

## **Item 1. Cover Page**



# **PNC TC, LLC Form ADV, Part 2A**

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Form ADV, Part 2A  
March 26, 2021

This Brochure provides information about the qualifications and business practices of PNC TC, LLC which may do business as PNC Real Estate. If you have any questions about the contents of this Brochure, please contact us at 503-808-1300. The information in this Brochure has not been approved or verified by the United States Securities and Exchange Commission (“SEC”) or by any state securities authority.

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

PNC TC, LLC refers to itself from time to time as a “registered investment adviser.” You should be aware that registration with the SEC or a state securities authority does not imply a certain level of skill or training.

## Item 2. Material Changes

This brochure of PNC TC, LLC dated March 26, 2021 (“Brochure”) updates PNC TC, LLC’s brochure dated as of June 16, 2020 and reflects various revisions to Items 4, 5, 8 and 11 to clarify the disclosures with respect to those Items, including disclosures of potential risks posed by the effects of pandemics, the transition from LIBOR as a reference rate and climate change.

### **Important Note about this Brochure**

***This Brochure is not:***

- ***an offer or agreement to provide advisory services to any person***
- ***an offer to sell interests (or a solicitation of an offer to purchase interests) in any Fund (as defined below)***
- ***a complete discussion of the features, risks or conflicts associated with any Fund***

*As required by the Investment Advisers Act of 1940, as amended (“Advisers Act”), PNC TC, LLC provides this Brochure to current and prospective clients and may also, in its discretion, provide this Brochure to current or prospective investors in a Fund, together with other relevant offering materials, prior to, or in connection with, such persons’ investment in the Fund. Additionally, this Brochure is available through the SEC’s Investment Adviser Public Disclosure website.*

*Although this publicly available Brochure describes current investment advisory services and products of PNC TC, LLC, persons who receive this Brochure (whether or not from PNC TC, LLC) should be aware that it is designed solely to provide information about PNC TC, LLC as necessary to respond to certain disclosure obligations under the Advisers Act. As such, the information in this Brochure may differ from information provided in past offering materials or in current relevant offering materials. More complete information about each Fund is included in relevant offering materials provided to current and eligible prospective investors. To the extent that there is any conflict between discussions herein and similar or related discussions in any offering materials, the relevant offering materials shall govern and control.*

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## **Item 4. Advisory Business**

### **4.1. The Firm**

For purposes of this brochure, the “Firm” means PNC TC, LLC, a Delaware limited liability company. PNC TC, LLC is a wholly owned subsidiary of PNC Bank, National Association (“PNC Bank”). PNC Bank is a wholly owned subsidiary of PNC Bancorp, Inc. (“PNC Bancorp”), which in turn is a wholly owned subsidiary of The PNC Financial Services Group, Inc. (“PNC Financial”), a public company. The Firm was founded and registered as an investment adviser with the SEC in November 2014. As of December 31, 2020, the Firm had approximately \$2.1 billion of assets under management, all on a discretionary basis, subject to contractual terms in fund agreements with investors.

The Firm’s clients are comprised of privately offered investment funds that are held either by one investor (i.e., single-investor funds) or by a group of investors (i.e., multi-investor funds).

These funds are not “investment companies” under the Investment Company Act of 1940, as amended (the “Investment Company Act”) and their securities are not registered under the Securities Act of 1933, as amended (the “Securities Act”). Fund interests are offered and sold only to “accredited investors” in private transactions exempt from the registration requirements of the Securities Act. Fund investors must be “qualified purchasers” for purposes of the Investment Company Act. Typical investors include, but are not limited to, banks and insurance companies.

The Firm currently provides investment advisory and management services to three types of funds, LIHTC Funds, Preservation Funds and HTC Funds (each as defined below). The Firm also anticipates that it may in the future offer investment advisory and management services to one or more NMTC Funds (as defined below, and together with LIHTC Funds, Preservation Funds and HTC Funds, each a “Fund”, and collectively, the “Funds”). Generally, each Fund will make investments solely in one asset class (LIHTC, HTC, Preservation or NMTC); provided, certain Funds may in certain circumstances make investments in more than one asset class as more specifically described in Section 4.2 below.

Certain employees of PNC Bank are associated persons of the Firm, and are subject to the Firm’s compliance manual and Code of Ethics, in addition to any other compliance policies and procedures as adopted by the Firm.

Investments for each Fund are managed in accordance with the Fund’s particular investment objectives, strategies and guidelines. In multi-investor Funds, the investments are tailored to the individualized needs of the Fund; but some investors may receive benefits (for example, as more fully described below, under the Community Reinvestment Act) that are not received by other investors in such Fund. Information about a multi-

investor Fund and its particular investment objectives, strategies and guidelines, and the risks associated with an investment in the Fund, is typically included in a Private Placement Memorandum (“PPM”), which is made available to prospective investors in the Fund only through an authorized party. The Firm provides investment advisory services to each Fund in accordance with a separately documented advisory or management agreement (each, an “Investment Management Agreement”). In addition to the Investment Management Agreement, the Firm’s advisory services may also be set forth in either a limited partnership agreement or limited liability company agreement of the applicable Fund (each, a “Fund Agreement”).

Investment advice is provided directly to the Fund and not individually to the investors in a Fund, although investors do typically receive a tax opinion from tax counsel to the Fund. Investment restrictions for a Fund, if any, are generally established in the Fund Agreement, PPM (if applicable), Investment Management Agreement and/or side letter agreements negotiated with investors in the applicable Fund.

#### **4.2. The Funds**

Each Fund engages, or is expected to engage, primarily in one of the following investment strategies: (1) indirect investment in low income housing tax credits, pursued by the Low Income Housing Tax Credit Funds (the “LIHTC Funds”); (2) indirect investment in multi-family residential properties focused on the preservation of affordable housing, pursued by the preservation funds (the “Preservation Funds”); (3) indirect investment in buildings that qualify for historic rehabilitation tax credits, pursued by the Historic Tax Credit Funds (the “HTC Funds”); and (4) the acquisition of qualified equity investments (“QEIs”) made in Community Development Entities (“CDEs”) that have provided qualified debt financing to borrowers which own, operate or lease community development projects that qualify for new markets tax credits (the “NMTC Funds”).

LIHTC Funds, which consist of both single-investor and multi-investor funds, invest in entities (“LIHTC Operating Entities”) that own multi-family residential apartment complexes (each, a “LIHTC Property”) and receive an allocation of tax credits pursuant to the U.S. Government’s Low-Income Housing Tax Credit Program (“LIHTC Program”). A LIHTC Fund’s primary investment objectives are to: (1) obtain LIHTCs, which qualified investors may use to reduce their federal income tax liabilities; (2) obtain other tax benefits, including tax losses, which qualified investors may use to reduce their taxable income for federal income tax purposes; and (3) preserve and protect the LIHTC Fund’s capital.

Preservation Funds invest in entities (“Preservation Operating Entities”) that own affordable housing developments (each a “Preservation Property”). “Affordable housing” includes, but is not limited to: (i) housing that is primarily for low and moderate income (“LMI”) individuals; (ii) special needs housing for disabled or elderly LMI individuals; and (iii) housing that qualifies, or has qualified, for federal low-income housing tax credits. A Preservation Fund’s primary objectives are to (1) preserve the long-term availability of

existing affordable housing; (2) receive a financial return in the form of net cash flow from Fund assets; and (3) receive appreciation from the eventual sale of Fund assets.

HTC Funds invest in entities (“HTC Operating Entities”) that own or lease properties (each an “HTC Property”), typically through a lease pass-through structure, that qualify for historic rehabilitation tax credits under the U.S. Government’s Historic Rehabilitation Tax Incentives Program (“HTC Program”). In the lease pass-through structure, the owner of an HTC Property is the landlord (“HTC Landlord Entity”) under the master lease, and the HTC Operating Entity is the master tenant. The HTC Operating Entity typically owns a minority limited partner or non-managing member interest in the HTC Landlord Entity. An HTC Fund’s primary investment objectives are to: (1) obtain HTCs, which qualified investors may use to reduce their federal income tax liabilities; (2) receive a financial return in the form of net cash flow from Fund assets; and (3) preserve and protect the HTC Fund’s capital.

Future NMTC Funds advised by the Firm may acquire interests in limited liability companies or other entities (each a “lower tier investment”) that have made one or more investments in CDEs. Each CDE will have also previously made new markets tax credit-qualified loans (each a “Qualified Low-Income Community Investment” or “QLICI”) to one or more qualified businesses (each a “Qualified Active Low-Income Community Business” or “QALICB”). It is anticipated that each of the CDEs will have been formed to support business enterprises that create economic development opportunities in low-income areas in a manner which will qualify under the Federal new markets tax credit program (“NMTC Program”). Each investor in each NMTC Fund is expected to receive its allocable share of NMTC Fund cash flow, losses, new markets tax credits (hereinafter referred to as “NMTC”) and any other related tax attributes associated with the NMTC Fund’s ownership of each lower tier investment.

Indirect investments by LIHTC, Preservation and HTC Funds in, respectively, LIHTC Properties, Preservation Properties and HTC Properties (collectively, “Investment Properties”) are primarily investments in real estate assets. Investments by NMTC Funds will consist exclusively of lower tier investments which hold investments in CDEs which have previously made or will make QLICIs. Certain risks associated with Fund investments are more fully described below.

In addition to the foregoing, if a Fund holds a public welfare investment in a geographic area where an investor that is a bank or depository institution operates,<sup>1</sup> such investor may be eligible to receive positive consideration towards its regulatory rating under the Community Reinvestment Act (the “CRA”). Also, if a Fund holds an interest in a property

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<sup>1</sup> Under the CRA regulations as currently in effect, federal regulators assess and score a bank’s record of helping to meet the credit needs of the communities in which such bank operates. In 2020, the Office of Comptroller of the Currency (“OCC”) adopted certain amendments, with a compliance date in 2023. Other bank regulatory authorities are currently considering other possible amendments to CRA regulations. Investors should consult their counsel concerning potential benefits available, if any, under CRA.

that is located in a qualified opportunity zone, an investor who invests capital gains in such Fund may be eligible for certain other tax benefits through the federal opportunity zone program (“Opportunity Zone Program”).

Although the investments and investment objectives of the Funds are varied, the Funds are generally similarly structured. A special purpose entity that is an affiliate of the Firm serves as the general partner, managing member or, in certain limited circumstances, the non-member manager of each Fund (each, a “Fund Managing Member”). In the case of LIHTC, Preservation and NMTC Funds, the Fund Managing Member is or will generally be a wholly-owned subsidiary of PNC Bank, and in the case of HTC Funds, the Fund Managing Member is or will generally be a direct or indirect wholly-owned subsidiary of PNC Financial or PNC Bank. An affiliate of the Firm (typically PNC Bank) is often a co-investor.

Each Fund is organized by the Fund’s Managing Member as either a limited partnership or a limited liability company (“LLC”). Third-party investors invest in a Fund through the acquisition of either a limited partnership interest or limited liability company membership interest (as applicable) pursuant to either a subscription agreement or consent and capital contribution agreement and in accordance with the limited partnership agreement or operating agreement (as applicable) of the Fund. Each LIHTC, Preservation and HTC Fund, in turn, acquires interests in limited partnerships, LLCs or similar pass-through entities (such entities being referred to as “Operating Entities” collectively, or individually as a LIHTC Operating Entity, a Preservation Operating Entity or an HTC Operating Entity, as the case may be), and each NMTC Fund will acquire lower tier investments holding one or more investments in CDEs. The specific rights and responsibilities of investors in a Fund are more fully set forth in the Fund Agreement and other contracts and documentation relating to that particular Fund. Investors in Funds should carefully review the rights and provisions contained in the relevant documents.

