availability of real estate



financing from the existing or an alternative lender and/or upon the current value and salability of the real estate. Therefore, the unavailability of real estate financing may lead to default. Many commercial mortgage loans underlying MBS are effectively nonrecourse obligations of the borrower, meaning that there is no recourse against the borrower's assets other than the collateral. If borrowers are not able or willing to refinance or dispose of encumbered property to pay the principal and interest owed on such mortgage loans, payments on the subordinated classes of the related MBS are likely to be adversely affected. The ultimate extent of the loss, if any, to the subordinated classes of MBS may only be determined after a negotiated discounted settlement, restructuring or sale of the mortgage note, or the foreclosure (or deed in lieu of foreclosure) of the mortgage encumbering the property and subsequent liquidation of the property. Foreclosure can be costly and delayed by litigation and/or bankruptcy. Factors such as the property's location, the legal status of title to the property, its physical condition and financial performance, environmental risks, and governmental disclosure requirements with respect to the condition of the property may make a third party unwilling to purchase the property at a foreclosure sale or to pay a price sufficient to satisfy the obligations with respect to the related MBS. Revenues from the assets underlying such MBS may be retained by the borrower and the return on investment may be used to make payments to others, maintain insurance coverage, pay taxes or pay maintenance costs. Such diverted revenue is generally not recoverable without a court-appointed receiver to control collateral cash flow.

- **Risks of Realization and Lack of Liquidity of Investments.** The Fund may invest in debt or equity instruments which are not publicly traded. These instruments are often heavily negotiated and subject to offering restrictions, and accordingly, do not have the liquidity of conventional public bond and equity securities. Due to their illiquid nature, the Fund may not be able to dispose of its interest in a security in a timely manner and/or at a fair price. There is no assurance that the Fund will be able to dispose of an investment in a particular instrument. The inability to dispose of an investment position could result in losses to the Fund, including the loss of its entire investment. If the Fund voluntarily or involuntarily sold its interests in those types of instruments, it might not receive the full value it expected.

In particular, these risks could arise from changes in the financial condition or prospects of the companies whose borrowings underlie the Fund's investments, changes in national or international economic or political conditions (including acts of war, terrorism or other calamity or crisis), adverse conditions in national or global financial or capital markets, or changes in laws, regulations, fiscal policies or political conditions of countries in which investments are made.



- **Uncertain Exit Strategies.** Although the Fund will often invest with the intention of holding a loan to maturity, in some cases the general partner may determine it is advisable to exit a position earlier. However, due to the illiquid nature of some of the positions which the Fund is expected to acquire, the general partner is unable to predict with confidence what the exit strategy will ultimately be for any given position, or that one will definitely be available at an attractive price, or at all. Exit strategies which appear to be viable or profitable when an investment is initiated may be precluded or unprofitable by the time the investment is ready to be realized due to market, economic, legal, political or other factors.
- **Availability of, and Competition for, Investment Opportunities.** The business of identifying, structuring and completing senior debt investments is highly competitive and involves a high degree of uncertainty. The SP Credit Principals have significant experience in identifying and structuring various types of financing transactions, but the availability of investment opportunities generally will be subject to many factors outside of their control, such as prevailing market conditions, as well as the regulatory and political climate. The Fund will compete for investment opportunities with a number of other sources of capital with similar investment objectives, including other private investment funds, financial institutions and other institutional investors, some of whom have greater capital and general partners who are more experienced in the senior debt financing area. There may be relatively few attractive investment opportunities at certain times during the Fund's investment period and there can be no assurance that the Fund will succeed in obtaining a sufficient number of such investment opportunities, that the investments ultimately acquired by the Fund will achieve its return objectives or that the Fund will be able to invest all its available capital.
- **Limited Diversification and Impact of Regulation.** The Fund's investment portfolio could become highly concentrated, and the performance of a few holdings or a sector may substantially affect its aggregate return. If the overall state of an industry or specific sub-sector in which the Fund invests perform poorly, the Fund may be adversely affected. Furthermore, to the extent that the capital raised is less than the targeted amount, the Fund may make fewer investments and thus be less diversified.
- **Bank Loans.** The Fund's investment program may include direct and indirect interests in significant amounts of bank loans. These obligations are subject to unique risks, including: (i) the possible invalidation of a particular investment transaction as a "fraudulent conveyance" under relevant creditors' rights laws; (ii) so-called "lender liability" claims by the issuer of the obligations; (iii) environmental liabilities that may arise with respect to collateral securing the obligations; and (iv) limitations on the ability of the Fund to directly enforce rights with respect to participations. In analyzing each bank loan, the general partner intends to compare the relative



significance of the risks against the expected benefits. Successful claims by third parties arising from these and other risks, absent actual fraud, bad faith, willful misconduct or gross negligence by the general partner, will be borne by the Fund.

- **Non-Investment Grade Investments.** The Fund may acquire interests in obligations that are rated in the non-investment grade categories by the various credit rating agencies or are not rated. Such securities are subject to greater risk of loss of principal and interest than higher-rated obligations and are generally considered to be predominantly speculative with respect to the issuer's capacity to pay interest and repay principal. They are also generally considered to be subject to greater risk than obligations with higher ratings in the case of deterioration of general economic conditions, and the yields and prices of such obligations may be more volatile than those for higher-rated securities. The market for non-investment grade and non-rated obligations is often less liquid than that for higher-rated securities, which can adversely affect the prices at which these securities can be sold and may even make it impractical to sell such obligations. The limited liquidity of the market may also adversely affect the ability of the relevant calculating party to arrive at a fair value for certain non-investment grade and non-rated obligations at certain times and could make it difficult for the Fund to sell or dispose of certain obligations.
- **Swap Agreements.** The Fund may enter into one or more swap agreements. Swap agreements are two-party contracts entered into primarily by institutional investors for extended periods often exceeding more than one year. In a standard swap transaction, two parties agree to exchange payment streams derived by reference to different reference points, including asset values, rates or indices. A swap contract may not be assigned without the consent of the counterparty and may result in losses in the event of a default or bankruptcy of the counterparty.

### **Risk Factors for the Special Situations Lending Fund Group and the Co-Invest Funds**

In considering participation in the Fund, a prospective investor should be aware of certain risk factors and investment considerations, which include those set forth below. The following list is not a complete list of all risks involved in connection with an investment in the Fund. Additional risks and uncertainties not currently known or that the General Partner currently deems to be immaterial may also materially adversely affect an investment in the Fund or the Fund's business, financial condition and/or operating results.

- **No Assurance of Investment Return.** The Fund has not yet commenced operations and has no performance history. The task of identifying investment opportunities and managing such investments is difficult. Many organizations operated by persons of competence and integrity have





been unable to make such investments successfully. There is no assurance that the Fund's investment objectives will be attained, that the value of the investments will not decline or that there will be any return of capital.

- **Future and Past Performance.** The performance of the Principals' prior investments is not necessarily indicative of the Fund's future results. While the General Partner intends for the Fund to make investments that have estimated returns commensurate with the risks undertaken, there can be no assurances that any targeted internal rate of return will be achieved. On any given investment, loss of principal is possible.
- **Certain Assumptions.** Descriptions of the Fund's intended investments contained in this Memorandum take into account, to a certain extent, a relatively stable credit climate and available market terms and are subject to change in volatile credit markets.
- **Reliance on the General Partner and Management.** Control over the operation of the Fund will be vested with the General Partner, and the Fund's future profitability will depend largely upon the business and investment acumen of the Principals. The loss or reduction of service of one or more of the Principals could have an adverse effect on the Fund's ability to realize its investment objectives. Limited Partners generally have no right or power to take part in the management of the Fund, and as a result, the investment performance of the Fund will depend on the actions of the General Partner (and the Investment Manager). In addition, certain changes in the General Partner (or the Investment Manager) or circumstances relating to the General Partner (or the Investment Manager) may have an adverse effect on the Fund or one or more of its portfolio investments including potential acceleration of debt facilities.
- **The Fund's Investment Program.** All investments risk the loss of capital. The General Partner believes that the Fund's investment program and research techniques moderate this risk through a careful selection of investment opportunities. The level of analytical sophistication, both financial and legal, necessary for successful returns on the Fund's investments is unusually high. There can be no assurance that the General Partner will evaluate correctly the nature and magnitude of the various factors that could affect the value of the Fund's investments. No guarantee or representation is made that the Fund's program will be successful.
- **In general, the Fund's investment program is expected to consist of highly illiquid investments in lower middle market companies through special "private" situations lending.** The Fund's investment program will generally concentrate on private loans, investing (or lending to) companies involved in or undergoing work-outs, liquidations, spin-offs, reorganizations, bankruptcies or other catalytic changes or similar transactions. Such investments may include debtor-in-possession financing. The Fund is industry agnostic and expects to lend in various special situations. Such special situations may include but are not limited to lending to specialty





finance companies, lending to finance acquisitions or other situations. Such lending may be secured or unsecured and any such security may consist of cash flows, international trade receivables, royalty streams or other special types of collateral. Certain risks attendant to the Fund's investment strategy are described below.