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

### **5.1. Compensation of the Firm**

The Firm earns fees for providing investment advisory and management services to the Funds under an Investment Management Agreement that is entered into by the Firm, the applicable Fund and its respective Fund Managing Member (the “Investment Management Fee”). Under this agreement, the Firm is entitled to receive all or a portion of the fees payable to the Fund Managing Member, as agreed upon between the Firm and such Fund Managing Member. Investment Management Fees are paid either directly by a Fund to the Firm or indirectly through an allocation from an affiliate of the Fund’s Managing Member. Pursuant to each Fund’s Investment Management Agreement, the Firm is also entitled to reimbursement of expenses incurred in connection with providing investment advisory and management services to the Funds, to the extent that the Fund Managing Member is entitled to reimbursement for such expenses. The Fund Agreements provide that the Funds will

not pay compensation to the Firm or any affiliate that exceeds the amounts payable by the Fund to the Fund Managing Member under the Fund Agreement.

All fees paid by a Fund are set forth in each Fund Agreement and, for multi-investor funds, described in the PPM. A discussion of the fees earned by the Firm and its affiliates (which indirectly may be paid to the Firm) for each type of Fund based upon recent Fund Agreements is set forth below. The fees for single investor funds vary from Fund to Fund and, therefore, investors in such Funds should consult the applicable Fund Agreement.

## **5.2. LIHTC Funds**

Below is a description of certain of the fees and expenses that are frequently paid by a LIHTC Fund, as detailed in the operative Fund Agreement:

### **A. Acquisition Fee**

LIHTC Funds pay an acquisition fee to the Firm, the Fund Managing Member or another Firm affiliate for selecting, evaluating, structuring, negotiating and closing the LIHTC Fund's investments in LIHTC Operating Entities. The acquisition fee is paid from the gross proceeds of the offering of units in a LIHTC Fund, and is set forth in the Fund Agreement. The acquisition fee is generally composed of a closing acquisition fee and a deferred acquisition fee. The portion of the acquisition fee payable at closing is payable from investor's capital contributions upon the closing of the LIHTC Fund's investment in each LIHTC Operating Entity. The deferred portion of the acquisition fee is deferred for a specific period of time and is payable only if the LIHTC Fund achieves its targeted yield and the LIHTC Operating Entities in which the Fund has invested have achieved certain milestones. If the target yield is not achieved, the deferred acquisition fee is not paid to the Firm or any of its affiliates, and such fee will be either (i) waived in its entirety, or (ii) paid into a reserve to be used for additional Operating Entity investments or applied to the Project Needs Reserve.

### **B. Asset Management Fee**

LIHTC Funds are also generally responsible for paying an asset management fee to the Firm, the Fund Managing Member or another Firm affiliate for services related to the day-to-day operations of the LIHTC Fund and its investments in LIHTC Operating Entities. The asset management fee is calculated one of two ways as set forth in a particular LIHTC Fund's Fund Agreement: either (i) as a fixed amount per LIHTC Operating Entity, or (ii) as a percentage of the total amount of capital commitments by the investors of the LIHTC Fund. The asset management fee is typically paid annually, and is payable from a LIHTC Fund's working capital reserve, which is established at the closing of the Fund and is comprised of capital contributions from investors and receipts of payments of investor services fees paid to a LIHTC Fund from the LIHTC



Operating Entities.<sup>2</sup> To the extent the working capital reserve does not have sufficient funds to pay the asset management fee, the asset management fee is payable from cash flow generated by the Operating Entities.

### **C. Sale/Refinancing Fee**

LIHTC Funds typically pay a disposition fee (in some governing documents referred to as a “sale/refinancing fee”) to the Firm, the Fund Managing Member or another Firm affiliate for services rendered in evaluating and effecting a sale or refinancing of a LIHTC Property. Such a fee is equal to a percentage of the proceeds realized upon the sale or refinancing transaction, and is payable from net cash proceeds. In addition, the Fund Agreement of certain Funds provides that such a fee is reduced in connection with transactions with affiliates of the Operating General Partner and waived altogether where a LIHTC Property or Operating Entity is sold to the Fund Managing Member or an affiliate, or is re-syndicated in another LIHTC Fund.

### **D. Fees for Other Financial Services**

In the event that PNC Bank or other affiliates of the Firm provide to a LIHTC Fund a line of credit, loans, credit enhancements or other credit facilities and financial services, such LIHTC Fund will pay fees to the party providing such service, provided that such fees and any expense reimbursements and interest rates must be, in the reasonable judgment of the Fund Managing Member, typical or competitive (but not necessarily the lowest cost) with the fees, rates or other compensation customarily paid to third parties for similar services in the same general area.

### **E. Selling Commission**

To the extent that an affiliate of the Firm or another party is engaged by a multi-investor LIHTC Fund to serve as placement agent, the LIHTC Fund will pay a selling commission to such placement agent for its services in connection with the sale of the units in the Fund. The selling commission is a fixed amount per unit sold, and is the same for an affiliated placement agent as for an unrelated third party.

### **F. Fund Organization, Offering and Related Expenses**

In addition to the fees described above, a LIHTC Fund is responsible for paying for or reimbursing the Firm, the Fund Managing Member or another Firm affiliate for the organizational and offering expenses and formation costs of setting up the LIHTC Fund, including, but not limited to, third-party legal fees, escrow fees and escrow agent fees

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<sup>2</sup> The working capital reserve is used to pay for the operation, management and administration of the Fund, including but not limited to reasonable legal fees and expenses, and payment of the asset management fee, any accrued asset management fee, the sale/refinancing fee and any accrued sale/refinancing fee. The Fund Managing Member also typically has discretion to use the working capital reserve to fund future increases in capital contributions to Operating Entities in the event that the projected capital contribution of a Fund to an Operating Entity increases.

and expenses, printing costs, travel costs, marketing fees, marketing expenses, securities filing and registration fees and salaries and direct expenses incurred by employees of the Fund Managing Member and its affiliates. The amount of, or means of determining, such expense and/or reimbursement is set forth in the Fund Agreement and is payable from the gross offering proceeds of the Fund.

#### **G. Due Diligence Expenses**

Further, LIHTC Funds will reimburse the Fund Managing Member for up to a certain amount per unit sold in the Fund for expenses incurred by the Fund Managing Member and its affiliates on behalf of the Fund in connection with the Fund's negotiations with Operating General Partners and the Fund's acquisition of interests in Operating Entities. These reimbursements or payments may include, but are not limited to, third-party legal and accounting fees, travel costs, consulting fees, appraisals and other direct third party expenses of the Fund Managing Member and its affiliates in connection with investments in Operating Entities and the negotiations of the terms of such investments, and reimbursement of funds advanced by the Fund Managing Member for any such purpose and interest on such funds, exclusive of Cash Used for Investment and Financing. Any such funds advanced by the Fund Managing Member will bear interest at the Fund Managing Member's cost of borrowing, but such rate may in no event exceed the Prime Rate plus 2% per annum. The Fund Managing Member has agreed to pay from its own funds, without reimbursement, any such acquisition expenses to the extent such expenses (including any accrued interest on funds advanced by the Fund Managing Member) exceed an aggregate amount specified in the relevant Fund Agreement. PNC Bank or an affiliate may elect to bear expenses relating to unconsummated transactions.

#### **H. Other Payments Received by Firm affiliates**

PNC Bank or an affiliate has established certain warehouse funds (each, a "LIHTC Warehouse Fund") to hold temporarily interests in LIHTC Operating Entities or LIHTC Properties in anticipation of a future transfer to a LIHTC Fund ("LIHTC Warehoused Investment", and collectively with a Preservation Warehoused Investment, each, a "Warehoused Investment"). The consideration given by a LIHTC Fund to PNC Bank or an affiliate to acquire or transfer a LIHTC Warehoused Investment to a LIHTC Fund will include, in addition to the consideration given for the LIHTC Warehoused Investment, an interest cost for holding the LIHTC Warehoused Investment (typically based on PNC Bank's one month internal cost of funds multiplied by the number of days that the LIHTC Warehoused Investment was held by the LIHTC Warehouse Fund, multiplied by the amount of equity funded by the LIHTC Warehouse Fund to date for such LIHTC Warehoused Investment).

### **5.3. Preservation Funds**

Below is a description of certain of the fees and expenses that are frequently paid by a Preservation Fund, as detailed in the operative Fund Agreement:

#### **A. Portfolio Management Fee**

Each investor member in a Preservation Fund pays a Portfolio Management Fee to the Preservation Fund, which will be used by such Fund to pay the Firm for the investment, asset management and other services provided by the Firm to the Preservation Fund. The Portfolio Management Fee is equal to a percentage of such investor member's capital commitment during the Fund's commitment period, and thereafter is equal to a percentage of the investor member's net capital investment in the Fund. The Portfolio Management Fee is paid quarterly in advance. The Fund Managing Member may, in its discretion, offset the portfolio management fee against distributions otherwise payable to the investor members. Investor members in a Preservation Fund that are affiliates of the Fund Managing Member or the Firm are not obligated to pay a portfolio management fee. Upon termination of an Investment Management Agreement, Portfolio Management Fees that have been prepaid are generally returned on a prorated basis.

#### **B. Disposition Fees**

A Preservation Fund pays a disposition fee to an affiliate of the Firm (as determined by the Firm or the Fund Managing Member) upon the disposition, sale, exchange, redemption, repayment or repurchase of all or any portion of an investment held by the Preservation Fund. The disposition fee is equal to a percentage of the sales price of such investment, and is deemed earned and payable immediately after the sale of the investment.

#### **C. Other Fees**

In the event that PNC Bank or other affiliates of the Firm provide to a Preservation Fund a line of credit, loans, credit enhancements or other credit facilities and financial services, such Preservation Fund will pay fees to the party providing such service, provided that such fees and any expense reimbursements and interest rates must be in the reasonable judgment of the Managing Member typical or competitive (but not necessarily the lowest cost) with the fees, rates or other compensation customarily paid to third parties for similar property or services in the same general area.

#### **D. Fund Formation and Related Expenses**

In addition to the fees described above, a Preservation Fund is responsible for paying for (or reimbursing the Fund Managing Member for) the actual organizational and formation costs of setting up the Preservation Fund. Such payments (or reimbursements) are paid by such Fund up to an aggregate amount set forth in the

Preservation Fund Agreement. Organizational expenses in excess of such amount are borne by the Fund Managing Member, the Firm or their affiliates, as applicable.

#### **E. Due Diligence Expenses**

A Preservation Fund is generally responsible for payment of (or reimbursing the Fund Managing Member or the Firm for) costs and expenses incurred in connection with the investigation, identification, evaluation, holding, financing, purchase or sale of assets, whether or not any such financing, purchase or sale is consummated. Notwithstanding such provisions, PNC Bank or an affiliate may elect to bear expenses relating to unconsummated transactions.

#### **F. Other Payments Received by Firm affiliates**

PNC Bank or an affiliate has established certain warehouse funds (each, a “Preservation Warehouse Fund”, and collectively with a LIHTC Warehouse Fund, each, a “Warehouse Fund”) to temporarily hold interests in Preservation Operating Entities or Preservation Properties in certain circumstances, in anticipation of a future transfer to a Preservation Fund (“Preservation Warehoused Investment”). The consideration paid by a Preservation Fund to the Preservation Warehouse Fund to acquire or transfer a Preservation Warehoused Investment to such Preservation Fund will consist of the reimbursement for the costs of the Preservation Warehoused Investment and interest on the actual cost of the Preservation Warehoused Investment from the date of acquisition as set forth in the Preservation Fund Agreement.

#### **5.4. HTC Funds**

The fees and expenses associated with HTC Funds are set forth with specificity in the Fund Agreement for that Fund. Given the limited number of syndicated HTC Funds managed by the Firm, there is no set or established standard fee and expense schedule at this time for HTC Funds. Fees and expenses for future HTC Funds will be established on a fund by fund basis, but will generally include acquisition fees, asset management fees and reimbursable expenses incurred by the Firm or affiliates in the acquisition, operation, or management of the underlying investments. Accordingly, investors investing in an HTC Fund should carefully review the operative Fund Agreement for details regarding fees and expenses, including details with respect to the compensation paid to the Firm in respect of the HTC Fund.

#### **5.5. NMTC Funds**

The fees and expenses associated with any NMTC Fund will be set forth with specificity in the Fund Agreement for such Fund. Currently, there is not a set or standard fee and expense schedule for NMTC Funds. As a result, the Firm anticipates that NMTC Fund fees and expenses for future NMTC Funds will be determined on a case by case basis, and may include, without limitation, fees related to lower tier investment acquisitions, CDE

asset management fees and NMTC Fund reimbursable expenses which have been incurred by the Firm or its affiliates as a result of the structuring and management of each NMTC Fund. Accordingly, investors investing in a NMTC Fund should carefully review the operative subscription agreement, consent and capital contribution agreement and/or Fund Agreement or other relevant contracts (as applicable) for details regarding fees and expenses, including details with respect to the compensation paid to the Firm in respect of the NMTC Fund.

## **5.6 Brokerage Fees**

Although the Firm does not generally utilize the services of broker-dealers to effect portfolio transactions for the Funds, in the event that it chooses to use a broker-dealer for limited purposes relating to a particular Fund, such Fund will incur brokerage and other transaction costs. For additional information regarding brokerage practices, please see *Item 12* below.

## **5.7 Other Fees and Expenses**

Affiliates of the Firm (including PNC Bank) may perform transaction-related, financial advisory and other services for, and receive interest, fees and other income from, Operating Partnerships. Such services include loans, refinancing, lines of credit and treasury management and depository services.

The Firm does not generally incur operational expenses directly in connection with its investment advisory services to the Funds, rather it is allocated a portion of the operational expenses incurred by the Fund Managing Members. However, to the extent provided in the Investment Management Agreements, the Firm shall be entitled to reimbursement from a Fund of any organizational expenses incurred by the Firm in connection with providing services to the Funds, to the same extent that the Fund Managing Member is entitled to reimbursement for such expenses incurred by the Fund Managing Member, on behalf of the Fund, under the Fund Agreements.

Typically, Operating Partnerships are responsible for paying expenses of constructing, rehabilitating, operating, managing and maintaining the Apartment Complexes that they own. Among other things, these expenses could include real estate broker fees and commissions relating to the acquisition or sale of the Apartment Complex.

## **5.8 Allocation of Fees and Expenses**

In exercising its discretion to allocate investment opportunities and fees and expenses associated therewith, the Firm may be faced with a variety of potential conflicts of interest. For example, in allocating an investment opportunity among Funds with differing fee, expense and compensation structures, the Firm may have an incentive to allocate investment opportunities to the Funds from which the Firm or its related persons may derive, directly or indirectly, a higher fee, compensation or other benefit.

In the event that more than one Fund invests in the same investment opportunity, the Firm will allocate fees and expenses incurred in the course of evaluating and making investments that are consummated between Funds (to the extent not allocated to an Operating Partnership) in accordance with each Fund's Fund Agreement or, to the extent not addressed in such Fund Agreements, pro rata based on the respective total capital commitments of such Funds. With respect to allocating other expenses among Fund(s), the Firm and/or third parties, as appropriate, to the extent not addressed in the Fund Agreement of a Fund, the Firm will make any such allocation determination in a fair and reasonable manner using its good faith judgment, notwithstanding its interest (if any) in the allocation. The Firm will make any corrective allocations and take any mitigating steps if it determines such corrections are necessary or advisable.

Any fees for services paid to the Fund or Fund Managing Member in advance but unearned or are overpaid due to a subsequent event generally are subject to offset and reimbursement. Any fees paid in arrears for services that were discontinued during the applicable term generally are pro-rated.

## **5.9 Cash Flow Distributions**

Please see *Item 6* below regarding cash flow distributions that Funds may pay.

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

With respect to each Fund, the Fund Managing Member is entitled to a portion of such Fund's net cash flow, as described in the cash flow waterfall in the Fund Agreement.

With respect to Preservation Funds, distributable cash is allocated to the investor members in proportion to their respective interests in the Fund, and in the priority set forth in the Fund Agreement. Investors receive distributions of cash flow until they have received a priority return, an amount equal to unreturned capital contributions and a portion of the super priority return, as more fully detailed in the Fund Agreement. After such payments are made, the balance of the cash, if any, is distributed to the investor members and the Fund Managing Member on the basis of the percentages set forth in the Fund Agreement.

For information with respect to potential conflicts, please refer to *Item 11.3. Conflicts of Interest*.

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

The Firm provides investment management services to LIHTC Funds, Preservation Funds and HTC Funds, and expects in the future to provide investment management services to NMTC Funds. The Funds are investment vehicles that are not "investment companies" under the Investment Company Act. Investment advice is provided directly to the Funds and not individually to investors in a Fund.

Interests in the Funds are offered pursuant to applicable exemptions from registration under the Securities Act and the Investment Company Act. Investors in the Funds are generally "qualified

purchasers” as defined in the Investment Company Act, and may include, among others, banks and thrift institutions.

The Firm does not have a minimum size for a Fund, but minimum investment commitments are generally established for investors in a Fund. The Fund Managing Member may in its sole discretion permit investments below the minimum amounts set forth in the Fund Agreement.

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

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

#### **A. Analysis of Investments**

The Firm analyzes Operating Entities and Investment Properties as potential investments by a Fund based on the acquisition guidelines of a particular Fund. Generally, the Firm analyzes Investment Properties with respect to the LIHTC, Preservation and HTC Funds by examining the underlying real estate metrics such as the property type, geographic market, market supply and demand, physical attributes, project leasing, developer and property manager strength, leverage and debt ratios, and projected benefits to the Fund’s investors. With respect to NMTC Funds, the Firm will generally apply similar underwriting metrics with respect to the underlying lower tier investments; but the Firm will also consider other metrics due to the variable nature of business owned, operated or leased by QALICBs under the NMTC Program (which in particular may involve investments in QLICIs not secured by real estate). Analysis of investments to be made by LIHTC, HTC and NMTC Funds additionally include an analysis of the Investment Property’s (or lower tier investment’s in the case of NMTC Funds) compliance with applicable sections of the Internal Revenue Code of 1986 (the “Code”) and other legal or regulatory authority which affects the availability of tax credits.

The financial analysis for investments made by LIHTC, Preservation, HTC and NMTC Funds includes a yield calculation, comparing (a) the projected benefits to be received by the Fund to (b) capital contributions from the Fund’s investors. The potential benefits to investors in Preservation Funds are primarily cash flow and capital appreciation. The potential benefits to investors in LIHTC and HTC Funds are primarily federal income tax credits and, in some cases, tax losses or cash flow. The potential benefits to investors in NMTC Funds are primarily federal income tax credits and tax losses or benefits, depending on the structure of the investment in the CDE.

#### **B. Investment Strategy**

The Firm seeks in good faith to identify, source and close investments for each Fund based on and consistent with such Fund’s detailed acquisition guidelines, and overall investment objectives of the Fund, which are disclosed to the Fund’s investors through the Fund’s Fund Agreement or, if applicable, the PPM, for multi-investor funds. Each Fund has a varying number of investments. For example, in LIHTC multi-investor

Funds, generally there are eight to twelve investments. Each Fund's investments are typically held for several years, due to the nature of real estate and tax credit investments and the required compliance period to avoid recapture of any tax credits. For example, a LIHTC Fund typically holds an investment for more than fifteen years, starting from the time that the Fund invests equity to assist in the acquisition and construction or substantial rehabilitation of a LIHTC Property, through the expiration of the fifteen year period during which the LIHTC Operating Entity must maintain the low-income portion of the LIHTC Property in order to comply with the LIHTC Program rules. An HTC Fund typically holds an investment for at least five years, starting no later than the time that an HTC Property is placed in service through the expiration of the compliance period under HTC Program rules. An NMTC Fund will typically hold an investment for at least seven years, through the expiration of the compliance period under NMTC Program rules.

A Preservation Fund typically holds an investment for one to five years, though it could be a shorter or longer period depending on a variety of factors, including real estate market conditions and the restrictions relating to a specific Preservation Complex.

Sourcing or originating investments which meet the objectives of one or more Funds by the Firm generally includes:

- (i) Identifying potential investments for a particular Fund, based on such Fund's acquisition guidelines (including, but not limited to, sourcing the majority of transactions for a particular Fund in geographic areas where investors in such Fund have CRA needs and making investments that are expected to allow a Fund to meet its targeted yield);
- (ii) Submitting a competitive letter of intent for investments that the Firm identifies as being desirable for a particular Fund;
- (iii) Upon being selected by an Operating Entity to acquire an investment, applying a disciplined investment and due diligence process prior to closing such investment; and
- (iv) After making an investment, maintaining appropriate levels of review and monitoring the investment's performance.

## **8.2. Material Risks**

### **A. General Information**

The investments acquired and held by the Funds for which the Firm provides investment advice involve significant risks due to the nature of the investments: namely, that they are ultimately investments in real estate or low-income community businesses, with each investment, Operating Entity, Investment Property and CDE being unique. There are risks specific to the investments made by LIHTC Funds, Preservation Funds, HTC



Funds and NMTC Funds, as well as risks specific to each Fund. As more fully described below, LIHTC, Preservation and HTC Funds are subject to various risks that are inherent in an investment where the primary asset value is derived from real estate. NMTC Fund investment risks include the selection of CDEs, the ability of CDEs and QALICBs to maintain compliance with NMTC Program requirements and the ability of the CDE (when necessary) to deploy or redeploy available capital in a manner that is compliant with the NMTC Program. Additionally, investors in Funds face risks relating to their investment in a Fund. Investors in a Fund must be prepared to bear the risk of a complete loss of their investment. Investments in the Funds are not insured by the Federal Deposit Insurance Corporation (“FDIC”) or any other governmental agency and are not guaranteed by PNC Bank or an affiliate thereof.

#### **B. Risks Relating to Investments in Real Estate Generally Applicable to LIHTC, Preservation and HTC Funds**

Inherent in any real estate development, including those Investment Properties that become investments for a Fund advised by the Firm, are significant risks. Material risks relating to investments by a Fund in Investment Properties include, but are not limited to, the following:

- (i) *Construction and Rehabilitation Risks* – LIHTC, Preservation and HTC Funds will invest in Operating Entities that own Investment Properties that have not yet been constructed or require substantial rehabilitation. Risks of construction or rehabilitation which are beyond the control of the Operating Entities include labor strikes, adverse weather, supply of and price fluctuations in materials and other unknown contingencies which could cause the cost of construction or rehabilitation and/or the time required to complete construction or rehabilitation to exceed the estimates. Because of such contingencies, a contractor’s ability to complete construction or rehabilitation of an Investment Property in accordance with the terms of its construction contract will be uncertain. If construction or rehabilitation of an Investment Property is not commenced or completed, or the required occupancy permits are not issued in a timely manner, the tax benefits and cash flow of an Investment Property during its initial years of operation may be significantly reduced or entirely lost. Moreover, there is a risk that various subcontractors and suppliers will assert claims against an Operating Entity relating to nonpayment for work performed or materials supplied with respect to the development of an Investment Property. In addition, any destruction to an Investment Property resulting from hurricanes, floods or other large-scale disasters may result in an increased demand for construction to rebuild and repair such damage and as a result, in a shortage of suitable construction labor and materials or a substantial increase in the costs of such labor and materials.