- **Insufficient Investment Opportunities.** There can be no guarantee that the General Partner or the Investment Manager will be able to identify a sufficient number of investment opportunities for the Fund to enable it to invest fully the Commitments in opportunities that satisfy the Fund's investment objectives, or that such investment opportunities will lead to successful investments by the Fund. The activity of identifying, completing and realizing an attractive investment opportunity is highly competitive and involves a high degree of uncertainty. The Fund will compete for the acquisition of investments with many other investors, some of which will have greater resources than the Fund. Such competitors may include other private investment funds as well as individuals, financial institutions and other institutional investors. Additional funds with similar investment objectives may be formed in the future by other unrelated parties. In addition, the availability of investment opportunities generally will be subject to market conditions as well as, in some cases, the prevailing regulatory or political climate. Therefore, identification of attractive investment opportunities is difficult and involves a high degree of uncertainty, and competition for such opportunities may become more intense. Increased competition for, or a diminution in the available supply of, qualifying loans may result in lower yields on such loans, which could reduce returns to the Fund. There can be no assurance that the Principals will be able to identify segments of the market providing returns that meet the Fund's objectives or that such markets will exist.
- **Over-Commitment.** In order to facilitate an investment, the Fund may make (or commit to make) such investment with a view to selling a portion of such investment to co-investors or other persons or obtaining third-party financing prior to or within a brief period after the closing of the acquisition. In such event, the Fund will bear the risk that any or all of the excess portion of such investment may not be sold or financed or may only be sold or financed on unattractive terms and that, as a consequence, the Fund may bear the entire portion of any breakup fee or other fees, costs and expenses related to such investment, hold a larger than expected investment or may realize lower than expected returns from such investment. Neither the General Partner, the Investment Manager nor any of their respective affiliates will be deemed to have violated any duty or other obligation to the Fund or any of its investors by engaging in such investment and sell-down activities.
- **Reliance upon Co-Investor.** The Fund may invest in loans syndicated to one or more additional debt investors, and for which one or more originating



lenders and agent banks will be responsible for negotiating the terms of the loan agreement that establishes the terms and conditions of the debt investment and the rights of the borrower and the lenders. In addition, matters relating to the debt obligations may be put to a vote of holders, the majority of whom may vote in a manner inconsistent with the preferences of the Fund. In such circumstances, the Fund will be bound by the negotiated terms of the loan documentation. There can be no assurance that the originating lenders and agent banks will negotiate terms which are consistent with the terms generally sought by the Fund. If the entity is acting as collateral agent under the loan documentation and becomes insolvent, the assets securing the debt investment may be determined by a court or regulatory authority to be subject to the claims of the co-investor's creditors. If that were to occur, the Fund might incur delays and costs in realizing payment on the loan, or it might suffer a loss of principal and/or interest.

- **Nature of Middle Market Loans.** Loans to middle market companies may carry more inherent risks than loans to larger, publicly-traded entities. Loans to middle market companies involve a number of particular risks that may not exist in the case of large public companies, including: (i) these companies may have limited financial resources and may be unable to meet their obligations under the debt securities that the Fund holds, which may be accompanied by a deterioration in the value of any collateral and a reduction in the likelihood of the Fund realizing on any guarantees the Fund may have obtained in connection with its investment; (ii) these companies typically have shorter operating histories, narrower product lines and smaller market shares than larger businesses, which render them more vulnerable to competitors' actions and market conditions, as well as general economic downturns; (iii) limited public information exists about many of these companies, and the Fund is required to rely on the ability of the General Partner and/or the Investment Manager's investment professionals to obtain adequate information to evaluate the potential returns from investing in these companies, and if the General Partner and/or the Investment Manager is unable to uncover all material information about these companies, it may not make a fully informed investment decision, and the Fund may lose money on such investments; (iv) these companies are more likely to depend on the management talents and efforts of a small group of persons and, as a result, the death, disability, resignation or termination of one or more of these persons could have a negative impact on these companies' ability to meet their obligations; (v) these companies generally have less predictable operating results, may from time to time be parties to litigation, may be engaged in rapidly changing businesses with products subject to a substantial risk of obsolescence, and may require substantial additional capital to support their operations, finance expansion or maintain their competitive position;



and (vi) these companies may have difficulty accessing the capital markets or obtaining financing to meet future capital needs, which may limit their ability to grow or to repay their outstanding indebtedness upon maturity, which may increase the risk of their defaulting on their obligations, leaving creditors such as the Fund dependent on any guarantees or collateral they may have obtained. Accordingly, loans made to middle market companies may involve higher risks than loans made to larger companies that have greater financial resources or are otherwise able to access traditional credit sources. The impact of these risks on loans made by the Fund will be more pronounced when the loans are not secured by the private company's assets.

- **Credit Risk.** One of the fundamental risks associated with the Fund's investments is credit risk, which is the risk that a borrower will be unable or unwilling to make principal and interest payments on its outstanding debt obligations, including the Fund's investment, when due. There are no restrictions on the credit quality of the Fund's loan investments and no ratings or other standardized metrics exist for the evaluation of relative list in such loans. The Fund's returns to Limited Partners would be adversely impacted if a borrower to which the Fund lends becomes unable to make such payments when due.
- Companies in which the Fund invests could present a high degree of business and credit risk. Companies in which the Fund invests could deteriorate as a result of, among other factors, an adverse development in their businesses, a change in the competitive environment or the continuation or worsening of the current (or any future) economic and financial market downturns and dislocations. As a result, companies that the Fund expected to be stable or improve may operate, or expect to operate, at a loss or have significant variations in operating results, may require substantial additional capital to support their operations or maintain their competitive position, or may otherwise have a weak financial condition or be experiencing financial distress.
- **Secured Loans.** Although certain of the Fund's loans and other debt instruments or obligations will be secured by collateral, the Fund may be exposed to losses resulting from default and foreclosure of any such loans or interests in loans in which it has invested. Therefore, the value of underlying collateral, the creditworthiness of borrowers and the priority of liens are each of great importance in determining the value of the Fund's investments. No guarantee can be made regarding the adequacy of the protection of the Fund's security in the loans or other debt instruments in which it invests. In addition, certain debt instruments may be supported, in whole or in part, by guarantees made by a corporation or other person or entity affiliated with the borrower. The amount realizable with respect to a debt instrument may be detrimentally affected if a guarantor fails to meet its obligations under the guarantee. Moreover, in the event of foreclosure,



the Fund or an affiliate thereof may assume direct ownership of any assets collateralizing such foreclosed loans. The liquidation proceeds upon the sale of such assets may not satisfy the entire outstanding balance of principal and interest on such foreclosed loans, resulting in a loss to the Fund. Any costs or delays involved in the effectuation of loan foreclosures or liquidation of the assets collateralizing such foreclosed loans will further reduce proceeds associated therewith and consequently, increase possible losses to the Fund. In addition, no assurances can be made that borrowers or third parties will not assert claims in connection with foreclosure proceedings or otherwise, or that such claims will not interfere with the enforcement of the Fund's rights.

- Under certain circumstances, collateral securing an investment may be released without the consent of the Fund. Moreover, the Fund's security interest (with respect to investments in secured debt) may be unperfected for a variety of reasons, including the failure to make required filings by lenders and, as a result, the Fund may not have priority over other creditors as anticipated. First priority lien investments made by the Fund may, in certain cases, provide a first priority lien over some, but not all, of the assets of the relevant borrower. The Fund may also invest in second-lien debt investments and may, for example, to the extent they receive such assets in a restructuring, hold high-yield securities, marketable and non-marketable common and preferred equity securities and other unsecured investments each of which involves a higher degree of risk than senior first-lien secured debt investments including the re-use and subsequent loss of such collateral by the borrower. Furthermore, the Fund's right to payment and its security interest, if any, may be subordinated to the payment rights and security interests of senior lenders (with respect to some or all of the assets of a portfolio investment). Certain of these investments may have an interest-only payment schedule, with the principal amount remaining outstanding and at risk until the maturity of the investment. In such cases, the ability of the issuer of a portfolio investment to repay the principal of an investment may be dependent upon a liquidity event or the long-term success of the company, the occurrence of which is uncertain.
- Unsecured Loans. The Fund may make unsecured loans to borrowers, meaning that such loans will not benefit from any interest in the assets of such companies. In the event of default on an unsecured loan, the first priority lien holder has first claim to the underlying collateral of the loan. It is possible that no collateral value would remain for an unsecured holder and therefore result in a loss of investment to the Fund. Because unsecured loans are lower in priority of payment to secured loans, they are subject to the additional risk that the cash flow of the borrower may be insufficient to meet scheduled payments after giving effect to the secured obligations of the borrower.
- First Lien Senior Loans. The assets of the Fund's portfolio may include first lien



senior secured debt, including term loans and revolving loans and may pay interest at a fixed or floating rate. The senior secured loans originated or acquired by the Fund will likely be rated below investment grade or may not be rated by a credit rating agency. The factors affecting an issuer's first lien loans, and its overall capital structure, are complex. Some first lien loans may not necessarily have priority over all other debt of an issuer. For example, some first lien loans may permit other secured obligations (such as overdrafts, swaps or other derivatives made available by members of the syndicate to the company) or involve first liens only on specified assets of an issuer (e.g., excluding real estate). Issuers of first lien loans may have two tranches of first lien debt outstanding, each with first liens on separate collateral. Furthermore, any secured debt is secured only to the extent of its lien and only to the extent of underlying assets or incremental proceeds on already secured assets. In the event of a chapter 11 filing by an issuer, title 11 of the United States Code (11 U.S.C. §§ 101 - 1532) authorizes the issuer to use a creditor's collateral and to obtain additional credit by grant of a priority lien on the issuer's property, senior even to liens that were first in priority prior to the bankruptcy filing, as long as the issuer provides what the presiding bankruptcy judge considers to be "adequate protection," which may, but need not always, consist of the grant of replacement or additional liens or the making of cash payments to the affected secured creditor. The imposition of prior liens on the Fund's collateral would adversely affect the priority of the liens and claims held by the Fund and could adversely affect the Fund's recovery on its investments.

- The Fund's investments may be subject to early redemption features, refinancing options, pre-payment options or similar provisions that, in each case, could result in the issuer repaying the principal on an obligation held by the Fund earlier than expected. It is common for first lien debt to be repaid prior to its maturity; thus, the actual duration of such investments is typically shorter than their stated final maturity calculated solely on the basis of the stated life and repayment schedule. Generally voluntary prepayments are permitted and may be made with or without prepayment penalty to the issuer. Consequently, the timing of prepayments cannot be predicted with any accuracy. The degree to which issuers prepay senior debt, whether as a contractual requirement or at their election, may be affected by general business conditions, market interest rates, the issuer's financial condition and competitive market conditions among lenders.
- Second Lien Senior Loans. The assets of the Fund's portfolio may include second lien senior secured debt, including term loans and revolving loans, which may pay interest at a fixed or floating rate. Investments in second lien senior loans may be unsecured and will rank behind the issuer's secured indebtedness, including first lien senior loans.
- Second lien loans are subject to the same risks associated with loans in general described above under "First Lien Senior Loans." However, second





lien senior loans are subordinate in right of payment to one or more senior secured loans of the related borrower and therefore are subject to additional risk that the cash flow of the related borrower and the property securing the loan may be insufficient to repay the scheduled payments to the Fund after giving effect to any senior secured obligations of the related borrower. Second lien senior loans are also expected to be a more illiquid investment than senior secured loans for such reason. There also is less likelihood that the Fund will be able to sell participations in or assignments of second lien loans that it originates or acquires, which would expose the Fund to increased risk.

- Mezzanine and Other Subordinated Investments. Certain of the Fund's investments may consist of loans, securities and/or other instruments, or interests in pools of securities and/or other instruments that are subordinated or may be subordinated in right of payment and ranked junior to other securities and/or instruments issued by, or loans made to, obligors. Mezzanine and other subordinated debt investments involve a high degree of risk with no certainty of any return of capital. Although subordinated debt is senior to common stock and other equity securities in the capital structure, it may be subordinated to large amounts of senior debt and are often unsecured.
- While subordinated debt investments may benefit from the same or similar financial and other covenants as those enjoyed by the indebtedness ranking ahead of such investments and may benefit from cross-default provisions, some or all of such terms may not be part of particular investments. In addition, the ability of the subordinated debt holders to influence a company's affairs, especially during periods of financial distress or following an insolvency, is likely to be substantially less than that of senior creditors. For example, under terms of subordination agreements, senior creditors are typically able to block the acceleration of the mezzanine debt or other exercises by the subordinated creditors of their rights. Accordingly, the Fund may not be able to take the steps necessary to protect its investments in a timely manner or at all. Further, the unsecured debt in which the Fund may invest may not be protected by financial covenants or limitations upon additional indebtedness, could have limited liquidity and may not be rated by a credit rating agency.
- Subordinated debt investments may increase the Fund's exposure to adverse economic factors such as significantly rising interest rates, severe downturns in the economy or deterioration in the condition of the portfolio company on the subordinated debt investment. Conversely, mezzanine loans and other subordinated debt investments are often less risky than equity investments because the claims of subordinated debt investors are typically senior to those of equity holders in the company. In the event that any portfolio company on a mezzanine loan or other subordinated debt investment is unable to generate sufficient cash flow to meet the principal





and interest payments on its indebtedness, the value of the Fund's investment in such loan could be significantly reduced or even eliminated.

- If a portfolio company becomes subject to insolvency proceedings in any jurisdiction, the rights of holders of mezzanine and subordinated debt may be adversely affected. Such proceedings and related laws and remedies may vary substantially from jurisdiction to jurisdiction, may create the right of such portfolio company to avoid certain unfavorable contracts or obligations and may result in significant delay and/or limitations on repayment of amounts owed to the Fund. With respect to the Fund's investments in the form of subordinated debt instruments, upon any distribution to the relevant borrower's creditors in a bankruptcy, liquidation or reorganization or similar proceeding, the holders of such borrower's senior and/or secured indebtedness (to the extent of the collateral securing such obligation) will be entitled to be paid in full before any payment may be made on the Fund's investment. In the event of a bankruptcy, liquidation or reorganization or similar proceeding relating to such a borrower, the Fund will typically participate with all other holders of such borrower's indebtedness in the assets remaining after the borrower has paid all of its senior and/or secured indebtedness (to the extent of the collateral securing such obligation). Such borrower may not have sufficient funds to pay all of its creditors, and the Fund may receive nothing, or less, ratably, than the holders of senior and/or secured indebtedness of such borrower or the holders of indebtedness that is not subordinated.
- Unitranche Debt. The Fund may invest in unitranche debt, which is an instrument that combines senior secured debt and subordinated debt into a single debt instrument. Unitranche loans are subject to similar risks associated with loans in general described above under "First Lien Senior Loans," "Second Lien Senior Loans" and "Mezzanine and Other Subordinated Investments." In addition, because unitranche loans are a newer form of debt instrument and they have not been fully evaluated through a credit cycle, they may subject the Fund to risks that cannot be fully identified at this time. Further, the complex terms of unitranche debt have not yet been widely tested in bankruptcy and workout situations. As a result, default and loss expectations are more difficult to estimate with respect to unitranche debt as compared to other forms of debt instruments such as senior loans and subordinated debt instruments. In particular, in a bankruptcy proceeding involving a unitranche loan, there is a risk that the entire unitranche loan will be viewed as a single secured claim. If the collateral is insufficient to secure the entire unitranche loan, it may be deemed as an unsecured claim in its entirety. The untested nature of unitranche loan arrangements also exposes the Fund to a heightened risk of litigation among the lender group in the event of bankruptcy.
- Loan Repayment Income. The Fund's income may be derived from repayments of principal and interest received in respect of loans. A wide



range of factors may adversely affect an obligor's ability to make repayments, including: adverse changes in the financial condition of such obligor or the industries or regions in which it operates; the obligor's exposure to counterparty risk; systemic risk in the financial system and settlement; changes in law or taxation; changes in governmental regulations or other policies; natural disasters; terrorism; social unrest, civil disturbances; or general economic conditions. Default rates tend to accelerate during economic downturns.

- Any defaults will have a negative impact on the value of the Fund's investments and may reduce the return that the Fund receives from its investments in certain circumstances. While some amount of annual defaults is expected to occur in the Fund's portfolio, defaults in or declines in the value of the Fund's investments in excess of these expected amounts may result in breaches of covenants under the Fund's financing arrangements, triggering credit enhancement requirements or accelerated repayment provisions and, if not cured within the relevant grace periods, permitting the finance provider to enforce its security over all the assets of the Fund.
- In the event of insolvency, liquidation, dissolution, reorganization or bankruptcy of an obligor, holders of debt instruments ranking senior to the Fund's investment would typically be entitled to receive payment in full before the Fund receives any distribution in respect of its investment. After repaying the senior creditors, such obligor may not have any remaining assets to repay its obligations to the Fund. In the case of debt ranking equally with the loans or debt securities in which the Fund invests, the Fund would have to share on an equal basis any distributions with other creditors holding such debt in the event of an insolvency, liquidation, dissolution, reorganization or bankruptcy of the relevant investee company.
- Special Situations. The Fund may invest in and/or lend to companies involved in or undergoing work-outs, liquidations, spin-offs, reorganizations, bankruptcies or other catalytic changes or similar transactions. Such investments may include debtor-in-possession financing. In any investment opportunity involving any such type of special situation, there exists the risk that the contemplated transaction either will be unsuccessful, will take considerable time or will result in a distribution of cash or a new security with a value less than the purchase price of the security or other financial instrument in respect of which such distribution is received. Similarly, if an anticipated transaction does not in fact occur, the Fund may be required to sell its investment at a loss. Because there is substantial uncertainty concerning the outcome of transactions involving financially troubled companies in which the Fund may invest, there is a potential risk of loss by the Fund of its entire investment in such companies.
- Distressed Investments. The Fund may invest in companies that are, or are likely to become, subject to formal bankruptcy proceedings and/or



informal out-of-court restructurings. There are a number of significant risks when making investments with respect to companies involved in bankruptcy proceedings or restructurings. Sourcing, diligence, structuring and governance of distressed investments require consideration of factors that are often not present in investments in the senior and secured debt of financially sound companies. If the Investment Manager's and/or the General Partner's evaluation of the anticipated outcome of an investment situation should prove incorrect, the Fund could experience losses. Successful investing requires a specialized skill set that includes: (i) the capacity to accurately value a company's assets and analyze its capital structure; (ii) a sophisticated knowledge of the complex legal environment in which such investing occurs, particularly bankruptcy, securities, corporate and indenture law; (iii) the experience necessary to determine accurately the financial interests and legal rights of the debtor and each of its creditor constituencies; and (iv) refined negotiating skills. A wide variety of considerations makes any evaluation of the outcome of an investment in a financially distressed company uncertain. These considerations include the possibility of litigation between the participants in a reorganization or liquidation proceeding or a requirement to obtain consents from governmental authorities or others, as well as numerous other factors. In addition, the General Partner may not have access to reliable and timely information concerning material developments affecting a company. The uncertainties inherent in evaluating such investments may be increased by legal and practical considerations which limit the access of the General Partner to reliable and timely information concerning material developments affecting an investment, or which cause lengthy delays in the completion of a reorganization or liquidation proceeding. Competition from other investors may also render it unadvisable for the General Partner to pursue intended results or promptly effect transactions.

- **Interest Rate Risk.** Interest rate fluctuations may have a substantial negative impact on the Fund. In general, the value of a debt security changes as prevailing interest rates change. For fixed-rate debt securities, when prevailing interest rates fall, the values of outstanding debt securities generally rise. When interest rates rise, the values of outstanding debt securities earning lower rates generally fall, and they may sell at a discount from their face amount. The debt instruments in which the Fund will invest generally will have adjustable interest rates. For that reason, the General Partner expects that when interest rates change, the amount of interest received by the Fund in respect of such debt investments will change in a corresponding manner.
- **Early Prepayment.** Certain debt that the Fund may invest in, such as senior debt, may be repaid early, so that the actual maturity of such investments is shorter than their stated final maturity calculated solely on the basis of the stated life and repayment schedule. Generally voluntary prepayments are



permitted and the timing of prepayments cannot be predicted with any accuracy. The degree to which borrowers prepay debt, whether as a contractual requirement or at their election, may be affected by general business conditions, market interest rates, the borrower's financial condition and competitive conditions among lenders. Prepayments are likely to be made during any period of declining interest rates. Such prepayments may result in the Fund receiving a lower than anticipated yield on such investments.

- **Unfunded Loans.** The Fund's investments may be comprised of loan commitments that are unfunded at the time of investment. A loan commitment is a written agreement in which the lender commits itself to make a loan or loans up to a specified amount within a specified time period. The loan commitment sets out the terms and conditions of the lender's obligation to make the loans. The portion of the amount committed by a lender under a loan commitment that the borrower has not drawn down is referred to as "unfunded." A lender typically is obligated to advance the unfunded amount of a loan commitment at the borrower's request, subject to certain conditions regarding the creditworthiness of the borrower. Borrowers with deteriorating creditworthiness may continue to satisfy their contractual conditions and therefore be eligible to borrow at times when the lender might prefer not to lend. In addition, a lender may have assumptions as to when a company in which the Fund invests may draw on an unfunded loan commitment when the lender enters into the commitment. If the borrower does not draw as expected, the commitment may not prove as attractive an investment as originally anticipated. Further, any failure to advance requested funds to a company in which the Fund invests could result in possible assertions of offsets against amounts previously lent.
- **Limited Amortization Requirements.** The Fund may invest in loans that have limited mandatory amortization requirements. While these loans may obligate an issuer to repay the loan out of asset sale proceeds or with annual excess cash flow, repayment requirements may be subject to substantial limitations that would allow an issuer to retain such asset sale proceeds or cash flow, thereby extending the expected weighted average life of the investment. In addition, a low level of amortization of any debt over the life of the investment may increase the risk that the issuer will not be able to repay or refinance the loans held by the Fund when it matures.
- **Zero Coupon and PIK Bonds.** Because investors in zero coupon or PIK bonds receive no cash prior to the maturity or cash payment date applicable thereto, an investment in such securities generally has a greater potential for a complete loss of principal compared to an investment in debt securities that makes periodic interest payments. Such investments are more vulnerable to the creditworthiness of the issuer and any other parties upon which performance relies.