- (ii) *Catastrophe* – Certain Investment Properties are located in areas susceptible to hurricanes, floods and other large-scale disasters. Though it is impossible to predict the number, force, frequency or impact of the disasters that may affect Investment Properties, such events may not only damage Investment Properties but could also impact the broader regional economy, and could include, but not be limited to, widespread destruction of property, economic downturns, population migration, housing oversupply and other adverse regional factors. Any destruction of or adverse impact to an Investment Property resulting from hurricanes, floods or other large-scale disasters may adversely impact a Fund’s receipt and benefit of tax credits and cash flow, as well as the general economic performance of such Investment Property. In addition, an epidemic affecting a geographic region where Investment Properties are located, or a global pandemic or other large-scale human health crisis may result in significant disruptions to the development or operations of the Fund’s investments. The extent of development delays and increased construction, maintenance or other costs in connection with such events will be a function of the severity of the event, the nature and scope of governmental responses to such event, the impact of the event on the workforce employed by the Fund’s investments, and the total amount of exposure in the affected area. Each applicable Fund requires that Operating Entities acquire comprehensive insurance, including liability, fire and extended coverage, which is customary for properties similar to the Investment Properties and satisfactory to the Fund. However, there are certain types of losses (generally of a catastrophic nature) that are either uninsurable (in whole or in part) or not economically insurable. Should a loss in excess of insured limits or an uninsured loss occur or should an Operating Entity be unsuccessful in obtaining coverage from an insurance carrier, a Fund could lose all, or a portion of, the capital it has invested in such Operating Entity, as well as the anticipated future benefits from the Investment Property. In such event, the Operating Entity might nevertheless remain obligated for any mortgage debt or other financial obligations related to the Investment Property.

The frequency and severity of catastrophic climate events could be exacerbated by climate change, which could have a material adverse effect on the operations and business of the Funds. For example, many Investment Properties are located in cities along the East and West coasts. To the extent climate change causes changes in weather patterns, the markets in which a Fund holds interests in properties could experience increases in storm intensity and rising sea-levels. Over time, these conditions could result in declining demand for residential and commercial space in a Fund’s buildings or a Fund’s inability to operate the buildings at all. Climate change may also have indirect effects on a Fund’s business by increasing the cost of (or making unavailable) property insurance on

acceptable terms, increasing the cost of energy and increasing the cost of snow removal or other maintenance at an Investment Property. Moreover, compliance with new laws or regulations related to climate change, including compliance with “green” building codes, may require property owners to make improvements to existing properties or increase taxes and fees assessed on properties. There can be no assurance that climate change will not have a material adverse effect on the Funds’ Investment Properties, operations or business or that losses resulting from climate change events will be covered by insurance.

- (iii) *Investment Property Financing* – LIHTC and Preservation Operating Entities generally finance ownership of their respective Investment Properties through borrowings, a practice often referred to as “leveraging.” While leveraging can increase an investment’s return, it presents an additional risk in the event that cash from an Investment Property’s operations or other sources is insufficient to meet such financing obligations and other expenses. The indebtedness incurred by Operating Entities is, in some cases, subject to variable interest rates. Increases in interest rates will increase the Operating Entity’s interest costs and/or interest rate hedging costs, thereby, among other things, decreasing the amount of available funds for distribution to the Fund that has invested in such Operating Entity. Interest rates are highly sensitive to many factors, including governmental, fiscal, monetary and tax policies, domestic and international economic and political considerations, trade surpluses or deficits, regulatory requirements and other factors beyond the control of a Fund or an Operating Entity. Further, the investment of a Fund in an Operating Entity will typically be subordinated to such financing obligations of the Operating Entity. Such subordinated investments are characterized by greater credit risks than those associated with the senior obligations.

HTC Operating Entities typically are master tenants of an HTC Property, which is owned by an HTC Landlord Entity. There are risks inherent in being a tenant of a property, including landlord defaults under the lease or such landlord’s financing. HTC Operating Entities generally require lenders to an HTC Landlord Entity to enter into a subordination, non-disturbance and attornment agreement (“SNDA”) to protect its interests in the event of a foreclosure by a lender to the HTC Landlord Entity, but the SNDA may vary in terms and protections afforded to master tenants.

- (iv) *Industry-wide change to reference rate* – The London Inter-Bank Offered Rate (“LIBOR”) is used as a reference rate for loans and other instruments and transactions, which means it is the base on which relevant interest rates are determined. In July 2017, the U.K. Financial Conduct Authority (“FCA”),

which regulates the process for setting LIBOR, announced that it will stop compelling banks to submit LIBOR rates after 2021. U.S. regulators also have directed banks to stop entering into new USD LIBOR contracts as soon as possible, but by no later than December 31, 2021. In March 2021, FCA and the ICE Benchmark Administration (“IBA”), the administrator of LIBOR, announced the dates for the cessation of publication of, and non-representativeness of, various settings of LIBOR. These announcements (“March Announcements”) enable market participants to identify the dates that financial instruments and contracts that reference LIBOR will transition to an alternative reference rate (*e.g.*, a risk-free rate such as the Secured Overnight Financing Rate (“SOFR”). The March Announcements also fix the spread adjustment under certain industry-standard documents, thereby helping to clarify the economic impact for transitioning from LIBOR to SOFR in the U.S. loan market.

It is difficult to predict the full impact of the transition away from LIBOR on a Fund or an Operating Entity. The transition process may involve, among other things, increased volatility or illiquidity in markets for instruments that currently rely on LIBOR. The transition may also result in a reduction in the value of certain LIBOR-based investments or reduce the effectiveness of related transactions such as hedges. Any such effects of the transition away from LIBOR, as well as other unforeseen effects, could adversely impact the performance of the Funds or the Operating Entities. Since the usefulness of LIBOR as a benchmark could also deteriorate during the transition period, effects could occur prior to the end of 2021. The effect of any changes to or discontinuation of LIBOR on a Fund or Operating Entity will vary depending on (1) existing fallback terms, if any, in individual contracts providing for what reference rate will replace LIBOR in the event of its cessation and (2) whether, how, and when industry participants develop and widely adopt new reference rates and fallbacks for both legacy and new products or instruments.

- (v) *Risks Associated with Government Assistance* – In addition to LIHTCs and HTCs, many of the Investment Properties will on occasion receive one or more forms of governmental financing. Such financing may come from federal, state or local sources and may include grants, rental assistance payments, permanent mortgage financing, low interest mortgage loans, mortgage insurance, interest reduction payments, guarantees or other forms of assistance. Such Operating Entities or HTC Landlord Entities will be required to comply with the laws, regulations and agreements relating to such government programs. Failure to comply with any aspect of such programs may result in the withholding of funds committed to the Operating Entities or HTC Landlord Entities, loss of assistance,

subsidies and/or financing, and possibly foreclosure on an Investment Property. In addition, budgetary constraints by federal, state or local authorities may lead to reduced assistance and could make it harder to rent the Investment Properties to qualified tenants. Further, there may be delays in delivering or administering such assistance if there is a federal government shutdown.

- (vi) *Operating Risks of Real Estate Assets* – All real property investments are subject to some degree of risk, including the risk of adverse changes in general and local economic conditions which could adversely affect revenues and/or expenses. Investment in properties that are newly constructed or substantially rehabilitated involves additional risks because there is no prior operating history.

Real estate operating costs in general, and utility charges in particular, have increased in recent years and will likely continue to do so in the foreseeable future. Certain expenditures associated with equity investments in real estate (principally mortgage payments, real estate taxes and maintenance costs) are not necessarily decreased by events adversely affecting an Investment Property's income. Returns to a LIHTC, Preservation or HTC Fund and its investors will be dependent in part upon the success of the Investment Properties in generating income equal to or in excess of operating costs, debt service payments, and other required payments. Offsetting rent increases for the LIHTC and Preservation Investment Properties are generally expected to be subject to lender approval, LIHTC or other affordable housing eligibility limitations, and competitive conditions permitting rent increases. These problems can also be exacerbated by a governmental lender's limitations on maximum allowable returns from an LIHTC or Preservation Investment Property.

With respect to LIHTC and Preservation Funds, and HTC Funds which involve the investment in multi-family apartment complexes, apartment complexes with affordable housing units compete for tenants with numerous other existing or proposed apartment complexes and other types of housing, and such competing apartment complexes may have superior rental histories, better locations, better physical facilities, rental subsidies, more advantageous mortgage terms or other perceived advantages. Further, prospective tenants for the apartment complexes in which a LIHTC or Preservation Fund invests are limited by a number of factors, such as the tenants' age, income or other tenant eligibility requirements due to restrictions imposed in connection with the LIHTCs or other affordable housing subsidies claimed or previously claimed with respect to the Investment Properties.

HTC Fund investments may also include single-tenant or multi-tenant properties that were designed for a specific commercial or multi-family residential use. These types of Investment Properties can be relatively illiquid compared to other

types of real estate and financial assets and therefore will be difficult to sell or re-lease upon tenant defaults, early lease terminations, or non-renewals due to restrictions associated with the tax credit structure. The specific business use for which an Investment Property is designed will also subject the property to the risks of that business. For example, properties in which the tenant is a hotel will be subject to the risks of the hospitality business, such as geographic location, weather, customer mix, seasonal occupancy patterns and local or regional economic cycles.

A portion of the Investment Properties acquired by a Fund may be located in federal disaster areas. Because of the uncertainty surrounding the migration of the population and resiliency of the economies in areas affected by large-scale disaster, the prospective occupancy and rental rates of such Investment Properties and the ability of such Investment Properties to attract lessees or tenants cannot be determined.

- (vii) *Environmental Matters* – Each LIHTC, Preservation and HTC Fund generally requires each Operating Entity to obtain a Phase I environmental site assessment for every Investment Property from an independent assessor and have legal counsel and/or an environmental consultant review the assessment to determine if the location and/or construction or rehabilitation of an Investment Property contains or involves hazardous wastes or is otherwise in violation of any local, state or federal environmental regulations. Additionally, Operating Entities must comply with any such regulations and notify the Fund within a specified time period of any violation thereof with respect to an Investment Property. Under various environmental laws, ordinances and regulations, a current or previous owner or operator of an Investment Property may be liable for the costs of removal or remediation of hazardous or toxic substances on, under or in such Investment Property. Such laws often impose liability and disclosure obligations whether or not the owner or operator knew of, or was responsible for, the presence of such hazardous or toxic substances. The cost of any required remediation and the previous owner's liability for these costs are generally not limited under such laws and could exceed the value of the Investment Property, any insurance coverage and/or the aggregate assets of the previous owner. Therefore, there can be no assurance that an Operating Entity will not suffer a loss because of an environmental matter, and such a loss could be of a catastrophic nature, depending upon the nature of the environmental problem. These environmental statutes tend to be interpreted broadly and there can be no assurance that, in unusual circumstances, a court might interpret these statutes in such a manner as to hold the Fund or its investors at least partly responsible for environmental liabilities. In addition, if a site controlled by the general partner of an Operating Entity but unrelated to any Investment Property has an

environmental problem, the extensive remedies available in some environmental statutes could render such general partner unable to fulfill its obligations to its Operating Entity and its Investment Property.

- (viii) *Litigation Risk* – Real property owned or leased by an Operating Entity may be vulnerable to potential litigation arising from disputes about the acquisition, development, construction, rehabilitation, operation, maintenance and disposition of the Investment Properties. Disputes or litigation may include construction problems or delays, violations of federal, state or local ordinances, property tax valuations and assessments, rents or profit controls, disputes regarding the terms of lease agreement with lessees or any other contract or other agreements affecting the properties. Disputes or litigation may also arise as a result of injuries sustained by lessees or other individuals present on a property. Regardless of the outcome of any future actions, claims, or investigations, the subject Operating Entity, the Fund and the Fund Managing Member may incur substantial defense costs and such actions may cause a diversion of management time and attention. Also, it is possible that such Operating Entity, the Fund and the Fund Managing Member may be required to pay substantial damages or settlement costs which could have a material adverse effect on their respective financial condition and results of operations.