- **DIP Loans.** Debtor-in-possession (“DIP”) loans involve a fundamental credit risk based on the borrower’s ability to make principal and interest payments and the inherent risks of the bankruptcy process. DIP loans are subject to a court approval process in which parties-in-interest may be heard but there can be no assurance that the Fund would be successful in obtaining favorable results. If the calculations of the General Partner as to the outcome or timing of a reorganization are inaccurate, a company that has filed for bankruptcy may not be able to make payments on a DIP loan on time or at all. In addition, DIP loans may be privately negotiated transactions, each of which has individualized terms. These positions may be illiquid and difficult to value. DIP loans may be subject to price volatility due to various factors including, but not limited to, changes in interest rates, market perception of the creditworthiness of the borrower and general market liquidity.
- **Non-Performing Nature of Loans.** There are varying sources of statistical default and recovery rate data for loans and other debt securities and numerous methods for measuring default and recovery rates. The historical performance of the credit market or the leveraged loan market is not indicative of future results.
- It is anticipated that certain of the loans purchased by the Fund may be non-performing and possibly in default. Furthermore, the obligor and/or relevant guarantor may also be in bankruptcy or liquidation. There can be no assurance as to the amount and timing of payments with respect to the loans.
- There can be no assurance that the Fund’s investments will increase in value or that the Fund will not incur significant losses. The General Partner anticipates that several of the Fund’s investments will incur losses. Investors should be prepared to lose all or substantially all of their investment in the Fund.
- **Leveraged Nature of Investments.** The portfolio companies in which the Fund may invest may be highly leveraged, thereby increasing the degree of credit risk inherent in each investment. Leverage often imposes restrictive financial and operating covenants on a company, in addition to the burden of the debt service, and may impair its ability to finance future operations and capital needs or to pay principal and interest on the Fund’s investments when due. The leveraged capital structure of portfolio companies will increase the exposure of the Fund’s investments to any deterioration in a company’s condition or industry, competitive pressures, an adverse economic environment or rising interest rates. In the event any portfolio company cannot generate adequate cash flow to meet its debt service needs, the Fund may suffer a partial or total loss of capital invested in the portfolio company, which could adversely affect the returns of the Fund. Furthermore, the companies and securities in which the Fund will invest generally will not be rated by a credit rating agency.





- **Risks of Acquiring Real Estate Loans, Consumer Loans and Participations.** Consumer loans, including real estate loans acquired by the Fund may be at the time of their acquisition, or may become after acquisition, non-performing for a wide variety of reasons. Such non-performing real estate loans may require a substantial amount of workout negotiations and/or restructuring, which may entail, among other things, a substantial reduction in the interest rate and a substantial write-down of the principal of such loans. However, even if a restructuring were successfully accomplished, a risk exists that upon maturity of such real estate loan, replacement “takeout” financing will not be available. Purchases of participations in real estate loans raise many of the same risks as investments in real estate loans and also carry risks of illiquidity and lack of control. It is possible that the General Partner may find it necessary or desirable to foreclose on collateral securing one or more real estate loans purchased by the Fund. The foreclosure process can be lengthy and expensive. Borrowers often resist foreclosure actions by asserting numerous claims, counterclaims and defenses against the holder of a real estate loan including, without limitation, lender liability claims and defenses, even when such assertions may have no basis in fact, in an effort to prolong the foreclosure action. In some jurisdictions, foreclosure actions can take up to several years or more to conclude. At any time during the foreclosure proceedings, the borrower may file for bankruptcy, staying the foreclosure action and further delaying the foreclosure process. Foreclosure litigation tends to create a negative public image of the collateral property and may result in disrupting ongoing leasing and management of the property.
- **Risks Associated with Specialty Finance Companies.** The Fund may invest in companies and operating platforms that invest in commercial and consumer credits, including personal loans. The form of investment for such companies may vary and may require reliance on networks of asset managers to provide the resources necessary to originate new receivables, manage portfolios of performing receivables, and work-out portfolios of stressed or non-performing receivables. These loans may not be secured and may be subject to increasing regulation.
- **Investments in the specialty finance industry are subject to various industry-specific risks (including additional risks related to the various segments of the specialty finance industry).** Specifically, various segments of the specialty finance industry are (or may become) highly regulated at both the federal and state levels in the U.S. (including as a result of the creation of the Consumer Financial Protection Bureau) and internationally and subject to frequent regulatory changes. Further, investments in financial services companies often require the approval of various regulatory bodies and there is no guarantee that such approvals will be obtained. While the Fund intends to make investments in companies that comply with relevant laws and regulations, certain aspects of their operations may not have





been subject to judicial or regulatory interpretation. An adverse review or determination by any one of such authorities, or an adverse change in the regulatory environment or requirements, could have a material adverse effect on the operations of the companies in which the Fund invests. In addition, in order to comply with or not be subject to certain banking laws, rules and regulations, the companies in which the Fund invests may be required to invest in a manner that may not be as advantageous as the manner of making investments that are not subject to such laws, rules and regulations.

- **Equity Investments.** The Fund may receive equity or equity components in a borrower, or acquire warrants to purchase equity securities or receive similar options or derivative rights, to ensure a material equity upside return to the total investment return on a loan. The Fund may also invest in structured equity investments (usually in the form of warrants) in performing companies that need capital, but due to market conditions or existing capital structure challenges cannot secure financing from traditional sources such as banks. The Fund's goal is ultimately to dispose of these equity and derivative interests and realize gains upon its disposition of such interests. However, the equity interests the Fund receives may not appreciate in value and, in fact, may decline in value. Accordingly, the Fund may not be able to realize gains from its equity interests, and any gains that it does realize on the disposition of any equity or similar interests may not be sufficient to offset any other losses the Fund experiences. Furthermore, a co-investment by the Fund in the equity of an issuer in which the Fund also holds a debt investment may increase the risk of claims of equitable subordination against the Fund.
- **Equity investments** will be subordinate to the claims of a company's creditors (including, if applicable, the Fund) and preferred stockholders. Dividends customarily paid to common equity holders can be suspended or cancelled at any time. For the foregoing reasons, investments in common equity securities are highly speculative and carry a substantial risk of loss of principal. Preferred stock may have characteristics of both debt and equity. Dividend payments to preferred stockholders may be suspended and cancelled if the issuer experiences liquidity difficulties and the principal paid for preferred stock is generally subordinate to the debt obligations of the issuer. Some preferred stocks may be non-cumulative, which means that the issuer does not ever have to declare or pay dividends on the stock or make up any missed dividends. Consequently, investments in preferred stock carry significant risk of loss of principal and current income.
- **Warrants.** The Fund may receive warrants, and in certain circumstances prior to exit, may be required to exercise such warrants in order to hold the underlying securities. The Fund may seek to negotiate "cashless" exercise for warrants that it receives, whereby no investment will be required to



convert. Otherwise, when the Fund does not have a “cashless” exercise, the Fund may be required to invest cash to convert warrants and hold underlying securities, which may subsequently lose some or all of their value.

- **Convertible Securities.** The Fund may invest in convertible securities. Convertible securities are bonds, debentures, notes, preferred stocks or other securities that may be converted into or exchanged for a specified amount of common stock of the same or different issuer within a particular period of time at a specified price or formula. A convertible security entitles its holder to receive interest that is generally paid or accrued on debt or a dividend that is paid or accrued on preferred stock until the convertible security matures or is redeemed, converted or exchanged. Convertible securities have unique investment characteristics in that they generally (i) have higher yields than common stocks, but lower yields than comparable non-convertible securities, (ii) are less subject to fluctuation in value than the underlying common stock due to their fixed-income characteristics and (iii) provide the potential for capital appreciation if the market price of the underlying common stock increases.
- The value of a convertible security is a function of its “investment value” (determined by its yield in comparison with the yields of other securities of comparable maturity and quality that do not have a conversion privilege) and its “conversion value” (the security’s worth, at market value, if converted into the underlying common stock). The investment value of a convertible security is influenced by changes in interest rates, with investment value declining as interest rates increase and increasing as interest rates decline. The credit standing of the issuer and other factors may also have an effect on the convertible security’s investment value. The conversion value of a convertible security is determined by the market price of the underlying common stock. If the conversion value is low relative to the investment value, the price of the convertible security is governed principally by its investment value. To the extent the market price of the underlying common stock approaches or exceeds the conversion price, the price of the convertible security will be increasingly influenced by its conversion value. A convertible security generally will sell at a premium over its conversion value by the extent to which investors place value on the right to acquire the underlying common stock while holding a fixed-income security. Generally, the amount of the premium decreases as the convertible security approaches maturity.
- A convertible security may be subject to redemption at the option of the issuer at a price established in the convertible security’s governing instrument. If a convertible security held by the Fund is called for redemption, the Fund will be required to permit the issuer to redeem the security, convert it into the underlying common stock or sell it to a third party. Any of these actions could have an adverse effect on the Fund’s



ability to achieve its investment objective.

- Lender Liability and Equitable Subordination. A number of judicial decisions in the United States have upheld the right of borrowers to pursue lending institutions and others on the basis of various evolving legal theories (collectively termed “lender liability”). Generally, lender liability is founded upon the premise that a lender has violated a duty (whether implied or contractual) of good faith and fair dealing owed to the borrower or has assumed a degree of control over the borrower that creates a fiduciary duty owed to the borrower or its other creditors or shareholders. Because of the nature of certain of the Fund investments, the Fund could be subject to allegations of lender liability.
- In addition, under common law principles in the United States that in some cases form the basis for lender-liability claims, if a lender (i) intentionally takes an action that results in the undercapitalization of a borrower or issuer to the detriment of other creditors of such borrower or issuer, (ii) engages in other inequitable conduct to the detriment of such other creditors, (iii) engages in fraud with respect to, or makes misrepresentations to, such other creditors or (iv) uses its influence as a stockholder to dominate or control a borrower or issuer to the detriment of other creditors of such borrower or issuer, a court may elect to subordinate the claim of the offending lender or bondholder to the claims of the disadvantaged creditor or creditors (a remedy called “equitable subordination”). The Fund does not intend to engage in conduct that would form the basis for a successful cause of action for lender liability, including the equitable subordination doctrine; however, because of the nature of the debt obligations, the Fund may be subject to claims from creditors of an obligor that debt obligations of such obligor which are held by the Fund should be equitably subordinated or that the Fund should otherwise be liable for claims of lender liability.
- The preceding discussion regarding lender liability is based upon principles of U.S. federal and state laws. With respect to the Fund’s investments in a non-U.S. issuer, laws of certain non-U.S. jurisdictions may also impose liability upon lenders or bondholders under factual circumstances similar to those described above, with consequences that may or may not be analogous to those described above under U.S. federal and state laws.
- Non-U.S. Investments. The Fund may invest in portfolio investments that are formed, organized or headquartered or have substantial sales or operations outside of the United States, its territories, and possessions. Such investments may be subject to certain additional risks due to, among other things, potentially unsettled points of applicable governing law, the risks associated with fluctuating currency exchange rates, capital repatriation regulations (as such regulations may be given effect during the term of the Fund), the application of complex U.S. and non U.S. tax rules to cross-border investments, possible imposition of non-U.S. taxes on the Fund and/or the



Partners with respect to the Fund's income, and possible non-U.S. tax return filing requirements for the Fund and/or the Partners.

- Additional risks of non-U.S. investments include: (i) economic dislocations in the host country; (ii) less publicly available information; (iii) less well-developed regulatory institutions; (iv) greater difficulty of enforcing legal rights in a non-U.S. jurisdiction; (v) civil disturbances; (vi) government instability; (vii) nationalization and expropriation of private assets; (viii) less developed bankruptcy laws; (ix) difficulty in enforcing contractual obligations and (x) lack of uniform accounting, auditing and financial reporting standards, practices and requirements comparable to those that apply to U.S. companies. Moreover, the perfection of a security interest on collateral located outside of the United States will be governed by the laws of the jurisdiction in which the collateral is located, and the ability to create a perfected security interest in such a jurisdiction may be less certain or more difficult or cumbersome to achieve. As a result, loans that were intended to be secured may turn out to be partially or wholly unsecured, or obstacles may exist to the enforcement or realization of the security interest.
- Long-Term Nature of Investments. The stated maturity for the Fund's investments will typically range from three to five years, and although the Fund may realize investments early or issuers may redeem loans early, there may be a number of years when the only Fund proceeds are dividend and interest income from its investments. Such income may not be significant and operating expenses may exceed income during that period.
- In certain circumstances, the stated maturity of debt instruments may exceed the term of the Fund. The General Partner generally seeks to make debt investments where it expects that the principal amount of such instrument will be paid prior to the stated maturity of such instrument, provided, however, that there is no guaranty that borrowers will repay such obligations prior to the stated maturity date, or that the instrument will not be amended to extend the stated maturity date or otherwise modify the terms. Thus, the Fund may not recoup proceeds from such portfolio investments until after the term of the Fund has expired (subject to permitted extensions of the term) and is in liquidation.
- Risks of Realization, Lack of Liquidity and Difficulty in Valuation. It is anticipated that there will be no readily available market for a substantial number (if not all) of the Fund's investments, and therefore, most of the investments will be difficult to value. While the Fund intends to make investments that will be fully realized or disposed of prior to the date of dissolution of the Fund, risks to realization could arise from changes in the financial condition or prospects of the companies whose borrowings underlie the Fund's investments, changes in national or international economic or political conditions (including acts of war, terrorism or other calamity or crisis), adverse conditions in national or global financial or capital markets, or changes in laws, regulations, fiscal policies or political



conditions of countries in which investments are made. As a result, the Fund may have to sell, distribute or otherwise dispose of investments at a disadvantageous time for a price that is less than the price that could have been obtained if the investments were held for a longer period of time. There is no assurance that the Fund will be able to dispose of an investment in a particular instrument. The inability to dispose of an investment position could result in losses to the Fund, including the loss of its entire investment. If the Fund voluntarily or involuntarily sold its interests in those types of instruments, it might not receive the full value it expected.

- **Adjustments to Terms of Portfolio Investments.** The terms and conditions of the loan agreements and related assignments may be amended, modified or waived only by the agreement of the lenders. Generally, any such agreement must include a majority or a supermajority (measured by outstanding loans or commitments) or, in certain circumstances, a unanimous vote of the lenders. Consequently, the terms and conditions of the payment obligation arising from loan agreements could be modified, amended or waived in a manner contrary to the preferences of the Fund, as the case may be, if a sufficient number of the other lenders concurred with such modification, amendment or waiver. There can be no assurance that any obligations arising from a loan agreement will maintain the terms and conditions to which the Fund originally agreed.
- **Uncertain Exit Strategies.** Although the Fund will often invest with the intention of holding a loan to maturity, in some cases the General Partner may determine it is advisable to exit a position earlier. However, due to the illiquid nature of the positions which the Fund is expected to acquire, the General Partner is unable to predict with confidence what the exit strategy will ultimately be for any given position, or that one will definitely be available at an attractive price, or at all. Exit strategies which appear to be viable or profitable when an investment is initiated may be precluded or unprofitable by the time the investment is ready to be realized due to market, economic, legal, political or other factors.
- **Bridge Financings.** The Fund may provide Bridge Financings to portfolio companies. While a Bridge Financing is outstanding, the Fund will bear the risk of changes in the capital markets. A portfolio company's inability to refinance a Bridge Financing may result in the Fund retaining a long-term investment longer than anticipated may result in the Fund retaining an investment in a junior security or having its bridge loan converted to equity. In such event, the interest rate on such loan may not adequately reflect the risk associated with the position taken by the Fund. The Fund may bear the entire portion of any fees, costs and expenses related to such investment. Neither the General Partner nor any of its affiliates will be deemed to have violated any duty or other obligation to the Fund or any Limited Partners by engaging in such investment.
- **Misrepresentation, Fraud and Misconduct.** Of significant concern in





lending and investing is the possibility of material misrepresentation or omission by a counterparty. Such inaccuracy or incompleteness may adversely affect the valuation of the collateral underlying the investment or may adversely affect the ability of the Fund to perfect or effectuate a lien on the collateral securing the investment. The Fund generally relies upon the accuracy and completeness of representations made by counterparties, but cannot guarantee such accuracy or completeness. Under certain circumstances, payments to the Fund may be reclaimed if any such payment or distribution is later determined to have been a fraudulent conveyance or a preferential payment.

- Instances of fraud and other deceptive practices committed by third parties in connection with any financial asset in which the Fund invests may undermine the General Partner's due diligence efforts with respect to such investments, and if such fraud is discovered, negatively affect the valuation of the Fund's investments. In addition, when discovered, financial fraud may contribute to overall market volatility, which can negatively impact the Fund's investment program. Misconduct by employees of the Investment Manager, the General Partner or by third-party service providers could cause significant losses to the Fund. Employee misconduct may include binding the Fund to transactions that exceed authorized limits or present unacceptable risks and unauthorized trading activities or concealing unsuccessful trading activities (which, in either case, may result in unknown and unmanaged risks or losses). Losses could also result from actions by third-party service providers, including, without limitation, failing to recognize trades and misappropriating assets. In addition, employees and third-party service providers may improperly use or disclose confidential information, which could result in litigation or serious financial harm, including limiting the Fund's business prospects or future marketing activities. No assurances can be given that the due diligence performed by the General Partner or the Investment Manager will identify or prevent any such misconduct.
- Reliance on Corporate Management and Financial Reporting. In many cases, the General Partner will rely on the financial information made available by the borrowers or issuers in which the Fund invests. The General Partner generally will not have the ability to independently verify such financial information, and generally will be dependent upon the integrity of both the management of these borrowers and issuers and the financial reporting process in general. Material losses can occur as a result of corporate mismanagement, fraud and accounting irregularities.
- Expedited Transactions. Investment analyses and decisions by the General Partner will often be undertaken on an expedited basis in order for the Fund to take advantage of investment opportunities. In such cases, the information available to the General Partner at the time of an investment decision may be limited, and the General Partner may not have access to





the detailed information necessary for a full evaluation of the investment opportunity. In addition, the General Partner may rely upon independent consultants or advisors in connection with the evaluation of proposed investments. There can be no assurance that these consultants or advisors will accurately evaluate such investments.

- **Non-Controlling Interests.** The Fund may acquire interests in the debt securities of companies as to which it may have limited or no influence. Such a company may have economic or business interests or goals that are inconsistent with those of the Fund, and the Fund may not be in a position to limit or otherwise protect the value of its investment in the senior debt securities of the company.
- **Creditor Rights.** In some cases, the General Partner may seek appropriate creditor rights to help protect the Fund's interests, and such rights may include, under certain circumstances, the right to appoint one or more representatives to the board of directors (or similar governing body) of the companies in which it invests. Such creditor rights may expose the Fund's representatives, and ultimately the Fund, to potential liability. Not all borrowers may obtain insurance with respect to such liability, and the insurance that borrowers do obtain may be insufficient to adequately protect officers and directors from such liability.
- **Use of Leverage.** The Fund may borrow funds and expects to do so when the General Partner deems to be appropriate, including to enhance the Fund's returns and for cash management purposes.
- While leverage presents opportunities for increasing the Fund's total return, it has the effect of potentially increasing losses as well. Accordingly, any event that adversely affects the value of an investment by the Fund would be magnified to the extent the Fund is leveraged. The cumulative effect of the use of leverage by the Fund in a market that moves adversely to the Fund's investments could result in a substantial loss to the Fund, which would be greater than if the Fund was not leveraged. Leverage will increase the exposure of the Fund to adverse economic factors such as significantly rising interest rates, severe economic downturns or a deterioration in the condition of the Fund's investments or their corresponding markets. This leverage could accelerate and magnify declines in the value of the Fund's investments in the leveraged portfolio investments in a down market and the underperformance of a few investments can result in substantial losses to the entire portfolio. In addition, use of a Leverage Facility will cause the Fund to incur additional interest and other expenses with respect to such facility, and may result in costs to the Fund that may not be covered by distributions made to the Fund or appreciation of its investments.
- In connection with any Leverage Facility used by the Fund, the Fund may be required to make certain representations and warranties to one or more lenders. The Fund may also be required to indemnify the lenders pursuant to any Leverage Facility in case such representations and warranties are



inaccurate. Any such Leverage Facility provider that permits the Fund assets as collateral for such credit facility may require the sale or liquidation of Fund assets held by it as collateral after default by the Fund pursuant to the agreement with such credit facility provider. Events of default under any such credit facility may include, among other things, failure to pay amounts due under such credit facility, failure to inform the credit facility provider of certain events with respect to the Fund, failure to provide the credit facility with certain periodic reports and financial statements, breach by the Fund of other representations and covenants contained in credit facility documentation and other similar terms. If any such credit facility provider were to require the Fund to sell or liquidate assets or otherwise act to realize on such collateral, these actions may impair the operational capabilities of the Fund and have adverse tax and economic effects on the Fund. These arrangements may create contingent liabilities of the Fund, for which the General Partner may establish reserves or escrow accounts.