### **C. Risks Relating to Investments by LIHTC Funds**

Specific risks exist in connection with an investment in LIHTC Properties for several reasons, including but not limited to relying on unrelated third-party developers to construct, operate and manage the LIHTC Properties, as well as the fact that LIHTCs are a statutory program and therefore subject to being amended or repealed by Congress. Material risks related to the investment by a LIHTC Fund in a LIHTC Operating Entity that owns and operates a LIHTC Property include, but are not limited to, the following:

- (i) *Compliance and Recapture Risk* – Ongoing availability of the LIHTC for the full period of an investment by a LIHTC Fund is reliant upon the units in each LIHTC Property being rented to qualified households and remaining in compliance with Section 42 of the Code through the required compliance and recapture period. While the LIHTC Funds will endeavor to confirm the tenant files and income verification of third-party developers, owners, property managers, and others for each LIHTC Property, the developer of each respective LIHTC Property is ultimately responsible for initial and ongoing LIHTC compliance, including avoidance of foreclosure of any permanent mortgage, physical destruction of a unit and failure to rebuild, or other events leading to tax credit recapture.
- (ii) *Operating History* – Since it is expected that many of the LIHTC Properties will not yet have been constructed or rehabilitated at the time of a LIHTC Fund's

investments therein, and those LIHTC Properties that will have been constructed or rehabilitated will only recently have been completed, none of the LIHTC Properties are expected to have any meaningful operating history for the Firm to evaluate. Although the Firm will generally review information with regard to comparable properties in the relevant market areas, no assurance can be given that operations of the LIHTC Properties will approximate the results of operation of those other properties. Furthermore, problems inherent in the location of an LIHTC Property or in the relevant market area, if any, may not be discovered until such LIHTC Property is available for occupancy.

- (iii) *Developers* – Each of a LIHTC Fund’s investments in a LIHTC Operating Entity will involve an unrelated third-party developer that will serve as the Operating General Partner of the LIHTC Operating Entity and be responsible for the construction, lease up, operations, maintenance and compliance with the LIHTC Program. A risk exists that a developer will be unable to construct and complete, in a satisfactory manner, such LIHTC Properties on schedule or could breach or be unable to comply with the terms, conditions or other obligations set forth in the agreements regarding such construction and completion of the LIHTC Properties. LIHTC Funds require each Operating General Partner to regularly provide reports relating to the construction, finances and operations of each LIHTC Property in order for the Firm to monitor the investments made by the LIHTC Funds. Under the governing documents for each LIHTC Operating Entity, a LIHTC Fund has a right to remove such Operating General Partner (or exercise other remedies) in the event of a default by such entity, in order to remove the risk that the LIHTC Property will fall out of compliance with the LIHTC Program regulations.

Often, the Operating General Partner does not have substantial net worth. In addition, affiliates of an Operating General Partner often control multiple apartment complexes or other properties for multiple funds. If an affiliate of an Operating General Partner has financial or other difficulties with any apartment complex or other property it owns, such difficulties could deplete the resources available to such Operating General Partner in connection with a LIHTC Property. Although the Firm will monitor the performance of a LIHTC Fund’s investments and performs extensive due diligence on each LIHTC Property and the Operating General Partner, there can be no assurance that the Operating General Partner will be able to operate the underlying LIHTC Properties successfully.

- (iv) *Delays in Obtaining Financial Data* – A LIHTC Fund’s ability to assemble and timely provide federal income tax information, financial statements and other reports to its investor members will depend on compliance by the Operating General Partner. LIHTC Funds require that the agreements governing the



LIHTC Operating Entities contain provisions requiring the LIHTC Operating Entities to retain accountants and to report tax data and financial information in a timely manner, and the LIHTC Funds will seek to maintain compliance with such provisions by the Operating General Partner. Nevertheless, there is no assurance that such Operating General Partner will comply with the reporting requirements, in which event a LIHTC Fund might be unable to comply in a timely manner with reporting to its investor members.

Additionally, a LIHTC Fund may invest in a transaction where the LIHTC Property could qualify for federal or state HTCs under the applicable HTC program. In such cases, the LIHTC Fund typically is the investor with respect to the HTCs, and bears the risks of investment in HTC Operating Entities that are further discussed in Section 8.2.5 below.

#### **D. Risks Relating to Investments by Preservation Funds**

Specific risks exist in connection with an investment in affordable housing developments by Preservation Funds related to the particular nature of affordable housing and the fact that the Preservation Fund indirectly controls the Preservation Operating Entity and there is not a third-party developer to construct, operate and maintain the Preservation Properties. Certain material risks related to the investment by a Preservation Fund in a Preservation Operating Entity that owns and operates a Preservation Property include, but are not limited to, the following:

- (i) *Purchase of former LIHTC Investment Properties* – A Preservation Operating Entity controlled by a Preservation Fund owns Preservation Properties, one or more of which may have previously qualified for LIHTCs and are therefore likely to remain subject to certain requirements of Section 42 of the Code. In the event that the acquisition of such Investment Properties takes place prior to the expiration of the statutory recapture period, the seller of such Investment Property may require that the Preservation Operating Entity and/or Preservation Fund indemnify such seller for any breach of relevant covenants or recapture of the seller's tax credits as a result of any noncompliance or other action of the Preservation Fund or its affiliates in the ownership of the Preservation Property. The indemnity could result in a significant financial liability for the Preservation Fund.
- (ii) *Risks Upon Disposition of Investments* – In connection with the disposition of Preservation Properties, a Preservation Operating Entity may be required to make representations about such affordable housing development and to indemnify the purchasers of such Preservation Property to the extent that any such representations turn out to be inaccurate. These indemnities could result in contingent liabilities of a Preservation Operating Entity and/or Preservation

Fund (as indirect owner of such Preservation Operating Entity) for which reserves or escrow accounts may need to be established. Further, consistent with the investment objective of the Preservation Funds, sales of certain Preservation Properties are subject to affordability limitations that reduce the potential market and sales price for such assets and may impact the ability to sell such assets, including an obligation that the Preservation Property must remain rent-restricted and occupied by low and moderate-income households for the entire extended use period. In deciding whether to sell an asset, the Firm shall have the discretion to evaluate all factors which it deems relevant, including the advantages it perceives in preserving the affordability of underlying residential real estate and, because the Fund's primary objective is the preservation of affordable housing, it will seek to sell its assets in a way that meets this objective and not necessarily for the highest possible price.

Dispositions of Preservation Fund assets may also be subject to limitations on transfer or other restrictions that would interfere with the subsequent sales of such assets or adversely affect the terms that could be obtained upon any disposition thereof. Accordingly, a Preservation Fund's ability to exit from a particular investment will depend largely on the terms of the agreements it enters into at the time of its investments and its own efforts. There can be no assurances that a Preservation Fund will be able to dispose of its investments at the price and at the time it wishes to do so. The return of capital and the realization of gains, if any, will generally occur only upon the partial or complete disposition of an investment, and a Preservation Fund does not expect to begin disposing of investments until a number of years following the initial closing date of such Preservation Fund. Prior to such time, there may not be regular returns on a Preservation Fund's investments.

- (iii) *Cash Flow Projections* – If projections of rental income are not met, projected cash flows will be lower than forecast, and returns to investors will be lower.

#### **E. Risks Relating to Investments by HTC Funds**

Specific risks exist in connection with an investment in HTC Properties for several reasons, including but not limited to relying on unrelated third-party developers to rehabilitate, operate and manage the HTC Properties, as well as the fact that the HTC Program is statutory and therefore subject to being amended or repealed by Congress. Material risks related to the investment by an HTC Fund in an HTC Operating Entity include, but are not limited to, the following:

- (i) *Compliance and Recapture Risk* – If HTC Program conditions are met, investors in an HTC Fund will typically receive their share of 20% of the federal historic rehabilitation tax credit for five consecutive years, beginning with the year that the HTC Property is placed in service, subject to the HTC Property remaining in

compliance with Section 47 of the Code. Among the conditions that must be met to generate HTCs are that the HTC Property must be a certified historic structure, and the substantial rehabilitation of such building must meet certain rehabilitation standards. While the HTC Funds will endeavor to confirm that applicable requirements are met, the HTC Landlord Entity, developer, property manager, and others for each HTC Property will have responsibility for initial and ongoing compliance with HTC Program requirements, and compliance failures could lead to tax credit recapture. Federal historic rehabilitation tax credits are also subject to recapture if there is a change in ownership of the HTC Operating Entity during the compliance period.

- (ii) *Operating History* – HTC Properties by their nature must be recently rehabilitated, so there will typically be no operating history for the Firm to evaluate. Although the Firm will generally review information with regard to comparable properties in the relevant market areas, no assurance can be given that operations of the HTC Properties will approximate the results of operation of those other properties. Furthermore, problems inherent in the location of an HTC Property or in the relevant market area, if any, may not be discovered until such HTC Property is available for occupancy.
- (iii) *Developers* – Each of an HTC Fund's investments in an HTC Operating Entity will involve an unrelated third-party developer that will serve as the Operating General Partner of the HTC Operating Entity and the HTC Landlord Entity and be responsible for the construction, lease up, operations, maintenance and compliance with the HTC Program related to the HTC Property. A risk exists that a developer will be unable to rehabilitate, in a satisfactory manner, such HTC Properties on schedule or could breach or be unable to comply with the terms, conditions or other obligations set forth in the agreements regarding such rehabilitation of the HTC Properties. HTC Funds typically engage a third-party inspector to provide reports relating to the construction, finances and operations of each HTC Property in order for the Firm to monitor the investments made by the HTC Funds. Under the governing documents for the HTC Operating Entity, in the event of a default by the Operating General Partner, an HTC Fund has the right to remove (or exercise other remedies against) such entity, for the purpose of mitigating risk to the Fund, including without limitation the risk that the HTC Property will fall out of compliance with the HTC Program regulations.

During the period of development or rehabilitation of an Investment Property, operating deficits often arise, which are typically the financial responsibility of the Operating General Partner or an affiliate. The Operating General Partner and its affiliates often have financial exposure through obligations that are unrelated to the Investment Property, such as ownership of other properties or businesses. If an affiliate or sponsor (or guarantor) of an Operating General Partner has

financial difficulties, such difficulties could deplete the resources available in connection with obligations with respect to a HTC Property. Although the Firm will monitor the performance of an HTC Fund's investments and perform extensive due diligence on each HTC Property and the Operating General Partner and its affiliates, there can be no assurance that the Operating General Partner will have the financial strength to operate the underlying HTC Properties successfully.

- (iv) *Delays in Obtaining Financial Data* – An HTC Fund's ability to assemble and timely provide federal income tax information, financial statements and other reports to its investor members will depend on compliance by the Operating General Partner. HTC Funds' agreements governing the HTC Operating Entities shall contain provisions requiring the HTC Operating Entities to retain accountants and to report tax data and financial information in a timely manner, and the HTC Funds will seek to maintain compliance with such provisions by the Operating General Partner. Nevertheless, there is no assurance that such Operating General Partner will comply with the reporting requirements, in which event an HTC Fund might be unable to comply in a timely manner with reporting to its investor members.
- (v) *Cash Flow Projections* – If projections of rental income are not met, projected cash flows will be lower than forecast, and returns to investors will be lower.

## **F. Risks Relating to Investments by NMTC Funds**

Investment-specific risks exist in connection with each NMTC Fund lower tier investment. In particular, and without limiting the other material risks noted herein, each lower tier investment includes investments in one or more CDEs (which may be related persons of PNC Bank), and each CDE needs to be maintained and managed in compliance with NMTC Program requirements and applicable Code provisions and regulations in light of its own unique circumstances. The variables and operational differences that exist at the CDE level make it difficult to narrowly identify the types of risks that exist with respect to a particular lower tier investment. Further, since the NMTC Program was established by Congress, it will remain subject to amendment, termination or repeal. In addition to the risks noted above, other material risks related to an NMTC Fund investment include, but are not limited to, the following:

- (i) *Compliance and Recapture Risk* – Ongoing availability of the NMTC for the full period of an investment by a NMTC Fund is reliant upon each underlying CDE and each underlying QALICB and QLICI remaining in compliance with Section 45(d) of the Code (and the regulations thereunder) through the applicable seven (7) year compliance and recapture period. Events that would result in a recapture of tax credits are: (a) the loss by a CDE of its NMTC Program eligibility; (b) the

redemption or cashing out of any portion of any QEI by the NMTC Fund; and (c) any failure by a CDE to maintain the “substantially all” test, which generally requires at least 85% of the QEI amount to be invested in QLICs.

An NMTC Fund will hold lower tier investments in CDEs that have provided financing indirectly to QALICBs which operate and/or are located in “distressed” or “highly distressed” census tracts.

It is expected that many of the QALICBs will involve businesses or undertakings that are in the early stages of development, and therefore are subject to risks involved with new or start-up ventures, including economic failure, insolvency and loss of an investment. In addition, the QALICBs are generally not expected to have any meaningful operating history for the Firm to evaluate, and in any case are expected to have limited financial resources.

Further, NMTC Funds may invest in CDEs which provide QLICs to QALICBs which own or operate different types of real properties, and therefore experience the financial, operational and environmental risks to which real properties are subject.

Although the bankruptcy or failure of a QALICB is not a NMTC recapture event, these occurrences may require some or all of the QEI proceeds to be redeployed as QLICs into an alternative QALICB in order to maintain compliance with the “substantially all” requirement described above.

- (ii) *Other Requirements Specific to NMTC Program* – Program eligibility requirements for QALICB status include, among others, the requirement(s) that (i) the QALICB derive not less than 50% of its total gross income from the active conduct of its business in one or more “low-income communities” as defined under the NMTC Program; (ii) a “substantial portion” of the QALICB’s tangible property (generally not less than 40%) be located in one or more “low-income communities;” (iii) the QALICB maintain a “substantial portion” of the services provided by its employees (generally not less than 40%) in one or more “low-income communities;” and (iv) the total amount of financial property and collectibles held by the QALICB be restricted to less than 5% of the total assets of the QALICB.

In addition to the requirements for QALICB status above, QALICBs are also restricted from operating and owning certain businesses under the NMTC Program. Prohibited businesses and tenants under the NMTC Program include the ownership and operation of “residential rental property” as defined under Code Section 168, golf courses, country clubs, farms, housing subject to the low-income housing tax credits, businesses which consist of the sale or license of

intangibles and certain “sin” businesses, such as casinos, race tracks, liquor stores, tanning salons, massage parlors and hot tub parlors.

- (iii) *Sponsorship / Guarantors* – CDEs and QALICB owners (i.e., “sponsors”) are expected to provide contractual guarantees against recapture for certain actions that a sponsor takes, or fails to take, to establish and maintain QALICB status. The sponsor will also generally be expected to provide contractual guarantees with respect to construction completion and environmental matters. These agreements and guarantees are generally for the benefit of the NMTC Fund.

In addition to QALICB-level guarantees provided by sponsors, it is anticipated that CDE managers will provide guarantees against recapture for certain actions that a CDE takes, or fails to take, to establish and maintain CDE status, to ensure a redemption of the QEI does not occur, and to ensure compliance with the “substantially all” test. Although sponsor guarantees are not generally subject to limitations, it is common for CDE guarantees to include limits on CDE liability (generally, these limits are tied to the amount of fees taken by the CDE in connection with the subject transaction).

Often, the entities providing the guarantees under the operative documents do not have substantial net worth. In addition, the entities providing such guarantees often have other investments or financial obligations that could adversely affect their ability to fulfill their obligations as guarantors. Under the governing documents for each CDE, it is expected that an NMTC Fund will have a right to remove the managing member, manager or general partner (as applicable) of the CDE if such entity violates the terms and conditions set forth in the governing documents for such CDE or otherwise takes action (or fails to take action) which causes a recapture event or violation of the NMTC Program requirements. Although the Firm will monitor the performance of the CDEs subject to each lower tier investment, and perform due diligence on each QALICB and sponsor/guarantor, there can be no assurance that the CDE, QALICB and/or a sponsor/guarantor will be able to meet its financial obligations or operate the underlying QALICBs successfully in accordance with the NMTC Program requirements.

- (iv) *Available Financial Data Will Be Limited, and Delays in Obtaining Financial Data May Be Encountered* – An NMTC Fund’s ability to assemble and timely provide federal income tax information, financial statements (audited and unaudited) and other reports to its investor members will depend on compliance by the CDE and the terms of the underlying CDE governing documents. NMTC Funds will seek to require that the agreements governing CDEs contain provisions requiring the CDEs to retain accountants and to report tax data and financial information in a timely manner. However, due to the risk profile of

NMTC transactions, the Firm does not perform financial underwriting of the parent CDEs (i.e., the general partner of each deal's subsidiary CDE). Additionally, there can be no assurance that current or detailed financial information will be available on a timely basis. In addition, given the limited remedies or recourse that will likely be available to the Firm in the event of non-compliance by a CDE, a NMTC Fund might be unable to provide financial information in a timely manner to its investor members.

#### **G. Other Risks to Investors from Investing in Funds**

The Firm's clients are the Funds and the material risks to the Funds from making investments are discussed above, and the Firm does not provide investment advice to the investors in the Funds. Nevertheless, investors in the Funds face certain risks from subscribing to a Fund and purchasing units in a Fund. Below is a discussion of certain of the material risks faced by investors in a Fund:

- (i) *Dependence upon the Firm and its Affiliates* – Decisions with respect to the management of a Fund and originating, identifying, structuring, executing and monitoring investments consistent with the Fund's investment objective and policies will be made exclusively by the Firm and the Fund Managing Member, except for certain rare circumstances. The investors in a Fund have no right or power to take part in the management of a Fund and in certain circumstances do not have contractual approval rights over investments made by Funds. The success of a Fund will depend significantly upon the skill and expertise of the Firm to select investment opportunities, negotiate appropriate terms of assets purchased, monitor the performance of a Fund's assets and arrange for the appropriate disposition of assets. Various conflicts may arise out of the relationship between PNC Bank, the Firm, the Fund Managing Member and their affiliates. Investors will be relying in part on the efforts of the Firm and the Fund Managing Member to manage and minimize these various conflicts of interest. There can be no assurance that the Firm and/or the Fund Managing Member will be able to do so in any given instance. A further discussion of the conflicts of interest that arise from the affiliation of the Firm, the Fund Managing Member and other affiliated entities involved in an investment transaction is discussed in *Item 10* below.
- (ii) *Reliance on Key Personnel* – The success of the Firm's investment strategies depends significantly upon the skill and expertise of the Firm's real estate investment professionals. Such professionals may not continue to be associated with the Firm or its affiliates throughout the term of a Fund or the duration of an advisory relationship, and any departure or resignation of any key professionals could have an adverse impact on the performance of the Firm's investment strategies.

Additionally, a Fund engages and retains strategic advisors, consultants, attorneys, accountants, auditors and other similar professionals who are not employees or affiliates of the Firm and who, from time to time, receive payments from, or allocations with respect to, the Funds' investments (as well as from the Funds). The nature of the relationship with each of the consultants and/or other professionals and the amount of time devoted or required to be devoted by them varies considerably. There can be no assurance that any of the consultants and/or other professionals will continue to serve in such roles and/or continue their arrangements with the Firm, the Funds and/or any Fund investment throughout the term of the Funds. To mitigate this risk, where possible, the Funds have more than one of each type of advisor or consultant that they can employ to perform the same functions.

- (iii) *Illiquid and Long-Term Investments* – An investment in a Fund typically requires a commitment of several years. Further, the Funds' investments in Operating Entities are highly illiquid, due in part to the affordability restrictions that are typically attached to LIHTC and Preservation Investment Properties, and the HTC Program rules, including restrictions on transfer during the compliance period. Illiquidity of investments in LIHTC Funds and Preservation Funds may further result from the absence of an established market for affordable housing, as well as legal or contractual restrictions on the resale of such assets. Illiquidity of investments in NMTC Funds may further result from the absence of an established secondary market for NMTC. Currently, only a small portion of NMTC qualified investments are marketed to funds like the NMTC Funds, and therefore the size of this market remains relatively small compared to other tax credit investment vehicles. Such illiquidity will tend to limit the Firm's ability to vary a Fund's portfolio in response to changes in economic or other conditions, and limit near-term cash flow available for distribution to its investors.
- (iv) *Competition for Investments* – With respect to the acquisition of assets, a Fund will be competing with many other parties (which could include other investment funds through which PNC or its affiliates may invest) to acquire interests in a particular type of real property investment, and such competitors may have greater economic and personnel resources than those of a Fund or better relationships with the sellers or developers of the underlying real estate assets, lenders and others, thereby putting a Fund at a competitive disadvantage. A Fund can give no assurance to investors that such Fund will be successful in obtaining suitable investments or that, if investments are made, the objectives of the Fund will be achieved.
- (v) *Legal, Tax and Regulatory Risk* – Legal, tax and regulatory changes could occur during the existence of a Fund that may adversely affect such Fund, its



investments or its investors. Many of the benefits generated by investments in Funds are expected to be derived from former, current or prospective Investment Properties or CDEs that qualify for federal tax credit programs. Because federal tax credits are authorized under the Code, Congress could repeal or modify applicable legislation at any time or modify the tax laws so that the value of the tax credit benefits is reduced. If such laws or regulations are repealed or adversely modified, the future investment opportunities of a Fund would become more limited; the Fund may not be able to dispose of its assets in a manner that is consistent with its objectives; and the value of its investments will be adversely affected.

Certain Federal, state or local laws, rules and regulations may affect a specific property held in a Fund, based on a property's location or attributes that are specific to the property. For example, certain U.S. real estate transactions are subject to review by the Committee on Foreign Investment in the United States ("CFIUS"), which reviews certain real estate transactions for national security risk ("Covered Real Estate Transactions"). CFIUS's jurisdiction over real estate transactions is limited to locations that raise national security concerns (for example, real estate located within or functioning as part of, ports and real estate located within a specified proximity to certain U.S. military installations). In such cases, it is possible that CFIUS could impose conditions to a Covered Real Estate Transaction to mitigate national security risk, or could recommend that the President of the United States prohibit a transaction if the national security threat cannot be mitigated. Covered Real Estate Transactions include any purchase or lease by, or concession to, a foreign person of Covered Real Estate.

Other properties are on or adjacent to properties that allow nearby landowners to conduct operations, such as extraction of minerals or fossil fuels, or agricultural development, that could adversely impact air quality, groundwater or other characteristics that affect the uses and value of a property held in a Fund.

- (vi) *Payment Obligations and Failure to Make Contributions* – Investors' obligations to pay each of their installments to a Fund will be unconditional and each installment will be due and payable on the stated date, regardless of the status of the Fund, the Operating Entities or the Investment Properties (or for NMTC Funds, the CDEs and QALICBs). If an investor fails to pay installments of its commitment to a Fund when due, and the contributions made by non-defaulting investors and borrowings by the Fund, if applicable, are inadequate to cover the defaulted contribution, the Fund may be unable to pay its obligations when due. If an investor defaults with respect to its obligations to fund required capital contributions, such investor will be subject to various consequences, remedies and penalties including but not limited to, paying interest on the

defaulted amount, suspension of member benefits, potential loss of all or a portion of tax credits and, if applicable, net operating losses, which will be reallocated in accordance with the relevant contractual terms.