- The cost and availability of leverage is highly dependent on the state of the broader credit markets (and such credit markets may be impacted by regulatory restrictions and guidelines), which state is difficult to forecast, and at times it may be difficult to obtain or maintain the desired degree of leverage. There can be no guarantee that Leverage Facilities will be available at commercially attractive rates throughout the term of the Fund or when due for refinancing. If the Fund is unable to obtain favorable financing terms for its investments or maintain a desired or optimal amount of financial leverage, the Fund may realize lower than expected returns from such investments that would adversely affect the Fund's ability to generate attractive investment returns for the Limited Partners. Any failure by lenders to provide previously committed financing could also expose the Fund to potential claims by sellers of assets that the Fund may have been contracted to purchase.
- The Fund may borrow from third-party lenders or from affiliates of the General Partner. Any borrowing from affiliates of the General Partner will be on arm's-length terms.
- Limited Diversification and Impact of Regulation. The Fund's investment portfolio could become highly concentrated, and the performance of a few holdings or a sector may substantially affect its aggregate return. If the overall state of an industry or specific sub-sector in which the Fund invests perform poorly, the Fund may be adversely affected. Furthermore, to the extent that the capital raised is less than the targeted amount, the Fund may make fewer investments and thus be less diversified.
- Counterparty Risk. The General Partner is not restricted from dealing with any particular counterparty or from concentrating any or all of the Fund's transactions with one counterparty. The General Partner has no formal credit function which evaluates the creditworthiness of the Fund's



counterparties. The ability of the Fund to transact business with any one or number of counterparties, the lack of any meaningful and independent evaluation of such counterparties' financial capabilities and the absence of a regulated market to facilitate settlement may increase the potential for losses by the Fund. The counterparty risks that the Fund faces have increased in complexity and magnitude as a result of disruption in the financial markets in recent years. For example, the consolidation and elimination of counterparties has increased the concentration of counterparty risk and decreased the universe of potential counterparties.

- The Fund depends on the services of brokers, custodians, counterparties, administrators and other agents to carry out certain transactions on behalf of the Fund. The terms of these contracts are often customized and complex, and many of these arrangements occur in markets or relate to products that are not subject to regulatory oversight. The Fund is subject to the risk that the counterparty to one or more of these contracts defaults, either voluntarily or involuntarily, on its performance under the contract. Any such default may occur suddenly and without notice to the General Partner. In addition, the Fund's cash held with a broker, custodian or counterparty generally will not be segregated from the broker's, custodian's or counterparty's own cash, and the Fund may therefore rank as an unsecured creditor in relation thereto.
- In addition, the Fund may use counterparties located in various jurisdictions outside the United States. Such local counterparties are subject to various laws and regulations in various jurisdictions that are designed to protect their customers in the event of their insolvency. However, the practical effect of these laws and their application to the Fund's assets are subject to substantial limitations and uncertainties. Because of the large number of entities and jurisdictions involved and the range of possible factual scenarios involving the insolvency of a counterparty, it is impossible to generalize about the effect of their insolvency on the Fund and its assets. Investors should assume that the insolvency of any counterparty would result in a loss to the Fund, which could be material.
- Need for Follow-On Investments. Following its initial investment in the securities of a company, the Fund may decide to make additional investments in such securities, otherwise increase its exposure to the securities of such company or exercise warrants, options or convertible securities that were acquired in the original or subsequent financing. There is no assurance that the Fund will make Follow-On Investments or that the Fund will have sufficient funds to make all or any of such investments. Any decision by the Fund not to make Follow-On Investments or its inability to make such investments may have a substantial negative effect on a portfolio investments in need of additional capital. Additionally, such failure to make such investments may result in a lost opportunity for the Fund to increase its participation in a successful portfolio investment or the dilution



of the Fund's ownership in a portfolio investment if a third party invests in such portfolio investment.

- **Recourse to the Fund's Assets.** The Fund's assets are available to satisfy all liabilities and other obligations of the Fund. If the Fund becomes subject to a liability, parties seeking to have the liability satisfied may have recourse to the Fund's assets generally and not be limited to the particular investment giving rise to the liability.
- **Dilution from Subsequent Closings.** Limited Partners subscribing for Interests at subsequent closings will participate in existing investments of the Fund, diluting the interest of existing Limited Partners therein. Although such Limited Partners will contribute their pro rata share of previously made Fund draw downs, there can be no assurance that such payment will reflect the fair value of the Fund's existing portfolio investments at the time such additional Limited Partners subscribe for Interests.
- **Distributions in Kind.** The General Partner may distribute the proceeds of certain of the Fund's investments in securities or other non-cash property as set forth in the Partnership Agreement. Any such in-kind distribution, which may be highly illiquid and may be required to be held for an indefinite period of time, could put downward pressure on the price of the issuer's securities. In addition, the Limited Partners may incur costs and delays in converting securities into cash. Nevertheless, the distribution price of such securities will be established under the provisions of the Partnership Agreement and will not be adjusted to reflect actual sale prices obtained by the Limited Partners.
- **Enhanced Scrutiny and Certain Effects of Potential Regulatory Changes.** There continue to be discussions regarding enhanced governmental scrutiny and/or increased regulation of the alternative asset management industry. There can be no assurance that any such scrutiny or regulation will not have an adverse impact on the Fund's activities, including the ability of the Fund to effectively and timely address such regulations, implement operating improvements or otherwise execute its investment strategy or achieve its investment objectives.
- **The combination of such scrutiny of alternative asset managers and their investments by various politicians, regulators and market commentators, and the public perception that certain alternative asset managers contributed to the recent downturn in the U.S. and global financial markets, may complicate or prevent the Fund's efforts to structure, consummate and/or exit investments, both in general and relative to competing bidders outside of the alternative asset space. As a result, the Fund may invest in fewer transactions or incur greater expenses or delays in completing or exiting investments than it otherwise would have.**
- **Uncertain Economic and Political Environment.** The current global economic and political climate is one of uncertainty. Prior acts of terrorism in the United States, the threat of additional terrorist strikes and the fear of



a prolonged global conflict have exacerbated volatility in the financial markets and can cause consumer, corporate and financial confidence to weaken, increasing the risk of a “self-reinforcing” economic downturn. The availability of credit for consumers, homeowners and businesses, including credit used to acquire businesses, continues to be restricted. This may have an adverse effect on the economy generally and on the ability of the Fund and its portfolio investments to execute their respective strategies and to receive an attractive multiple of earnings on the disposition of their investments. A climate of uncertainty may reduce the availability of potential investment opportunities, and increases the difficulty of modeling market conditions, potentially reducing the accuracy of financial projections. Furthermore, such uncertainty may have an adverse effect upon portfolio investments in which the Fund makes investments.

- **Market Conditions.** Any material change in the economic environment, including a slow-down in economic growth and/or changes in interest rates or foreign exchange rates, could have a negative impact on the performance and/or valuation of the portfolio investments. The Fund’s performance can be affected by deterioration in public markets and by market events, such as the onset of the credit crisis in the summer of 2007 or the downgrading of the credit rating of the United States in 2011, which, among other things, can impact the public market comparable earnings multiples used to value privately held portfolio investments and investors’ risk-free rate of return. Movements in foreign exchange rates may adversely affect the value of portfolio investments and the Fund’s performance. The impact of market and other economic events may also affect the Fund’s ability to raise funding to support its investment objective and also the level of profitability achieved on realizations of investments.

#### **Other Risk Factors – General**

- **Public Health Emergencies: COVID-19.** The 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 Client.

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 Client. The extent of the impact on a Client and its portfolio investments' 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 a Client 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 Client intends to pursue, all of which could adversely affect a Client's ability to fulfill its investment objectives. They may also impair the ability of portfolio investments 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 Client, its portfolio investments, its general partner/manager and Silverpeak 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.

#### **ITEM 9 - DISCIPLINARY INFORMATION**

Neither Silverpeak nor any of its management personnel are subject to or have in the past years been subject to any material criminal or civil action in any domestic, foreign or military court, and neither Silverpeak nor any of its management personnel have been subject to (i) any administrative proceedings before the SEC or any other state, federal or foreign financial regulatory authority or (ii) any self-regulatory organization proceeding.

#### **ITEM 10 - OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

- A. Silverpeak has no existing or pending affiliations with a broker-dealer or a registered representative of a broker-dealer.
- B. Neither Silverpeak nor any of its management persons are registered, or have an application pending to register, as a future commission merchant, commodity pool operator, a commodity trading adviser, or as an associated person of any of the foregoing.