- (vii) *Investor Member Voting* – The Fund Agreements grant the investors certain rights with respect to their ownership of units or interests in the Fund, including the right to remove and replace the Fund Managing Member without the concurrence of such Fund Managing Member, which will also result in the removal of the Firm. The Fund Agreements for multi-investor Funds also typically restrict the Fund Managing Member from taking certain actions without obtaining the consent of the owners of more than 50% of the outstanding units in a Fund (and in some cases, the consent of more than 66 2/3% of the outstanding units). Therefore, it is possible that a majority of the investors in a multi-investor Fund could decide to take actions that would materially affect many fundamental aspects of such Fund’s business or structure and may be against the wishes of a minority of the investors. The contractual rights described in the preceding three sentences may be similar or identical for investors in different HTC Funds; however, the number of syndicated HTC Funds managed by the Firm is limited, and it is possible that contractual rights may differ materially from fund to fund. As a general matter, investors in Funds should carefully review the rights and provisions contained in the relevant documents. In addition, with respect to Preservation Funds, several actions require the approval of the Advisory Committee, which is comprised of only those investors (a) whose capital contribution exceeds a threshold amount (as set forth in the Fund Agreement) and (b) who are selected by the Fund Managing Member. Although investors affiliated with PNC are excluded from voting on certain matters (such as, for example, removal of the Fund Managing Member), there may be circumstances where such investors have voting rights that are exercised in a manner adverse to the interests of other investors.
- (viii) *Lack of Marketability or Collateral Value; Put Right* – No trading market exists or is expected to exist for the resale of an investor’s interest in a Fund. Further, the transfer or other disposition of an investor’s interest in a Fund is restricted under federal and state securities laws and the Fund Agreement. Investors transferring their interest in a LIHTC, HTC or NMTC Fund may be subject to recapture of all or a portion of their tax credits previously taken; therefore, an investor must be able to bear the economic risk of an investment in a Fund for an indefinite period. As more particularly set forth in the Fund Agreements of LIHTC Funds, investors in certain LIHTC Funds may have the option, subject to the satisfaction of certain conditions, to sell or redeem their interest to the Fund Managing Member (or its designee) at certain specified times, at a set price unrelated to the value of the investor’s interest. There is a risk that the Internal

Revenue Service could assert that such a contractual right transfers ownership of the investor's interest in the Fund to the Fund Managing Member for tax purposes.

- (ix) *No Assurance of CRA* – Investors in a Fund that are banks, thrifts or their affiliates may determine that their investment in a Fund could make such investor eligible to receive positive consideration towards its regulatory rating under the Community Reinvestment Act (“CRA”) if the Fund in which it is an investor makes a public welfare investment in a geographic area where such investor operates. The Firm is not required to make investments with a view to any investor's CRA assessment area and there is no guarantee that a Fund will have investments in any particular geographic region. The Fund Managing Member cannot guarantee that CRA consideration will be available for an investor, nor the amount of any such CRA consideration.
- (x) *Recourse to the Fund's Assets* – A Fund's assets, including any investments made by the Fund and any funds held by the Fund, will generally be available to satisfy all liabilities and other obligations of the Fund. If the Fund becomes subject to any liability, then parties seeking to have the liability satisfied may have recourse to the Fund's assets generally and may not be limited to any particular asset, such as the asset representing the investment giving rise to the liability. Therefore, as little or no trading market exists or is likely to develop for the investors' interests in a Fund, an investor may be obligated to bear the economic risk of an investment made by a Fund.
- (xi) *Securities law risks* – The interests in a Fund are offered in private offerings exempt from registration under the Securities Act. Should the interests be offered outside of the private offering exemption under the Securities Act, the Fund could experience adverse consequences.
- (xii) *Investment Company Act* – Neither the Fund nor its investments will be registered under the Investment Company Act. The Funds intend to operate in such a way so as to not qualify as an “investment company” under the Investment Company Act, or, if that is not possible, to rely on exclusions from the definition of an “investment company” under the Investment Company Act. The Firm and each Fund Managing Member intend to conduct each Fund's activities so as not to be subject to the restrictions to which a registered investment company under the Investment Company Act would be subject, and the Fund's investments, operations and reporting will differ significantly in many respects from those of a registered investment company. Investors will not have the benefits and protections arising out of the registration under the Investment Company Act. However, if the Funds were to become subject to the Investment Company Act because of a change of law or otherwise, the various restrictions imposed by the

Investment Company Act and the substantial costs and burdens of compliance therewith could adversely affect the operating results and financial performance of the Funds.

- (xiii) *Laws and regulations applicable to banks, thrifts and their holding companies, and other financial institutions are subject to change* – The laws and regulations applicable to banks, thrifts, and their holding companies, as well as insurance companies and other financial institutions, are subject to constant interpretation, change and application through examination and other actions by the applicable federal and state regulatory authorities. There is no assurance that such regulations, including applicable capital and liquidity rules and other provisions will not be changed or interpreted in the future in a manner that may adversely affect an investment in a Fund by a financial institution, or in the capital or other regulatory treatment of such investment, including any limitations upon the permissible amount of such investment. In addition to legal and regulatory requirements applicable to the industry in general, PNC Bank could become subject to specific requirements as the result of a finding or directive by the OCC, its primary banking regulator, or could adopt policies and procedures in order to comply with OCC guidance, which result in direct or indirect costs to the Funds.
- (xiv) *Tax risks* – Tax consequences to investors in a Fund are complex. For example, an investor in a Fund may realize income without the receipt of cash as a result of the types of investments made which may cause such investor to have to satisfy any tax liability arising from such income from its own sources. Further, an investor in a Fund may be allocated income and gain for tax purposes in any year in excess of the amount of cash that such investor receives from such Fund, which can arise as a result of a number of circumstances. In such event, the investor would have to utilize other resources to satisfy the tax liabilities arising from such income and gain. Each Fund Managing Member urges potential investors to consult their own professional tax advisors about the tax risks involved in investing in a Fund.
- (xv) *Financial Market Volatility* – Fluctuations in the market prices of real estate and volatile economic conditions generally have been accentuated by the COVID-19 pandemic and economic downturn, and may reduce the availability of attractive investment opportunities for the Funds and may adversely affect the Funds' ability to make investments and the value of the assets held by the Funds.
- (xvi) *Tax Law Changes* – The U.S. federal income tax laws governing the availability of tax credits, as well as the regulations and administrative interpretations implementing those laws, are frequently under review and may be changed at any time, possibly with retroactive effect. No assurance can be given as to whether, when, or in what form, changes to the federal income tax laws

applicable to the Funds and other investments managed by the Firm may be enacted. New federal income tax laws, regulations, or administrative interpretations, or amendments to any existing federal income tax laws, regulations or administrative interpretations, could adversely affect an investment in the Funds and other investments managed by the Firm. For example, such changes could adversely affect the availability of suitable investments that generate tax credits, the debt funding available for such projects, or the relative market demand for such investments. Other changes to the federal income tax system may affect the Funds, their investor members, Operating Entities and CDEs. Prospective investors are encouraged to consult their own tax advisors about these recent developments.

- (xvii) *Valuation of Assets* – There is no actively traded market for the assets owned by the Funds. When estimating fair value, the Firm will apply a methodology based on its best judgment of what is appropriate in light of the nature, facts and circumstance of the investments. Ensuring that portfolio investments are fairly valued is an important focus of the Firm and valuations are subject to multiple levels of review for approval. However, the process of valuing securities for which reliable market quotations are not available is based on inherent uncertainties and the resulting values may differ from values that would have been determined if an active market existed for such assets and may differ from the prices at which such assets may ultimately be sold. Third-party pricing information may at times be unavailable regarding certain of a Fund’s assets. Further, the uncertainties relating to valuation of a Fund’s assets result in concomitant uncertainty concerning the interests in a Fund.
- (xviii) *Cybersecurity Risk* – With the increased use of and reliance on technologies and the dependence on computer systems to perform necessary business functions, the Firm, each Fund, each Fund Managing Member and their service providers may be subject to operational and information security risks resulting from cyberattacks. In general, cyberattacks result from deliberate attacks, but unintentional events may have effects similar to those caused by cyberattacks. Cyberattacks include, among other behaviors, stealing or corrupting data maintained online or digitally, denial of service attacks on websites, the unauthorized release of confidential information and otherwise causing operational disruption. Successful cyberattacks against or security breakdowns of the Firm, each Fund, each Fund Managing Member and/or other third party service providers may adversely impact the Firm, Operating Entities, the Funds and their respective investors. For instance, cyberattacks may interfere with the processing of transactions, cause the release of private investor information or confidential Fund information, cause reputational damage and subject a Fund to regulatory fines, penalties or financial losses, reimbursement or other

compensation costs and/or additional compliance costs. While the Firm, each Fund, each Fund Managing Member and their affiliates and service providers may have established business continuity plans and systems designed to guard against such cyberattacks or adverse effects of such attacks, there are inherent limitations in such plans and systems including the possibility that certain risks have not been identified, in large part because different unknown threats may emerge in the future. Similar types of operational and technology risks are also present for the Operating Entities and CDEs in which the Funds invest, which could have material adverse consequences for such companies, and may cause the Funds' investments to lose value.

- (xix) *Pandemic Risks* – The novel coronavirus pandemic (“COVID-19”) has meaningfully disrupted the global economy and markets, and could materially and adversely impact or disrupt the financial condition, results of operations, cash flows and performance of Funds managed by the Firm. While economic conditions have improved, activity remains below its pre-pandemic level, with the partial recovery inconsistent across different geographic regions, sectors, companies and individuals, and subject to setbacks. Adverse impacts to the Funds would be exacerbated by further deterioration and volatility in the global business and economic environment.

The pandemic has resulted in actions by U.S. federal and state governments and by the private sector, including, without limitation, business closures, business suspensions (including, in some cases, restrictions on construction), public gathering limitations, shelter-in-place orders and lockdowns, restrictions on travel and quarantines, as well as implementation of lending programs, rental assistance and moratoriums on evictions and foreclosures (as well as freezes on rent increases for certain properties). These actions directly affect real estate owners, and while their long-term impact is uncertain, a Fund's investments may be directly or indirectly impacted by delays, prolonged development periods, increased administrative burdens or disruptions, and increased costs and expenses.

While several vaccines have been approved for use and others remain in development or clinical trials, significant uncertainty remains regarding the speed with which effective vaccines can be manufactured and widely distributed and the willingness of individuals to get vaccinated. If efforts to contain COVID-19 are unsuccessful and restrictions on businesses and activities continue in place for extended periods or are increased, the recovery would likely be much weaker and the economy could fall back into recession. As a result, there is still a great deal of uncertainty about the length and severity of the pandemic and the strength or reversal of the economic rebound.

In the near term, the COVID-19 pandemic will continue to adversely affect the Funds' investments and the regions in which they operate. To the extent a Fund's investments are geographically concentrated, an epidemic particularly affecting this geographic region may have a materially adverse effect on the Fund's financial condition and business operations. Further, to the extent a Fund's investments are specifically affected by or exposed to the occurrence of a contagious disease or illness, this may adversely impact lease renewal rates for the affected Fund investments. Although Funds maintain customary business interruption insurance on investments to cover income losses as a result of unanticipated business disruptions, such policies may exclude disruptions that result from contagious diseases or other health crises.

In addition, the COVID-19 pandemic is likely to cause significant continuing disruptions to travel, workplace operations and global supply chains as affected jurisdictions ease and remove responsive measures on different timeframes. The extent to which the Fund's results are affected by the COVID-19 pandemic will largely depend on future developments regarding the severity, scope, and duration of the pandemic and its broader effect on the global economy. These factors remain highly uncertain and cannot be accurately predicted. Accordingly, the full impact of the COVID-19 pandemic on Fund investments cannot currently be determined.

- (xx) *Litigation* – Funds and their underlying investments may be subject to claims or litigation in the ordinary course of business. This could result in significant defense costs and potentially significant fines, judgments or settlements, some of which are not, or cannot be, insured against. If uninsured, or if the fines, judgments, and settlements exceed insured levels, adverse outcomes could negatively affect a Fund's or portfolio investment's financial condition, which could adversely affect expected returns.

## **Item 9. Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to a client's evaluation of the Firm or the integrity of the Firm's management in this Item. PNC TC, LLC has no legal or disciplinary events to report.

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

### **10.1. Broker-Dealer Registrations**

The Firm is not registered, and has no pending application to register, as a broker-dealer. Certain of the Firm's management persons are registered representatives of PNC Capital Markets, LLC, a registered broker-dealer. PNC Capital Markets, LLC, on occasion is engaged by Funds as a placement agent.

## 10.2 Arrangements with Affiliates

### A. Fund Managing Members

Various Fund Managing Members serve as general partners or managing members of the Funds, for which employees or affiliates of the Firm serve as members, managers or partners. For a description of material conflicts of interest created by the relationship among the Firm and the Fund Managing Members, as well as a description of how such conflicts are addressed, please see *Item 11* herein.