- C. Silverpeak and/or its management persons have the following relationships or arrangement that are material to its advisory business or to its Clients with the following “related persons”:
- Broker-dealer, municipal securities dealer, or government securities dealer or broker. None
  - Investment company or other pooled investment vehicle (including a mutual fund, closed-end investment company, unit investment trust, private investment company or “hedge fund,” and offshore fund). See response to item 10(D)
  - Other investment adviser or financial planner: See response to Item 10(D).
  - Futures commission merchant, commodity pool operator, or commodity trading adviser: None.
  - Banking or thrift institution: None.
  - Accountant or accounting firm: None.
  - Lawyer or law firm: None.
  - Insurance company or agency: None.
  - Pension consultant: None.
  - Real estate broker or dealer: None.
  - Sponsor or syndicator of limited partnerships: The general partners of the Funds are affiliated entities which act as sponsors of their respective Funds. Silverpeak does not believe that its relationship with the general partner creates a material conflict of interest. Also, see response to Item 10(D).
- D. Silverpeak does not recommend or select other investment advisers for its Clients or Investors. However, note that certain persons associated with the Silverpeak Group have non-controlling, minority interests in other investment advisory businesses including Silverpeak Real Estate Partners L.P. (“Silverpeak Real Estate”), an SEC-registered investment adviser providing advisory services to investment vehicles that invest in real estate, and SP SMC Capital LLC, Silverpeak Real Estate’s relying adviser. Silverpeak Real Estate and SP SMC Capital LLC operate independently of Silverpeak, except to the extent that certain employees that are not investment professionals may be shared.

Certain persons associated with the Silverpeak Group are also associated with Silverpeak Strategic Partners LP, a commodities and energy business, and Silverpeak Renewables Investment Partners LP, a renewable energy business.

Certain Silverpeak Group management persons and other persons associated with the Silverpeak Group make proprietary real estate investments with, or provide real estate-related advice to, third parties. These investments, and any advice related thereto, are in real estate, not securities, and are structured as joint ventures.



All conflicts of interest within the Silverpeak Group, its management persons and associates are monitored by various oversight committees. The Adviser has an oversight committee which is responsible for material decisions regarding Silverpeak's general business activities and potential conflicts. It is the responsibility of each oversight committee member to advise the committee of any perceived conflicts of interest that are known to them, which will then proceed to address and/or disclose the conflict as determined in its sole judgment.

## **ITEM 11 - CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

- A. Code of Ethics. Silverpeak's compliance manual includes a code of ethics ("Code") that applies to each Employee (defined as, generally, any partner, officer or director of Silverpeak and any employee or other supervised person of Silverpeak, including its subsidiaries and affiliates). The Code requires compliance with all applicable laws and regulations, including federal securities laws; acting in the best interests of Clients at all times; avoiding actual and potential conflicts of interests; complying with certain restrictions on personal trading and prompt reporting of violations of the Code. The Code requires employees to safeguard confidential information entrusted to Silverpeak by its Clients, Investors or related parties, information regarding Silverpeak's businesses and activities, and/or information about other employees. The Code also prohibits insider trading, tipping and addresses anti-money laundering and certain potential conflicts of interest. In the event of a conflict of interest that is not otherwise addressed by the applicable governing documents, Silverpeak will be guided by its fiduciary responsibilities, compliance policies and procedures and good faith judgment as to the best interests of the Clients.

Silverpeak's Code also requires employees to, among other things: 1) pre-clear certain personal securities transactions; 2) report personal securities transactions on at least a quarterly basis; and 3) provide Silverpeak with a detailed summary of certain holdings (both initially upon commencement of employment and annually thereafter) over which such Employee has a direct or indirect beneficial interest.

Silverpeak has adopted a privacy policy that explains the manner in which it collects, utilizes and maintains nonpublic personal information about Investors, as required under federal legislation. Silverpeak may make changes to its privacy policy in the future. Silverpeak will not make any change affecting an individual without first sending that individual a revised privacy policy describing the change. A copy of Silverpeak's Code of Ethics is available upon request by contacting Silverpeak's CCO, Garrett Yuan at 813-397-3745 or



garrett.yuan@silverpeak.com.

**B. Transactions in Securities where Adviser has a Material Financial Interest.**

Neither Silverpeak nor any of its related persons recommend to Clients, or buy or sell for Clients, securities in which Silverpeak has a material financial interest. Please note however that SP Credit Principals as well as other key employees of Silverpeak may maintain substantial investments in the Funds, so in this regard, Silverpeak may be recommending to Investors a security in which it does have a material financial interest.

In addition, although it does not currently do so, purchase and sale, repurchase, financing and derivative transactions may be effected between Clients or other clients of the Silverpeak Group ("cross trades") if the following conditions are met: (i) Silverpeak utilizes an unaffiliated broker-dealer or custodian to cross trade, (ii) Silverpeak has determined that the cross trade transaction is advantageous for each Client, and (iii) Silverpeak has a good faith belief that the cross trade transaction is fair to each Client. Silverpeak's Compliance Manual sets forth complete procedures for cross trading through unaffiliated broker-dealers or custodians. In addition, Silverpeak's Compliance Manual prohibits Silverpeak and any employee or other affiliate from trading with any Client on a principal basis unless the transaction is done in accordance with Section 206(3) of the Investment Advisers Act of 1940 (the "Advisers Act"), which would include obtaining consent of the Clients involved. Silverpeak may request that the Fund's limited partner advisory board, if any, review information with respect to a proposed principal transaction and make a non-binding recommendation to approve or deny the transaction on behalf of the Fund.

Silverpeak's relevant oversight committee reviews cross-trades and principal transactions, if any.

**C. Investing in Securities Recommended to Clients; Contemporaneous Trading.**

Silverpeak has no proprietary trading accounts and therefore would not invest in the same (or related) securities that a Fund, SMA or Co-Investment are invested in.

The Code of Ethics and the Compliance Manual provide that each employee has the responsibility to be sure that they are not benefitting in any personal investments at the expense of Clients, that the employee is not in any way taking advantage of or "trading on" knowledge of the impact of Client transactions upon the market price of the employee's own securities, and that the employee is not damaging the employee's own or Silverpeak's reputation by trading on Silverpeak's recommendations to its Clients.



Therefore, the Code of Ethics contains specific policies and procedures regarding restrictions on personal trading for subject employees as described above in Item 11(A).

While it is theoretically possible that an employee of Silverpeak may hold the same security that a Client holds or transact in the same security that a Client is transacting in, Silverpeak believes that the potential conflict of interest that is present in such situations is minimal due to the nature of the Funds' primary holdings. Nevertheless, Silverpeak has implemented pre-clearance requirements as described in Item 11(A) and monitoring of employees' personal security accounts transaction and holdings reports on a regular basis in order to identify and address any potential or actual conflicts of interest that might arise, including without limitation, front-running, market manipulation or insider trading.

From time-to-time it may be beneficial to one or more of Silverpeak's Clients to share an investment opportunity with Silverpeak's employees, other affiliates and/or other Investors. For example, an investment opportunity may require a capital commitment that is larger than optimal for Silverpeak's Clients. In other cases, Silverpeak's Clients may decide not to invest in an issuer, but might allow employees, other affiliates and/or other Investors to pursue the investment instead. The inclusion of employees, other affiliates and/or unaffiliated Investors in a private offering can create actual or apparent conflicts of interest associated with the allocation of investment capacity and diligence costs. The CCO and the relevant oversight committee reviews all instances in which part of a Client's investment opportunity is to be offered to Silverpeak's employees, affiliates and/or third parties. In conducting such a review, the CCO and the relevant oversight committee will consider actual and apparent conflicts of interest and will ensure that Silverpeak has documented that it is acting in good faith in accordance with all applicable representations to Clients and Investors.

Silverpeak may also determine that the size of the available investment opportunity of an investment being made by a Fund meaningfully exceeds the amount that is appropriate for such Fund (taking into consideration the relevant provisions of the Fund's governing documents). Silverpeak may form one or more co-investment vehicles specifically to take up such excess opportunity. In such cases, Silverpeak may offer one or more persons (including, but not limited to, Investors in the relevant Fund or consultants) the opportunity to participate in such co-investment vehicles. Silverpeak will determine the person(s) to whom it offers any such opportunity, and the relative amounts offered to each such person, taking into account such factors as Silverpeak determines appropriate based on the relevant facts and circumstances, which may include one or more of the following: (i) the ability



of an Investor to commit to invest in a short period of time, in light of the timing constraints applicable to such investment; (ii) the ability of an Investor to commit to a significant portion of such opportunity; (iii) whether an Investor provides strategic value in respect of such investment, such as by having relevant experience in the sector or existing relationships with management or other relevant parties; (iv) the size of an Investor's commitment to the Fund; (v) whether and to what extent an investor has accepted prior co-investment opportunities offered to it; or (vi) such other factors as Silverpeak deems relevant, which may include subjective determinations such as working relationships and strategic benefits to Silverpeak or to Silverpeak's Funds. In all cases, allocation of co-investment opportunities will be subject to the provisions of the governing documents of the relevant Fund and is subject to the review of the relevant oversight committee.

## **ITEM 12 - BROKERAGE PRACTICES**

- A. Factors Considered in Selecting or Recommending Broker-Dealers for Client Transactions.** Silverpeak will have full investment discretion with respect to the initiation of all portfolio securities transactions for Clients as well as full authority to select broker-dealers to execute such transactions. In selecting broker-dealers, Silverpeak need not solicit competitive bids and does not have an obligation to seek the lowest available commission cost. It is not Silverpeak's practice to negotiate "execution only" commission rates, thus Clients may be deemed to be paying for research, brokerage or other services provided by the broker which are included in the commission (or spread) rate. In pursuing the "most favorable transaction" (i.e. best execution) for an investment, Silverpeak will take into account many factors, such as the financial stability and reputation of broker-dealer firms, the research, brokerage or other services provided by such broker-dealers, the price of the security, execution speed, confidentiality, market depth, capital commitments, recent order flow, size and liquidity of the traded position, knowledge of the other side of the trade, and trade settlement history.

Depending upon the portfolio transaction to be executed for the Clients, Silverpeak may not have a range of broker-dealers to select from. Specifically, when investing in securities that are traded in the over-the-counter market, Silverpeak will engage primarily in transactions with dealers who make markets in such securities. In such cases, the dealer offering the security to Silverpeak may be the only execution available for such investment.

Silverpeak's relevant oversight committee, when applicable, will review the selection of broker-dealers for Client account transactions and will review trading for "best execution".





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

Silverpeak, as a matter of policy, does not enter into soft dollar arrangements in respect of transactions for the Clients. If Silverpeak determines to do so, it will endeavor to do so within the “safe harbor” provided by Section 28(e) of the Exchange Act. While Silverpeak receives proprietary research from certain brokerage firms, it does not take the value of such research into account in selecting brokers. In addition, Silverpeak maintains a gift policy which requires the reporting and/or pre-approval of certain gifts, travel and entertainment received by employees in order for such gifts, travel and entertainment to be reviewed by compliance personnel for any appearance of, or actual, conflicts of interest.

In the event Silverpeak were to utilize “soft dollars” as described above:

- It would receive a benefit because it would not have to produce or pay for the research or brokerage products or services.
- It may have an incentive to select or recommend a broker-dealer based on its interest in receiving the research or brokerage products or services, rather than on the Clients' interest in receiving most favorable execution.
- It may cause Clients to pay commissions (or markups or markdowns) higher than those charged by other broker-dealers in return for “soft dollar” benefits (known as “paying-up”).
- The “soft dollars” generated by one Client's account may be used by Silverpeak to service that account as well as others and that “soft dollar” benefits possibly may be applied disproportionately to the soft dollar credits that an account generates.
- During the past fiscal year, neither Silverpeak nor any of its related persons acquired any products and services with Client brokerage commissions (or markups or markdowns). However, note that research reports (on markets generally), introduction of Investors, either through a capital introduction event or otherwise, attendance at certain seminars and conferences and discussions with research analysts may be acquired from various broker-dealers that Silverpeak utilizes. These products and services are not provided with “soft dollar” credits generated by specific trades, but rather would be provided by the broker-dealer because of Silverpeak's ongoing relationship with the broker-dealer.
- During the past fiscal year, neither Silverpeak nor any of its related persons directed any Client transactions to a particular broker-dealer in return for “soft dollar” benefits.

### **Brokerage for Client Referrals**

Silverpeak may receive Investor referrals from registered representatives of broker-dealers that trade on behalf of Silverpeak's Clients. Silverpeak is aware



that such referrals may pose a conflict of interest in that Silverpeak could have an incentive to direct brokerage to broker-dealers that fail to achieve best execution in order to continue receiving referrals. When applicable, the relevant oversight committee will review referral relationships and the associated conflicts of interest.

### **Directed Brokerage**

Silverpeak does not permit a Client or Investor to direct Silverpeak to execute transactions through a specified broker-dealer.

- B. **Aggregation of Orders.** As investment adviser to Client accounts, Silverpeak makes an independent decision for each account as to whether any particular trade is suitable for a particular Client. If it is determined by Silverpeak, in its sole discretion, that a particular trade is suitable for more than one Client account, Silverpeak maintains trade allocation and aggregation policies and procedures designed to ensure fair allocation of securities amongst the participating Client accounts. Under these procedures, trades executed on behalf of more than one Client are typically aggregated and all participating Clients receive the same average price. When more than one Client account is participating in a trade, based on Silverpeak's trade allocation policy all trades are allocated amongst participating Client accounts on a pro-rata basis, if applicable. Generally, the pro-rata allocation on "opening" transactions is based on the relative assets under management of the participating Client accounts. However, on a "closing" transaction, the allocation is determined by the size of a Client's position relative to the size of all participating Client positions.

Notwithstanding the foregoing, there may be times when an aggregated order may be allocated on a basis other than pro-rata but must be documented by the relevant Portfolio Manager and reviewed and approved by the CCO.

Trade allocations and aggregated trades are monitored on a quarterly basis or more frequently as needed by the relevant oversight committee.

## **ITEM 13 - REVIEW OF ACCOUNTS**

- A. **Frequency and Nature of Review.** The SP Credit Principals evaluate the Client portfolios on a daily basis. Matters reviewed include specific securities held, adherence to investment guidelines and the performance of each Client's account. In addition, the relevant oversight committee will review Client portfolios on a quarterly basis.
- B. **Factors Prompting a Non-Periodic Review of Accounts.** As mentioned above,



the Funds, the SMAs and Co-Investments are actively managed and are reviewed regularly throughout the trading day. However, there may be times when additional scrutiny is warranted, for example when there is a material movement in the price of a security, an increased spread in bond pricing, and/or market volatility that is out of the ordinary.

- C. **Content and Frequency of Regular Account Reports.** Silverpeak provides reports as required by the applicable governing documents for each Client.
- For the Funds. Each quarter, Silverpeak issues an unaudited quarterly capital account summary in addition to a quarterly report for the Fund Investors. The quarterly report typically includes the following: unaudited financial statements, including a balance sheet; statement of changes in Investors' capital, and; statement of operations. Each Fund Investor also will receive the following: (i) annual financial statements, audited by an independent certified public accounting firm; (ii) tax reporting information, if applicable; and (iii) other reports as determined by the Adviser or an affiliate of the Adviser in its sole discretion. Silverpeak may by agreement provide additional information or reports to certain Clients.
  - For the SMAs and Co-Investments. Reporting for the SMAs and Co-Investments are set forth in the individually negotiated Advisory Agreements.
  - Note for all Investors. Silverpeak and certain of its service providers often use email addresses provided by Investors for Investor communication purposes. Among other things, these communications may include required disclosures. Any Investor who wishes to receive communications by mail, rather than by email, should notify Silverpeak in writing.

## ITEM 14 - CLIENT REFERRALS AND OTHER COMPENSATION

- A. **Economic Benefits Received from Non-Clients for Providing Services to Clients.** Silverpeak has no arrangements whereby a party who is not a Client compensates or otherwise provides an economic benefit to Silverpeak for providing services to Clients.
- B. **Compensation to Non-Supervised Persons for Client Referrals.** Silverpeak has engaged third-party placement agents who are compensated directly by Silverpeak for the referral of Investors to the Special Situations Lending Group or a Co-Invest Fund based generally upon the amount of capital commitments raised.

## ITEM 15 – CUSTODY

Silverpeak has “custody” of Client assets in the Funds for purposes of Rule 206(4)-2 of the Advisers Act (the “Custody Rule”). All Fund assets and securities



over which Silverpeak has custody are maintained at a “qualified custodian”, unless an exception to this requirement is permitted. The Funds are subject to an annual audit by a registered PCAOB auditor and the audited financial statements will be prepared in accordance with accounting principles generally accepted in the United States of America and distributed within 120 days post year end. Investors in the Funds will not receive statements directly from the Fund’s qualified custodian(s).

Note that Silverpeak is not deemed to have “custody” of the SMAs account assets.

## **ITEM 16 - INVESTMENT DISCRETION**

As discussed in Item 4 above, Silverpeak provides investment advisory services on a discretionary and non-discretionary basis to its Clients.

Prior to assuming full discretion in managing a Client’s assets, Silverpeak enters into an Advisory agreement that sets forth the scope of Silverpeak’s discretion.

Specifically, for discretionary Clients, Silverpeak has the authority to determine (i) the securities to be purchased and sold for the Client account (subject to restrictions on its activities set forth in the applicable Advisory Agreement and any written investment guidelines), and (ii) the amount of securities to be purchased or sold for the Client account. Note that because of the differences in Client investment objectives and strategies, risk tolerances, tax status and other criteria, there may be differences among Clients in invested positions and securities held.

In a discretionary advisory relationship, Silverpeak has authority with each Client to select the identity and amount of securities to be bought or sold for its portfolio. In all cases, however, such discretion is exercised by Silverpeak in a manner consistent with the stated investment objectives and guidelines for the particular Client account, as these are set forth in the offering and governing documents for each Client’s accounts.

## **ITEM 17 - VOTING CLIENT SECURITIES**

Silverpeak has the authority to vote proxies for securities held by the Clients, when applicable. Silverpeak’s proxy voting policy was adopted in accordance with SEC Rule 206(4)-6 of the Advisers Act and calls for it to exercise its duty of care and loyalty to its Investors with respect to monitoring corporate events and exercising proxy authority. At the present time, a majority of the investments held by Clients typically do not issue proxies and are unlikely to be subject to a class action lawsuit. To the extent Silverpeak is required to vote



Client securities or make a determination with respect to Client's participation in a class action lawsuit, it will do so in a manner it believes to be in the best interests of its Clients. The SP Credit Principals are responsible for making such determinations. Note that Silverpeak occasionally receives solicitations for bond consents with respect to Client investments (e.g., to amend or waive existing bond terms). The SP Credit Principals are responsible for determining whether to give or withhold consent regarding such solicitations. In general, such solicitations have a presumption of consent and Silverpeak will only have to take action in order to withhold consent if doing so is determined to be in the best interests of its Clients.

For other than bond consents, in the event that Silverpeak in the future were to transact in a security requiring a proxy vote, Silverpeak's policy would be to vote – not abstain from voting – on all issues presented on the portfolio securities held for its Clients. Silverpeak will consider all issues presented for a vote of security holders from an investment point of view and vote in the best investment interests of the beneficial owners of the Client account holding the securities that are being voted, with the goal of maximizing the long-term value of the Client.

Silverpeak will consider all potential conflicts of interest brought to its attention, or that otherwise comes to its attention, and will determine whether there exists a material conflict of interest with respect to the vote in question. A conflict of interest will be considered material to the extent it is determined that such conflict has the potential to influence Silverpeak's decision-making regarding the vote. Where it is deemed that a material conflict of interest does not exist, Silverpeak may cast such vote, subject to the duty to act solely in the best interest of the beneficial owners of Client accounts holding the securities that are being voted. Where it is determined that a material conflict of interest does exist, and if the issue is specifically addressed in Silverpeak's proxy voting policies and procedures, Silverpeak will vote in accordance with the stated policies. In a situation where the issue is not specifically addressed in the policies and an apparent or actual conflict exists, the Adviser shall either: (a) delegate the voting decision to an independent third party; (b) inform the Client of the conflict of interest and obtain advance requisite consent; or (c) not vote.

Investors may not direct the Adviser's vote in any proxy solicitation. Clients may obtain a copy of the Adviser's complete proxy voting policies and procedures upon request. Clients may also obtain information from the Adviser about how the vote was voted on any proxies on behalf of their account. Please contact the Adviser at 813-397-3745 or via e-mail at [garrett.yuan@silverpeak.com](mailto:garrett.yuan@silverpeak.com).

## **ITEM 18 - FINANCIAL INFORMATION**



Registered investment advisers are required in this Item to provide you with certain financial information or disclosures about their financial condition. Silverpeak has no financial commitment that impairs its ability to meet contractual and fiduciary commitments to Clients and has not been the subject of a bankruptcy proceeding.