### B. PNC Affiliates

The Firm is a subsidiary of PNC Bank, a financial services organization, and is therefore affiliated with other entities engaged in a variety of financial services businesses. As a general matter, the Firm has an incentive to operate in a manner that will benefit the organization as a whole. In certain circumstances, the interests of the Firm may potentially be in conflict with the interests of one or more clients; however, the Firm has adopted procedures that are designed to mitigate these conflicts. In some cases, the Firm has business arrangements with its related persons that are material to its advisory business or to its clients. These are described in more detail below.

#### ➤ Related Investment Advisers

##### *PNC Investments LLC*

PNC Investments LLC, a wholly owned subsidiary of PNC Bank, is a registered broker dealer and investment adviser which provides full service brokerage and wrap fee programs to its clients.

##### *PNC Capital Advisors, LLC*

PNC Capital Advisors, LLC, a wholly owned subsidiary of PNC Bank, provides discretionary fixed income investment advisory services to institutional accounts.

##### *PNC Steel City Advisors, LLC*

PNC Steel City Advisors, LLC, a wholly owned subsidiary of PNC Bank, provides investment advisory services, as a co-adviser, to the Cerberus PNC Senior Loan Fund, L.P., which participates in the provision of unitranche financing to middle-market companies and private equity sponsors all across the United States.

##### *PNC Realty Investors, Inc.*

PNC Realty Investors, Inc., an indirect, wholly owned subsidiary of PNC, provides real estate investment advisory and management services to a bank collective trust comprised of qualified retirement and pension plans.



*SP Capital Partners, LLC*

SP Capital Partners, LLC, an indirect, wholly owned subsidiary of PNC Financial, is an exempt reporting advisor, provides investment advisory and management services to one private equity fund.

➤ **Related Broker-Dealers**

*PNC Capital Markets, LLC*

PNC Capital Markets, LLC, an indirect, wholly owned subsidiary of PNC, offers loan syndication, public finance underwriting and advisory services, securities underwriting and trading, private placements and asset securitizations. Certain PNC TC, LLC management persons are registered representatives of PNC Capital Markets, LLC. From time to time PNC Capital Markets, LLC will be engaged as placement agent to assist in the offering of units of Firm clients. PNC Capital Markets, LLC will be paid a selling commission for these services.

*Sixpoint Partners LLC*

Sixpoint Partners LLC, an indirect, wholly owned subsidiary of PNC Financial, is a global investment bank whose core areas of focus include primary fund placement, secondaries advisory, and co-investment placement across a wide range of industries, strategies and geographies.

➤ **Other Related Persons**

*The PNC Financial Services Group, Inc.*

The PNC Financial Services Group, Inc. is a diversified financial services company. PNC Financial is engaged in a full range of financial services, including retail banking, corporate and institutional banking, asset management, and residential mortgage banking. Through its indirect wholly owned subsidiaries, PNC Financial is: (1) the sponsor of each Fund and the Fund Managing Member; (2) a member of the Fund Managing Member; and (3) the parent company of the Firm. In its capacity as a member of the Fund Managing Member, PNC Financial or an affiliate is entitled to a percentage of the distribution of cash proceeds of a Fund as described in *Item 6*.

*PNC Bank, National Association*

PNC Bank, a member of the Federal Deposit Insurance Corporation, is a full service bank engaged in traditional lending, cash and/or treasury management and other services. From time to time, PNC Bank is likely to provide such services to a Fund or to an Operating Entity at commercial terms, which are likely to vary. As discussed in *Item 5* above, PNC Bank has established Warehouse Funds to hold interests in Operating Entities or Investment Properties in anticipation of transfer to a Fund. PNC Bank also provides short-term credit to certain Funds in connection with capital calls pursuant to a line of credit facility consented to by the investors in such Funds. Such

a credit line is typically used, in a Fund's discretion, to facilitate investments or operating activities in lieu of immediately calling capital from investors. It is expected that a capital call to satisfy such a borrowing will be made within 90 days of drawing on the credit line. PNC Bank will earn commercially reasonable interest on the credit line and the use of such a line is likely to also have an impact on Fund returns. The terms of such credit lines generally provide that the borrowing is limited recourse and secured by each investor's interest in the Fund. This means that, to the extent any investor fails to contribute in response to a related capital call, only that investor's interest (and not the interests of investors who do contribute or other Fund assets) is likely to be attached to satisfy repayment obligations.

*PNC Preservation Investments LLC*

PNC Preservation Investments LLC, an indirect, wholly owned subsidiary of PNC Financial, serves as the general partner or managing member, and/or as an investor limited partner or investor member, of certain entities involved in Fund transactions.

*PNC Affordable Housing Inc.*

PNC Affordable Housing Inc., an indirect, wholly owned subsidiary of PNC Financial, serves as a minority member of incorporated limited partnerships where PNC Financial or an affiliate acquires an interest in underlying real estate assets existing within the Funds' portfolio.

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

### **11.1. Code of Ethics; Personal Trading**

The Firm has adopted a Code of Ethics (the "Code") which consists of certain general principles including that: (1) the interest of the Funds (and investors therein, if any) must be placed first at all times, unless disclosed to the contrary; (2) all personal securities transactions must be conducted consistent with the Code and in such a manner as to avoid any actual or potential conflict of interest or any abuse of an individual's position of trust and responsibility; (3) access persons (as defined in the Advisers Act) should not take inappropriate advantage of their positions; (4) Firm personnel must comply with applicable federal securities laws; and (5) Firm personnel must comply with all applicable compliance policies and procedures of the Firm. In addition, the Code includes provisions relating to the reporting of personal securities holdings and trading activity. All access persons at the Firm must acknowledge their understanding of and adherence to the terms of the Code annually. The Code of Ethics helps the Firm detect and prevent potential conflicts of interest.

Firm personnel who violate the Code of Ethics may be subject to remedial actions, including, but not limited to, profit disgorgement, fines, censure, demotion, suspension or

dismissal. Firm personnel are also required to promptly report any violation of the Code of which they become aware.

A copy of the Code will be provided to any client or prospective client upon request. The Firm's contact information appears on the cover page of this Brochure.

#### **11.2. Participation or Interest in Client Transactions – Material Financial Interest**

As discussed in *Item 10. Other Financial Industry Activities and Affiliations*, PNC Bank provides traditional lending, cash and/or treasury management and other services to certain Operating Entities. However, such services and products offered by PNC Bank are separate from the investment management services provided by the Firm. Policies and procedures have been designed and implemented to address these conflict situations.

Further, from time to time Funds acquire investments from a Warehouse Fund that is an affiliate of the Firm. Such acquisitions by a Fund require consent of the investors in the Fund in accordance with the Fund's governing documents, as discussed above. In these situations, Firm affiliates typically receive compensation for holding the Warehoused Investment (generally based on PNC Bank's one month internal cost of funds multiplied by the number of days that the Warehoused Investment was held by the Warehouse Fund, multiplied by the amount of equity funded by the Warehouse Fund to date for such Warehoused Investment). In addition, PNC Financial and/or its subsidiaries could recommend that a particular Fund purchase an investment which is being disposed of by another Fund, in which case the respective Fund Managing Members will seek consent of the investors in the Funds involved in the transaction. Notwithstanding the foregoing, the Firm is under no obligation to offer investors in a Fund a priority right to acquire secondary interests arising out of an investment being disposed of by such Fund. The Fund Managing Member of each particular Fund has the authorization to consent to or reject secondary transfers of Fund interests to any persons, including PNC Financial affiliates, in its sole discretion.

At other times, existing LIHTC or HTC Operating Entities (or for NMTC Funds, existing CDEs) that are currently owned by PNC Bank or PNC Financial or affiliates thereof are purchased by a Fund advised by the Firm. Such investments do not necessarily go through the allocation policies or procedures described herein. Such investments are not purchased by or placed in a Fund without investor consent as to material terms and conditions, including price.

PNC Financial and/or its subsidiaries may on occasion invest in Operating Entities directly at the same time and on terms and conditions that are similar to a Fund's investment in Operating Entities. For a discussion of the allocation of investment opportunities between such affiliates of the Firm and Funds, please see *Item 11.4* below. Further, PNC Bank and/or its subsidiaries may subscribe to certain Funds as an investor, and may nonetheless act in other capacities with respect to an Operating Entity, even though the Fund

Agreements limit the right of the affiliated investors to take certain actions, such as voting on some items that require investor consent.

Under certain circumstances where the general partner or managing member of an HTC Operating Entity or an HTC Landlord Entity (an “Operating General Partner”) or CDE manager has defaulted in its obligations to the Operating Entity, CDE or subject property, PNC Bank or an affiliate may replace the Operating General Partner or CDE manager. In such circumstances, as a result of performing the duties and obligations of an Operating General Partner or CDE manager, PNC Bank or an affiliate typically is entitled to receive compensation, such as management fees, or participate in potential cash flow distributions, all as set forth in and subject to the governing documents of such Operating Entity or CDE.

### **11.3. Conflicts of Interest**

The Firm and its related entities engage in a broad range of activities, including investment activities for their own account and for the account of other investment funds, and providing transaction-related, investment advisory, management and other services to funds and operating companies. In the ordinary course of conducting its activities, the interests of a Fund may, from time to time, conflict with the interests of the Firm, other Funds or their respective affiliates. The conflicts of interest of which the Firm is aware, as well as a description of how the Firm addresses such conflicts, are described in this brochure.

#### **A. Resolution of Conflicts**

When a conflict of interest is identified, the Firm’s determination as to which factors are relevant, and the resolution of such conflicts, will be made using the Firm’s best judgment, but in its sole discretion. In resolving conflicts, the Firm may consider various factors, including the interests of the applicable Funds with respect to the immediate issue and/or with respect to the Funds’ longer-term courses of dealing. Certain procedures for resolving specific conflicts of interest are set forth below. When conflicts arise, the following factors may mitigate, but will not necessarily eliminate, conflicts of interest:

- (i) The Firm’s adherence to its fiduciary obligations, including that a Fund will not make an investment unless the Firm believes that such investment is an appropriate investment considered solely from the viewpoint of such Fund;
- (ii) Many important conflicts of interest will generally be resolved by set procedures, restrictions or other provisions contained in the Fund Agreements for the Funds;
- (iii) Each Preservation Fund has established an advisory committee, consisting of representatives of investors not affiliated with the Firm. The advisory committees meet as required to consult with the Firm as to certain potential conflicts of interest. For LIHTC, HTC and NMTC Funds that do not have advisory committees, the Firm will, at certain times, have the Fund Managing

Member seek the consent of a majority of the Fund investors (or from the sole investor in a single-investor Fund). On any issue involving actual conflicts of interest, the Firm will be guided by its good faith discretion;

- (iv) Where the Firm deems appropriate, unaffiliated third parties may be used to help resolve conflicts, such as the use of a third-party appraiser to opine as to the fairness of a purchase or sale price;
- (v) Prior to investing in interests in a Fund, each investor receives information relating to potential conflicts of interest arising from the proposed activities of the Fund; and
- (vi) Internal Firm policies and procedures that address the mitigation of conflicts of interest and committees (the membership of which includes participation by senior management, compliance officer(s) and legal personnel) to assist the Firm in detecting, addressing, overseeing and monitoring applicable conflicts of interest.

## **B. Conflicts in General**

The material conflicts of interest encountered by a Fund include those discussed below, although the discussion below does not necessarily describe all of the conflicts that may be encountered by a Fund. Other conflicts may be disclosed throughout this brochure and the brochure should be read in its entirety for other conflicts. Additionally, given that the Funds have been formed over a period of time and that, as a result, the Fund Agreements may differ from one another, conflicts of interest with respect to a particular matter may be resolved differently depending on the particular Fund, in each case consistent with the applicable Fund Agreement and governing documents.

### **11.4. Allocation of Investment Opportunities among Clients**

In connection with its investment activities, the Firm may encounter situations in which it must determine how to allocate investment opportunities among various clients and other persons. In exercising its discretion, the Firm may be faced with a variety of potential conflicts of interest. For example, in allocating an investment opportunity among Funds with differing fee, expense and compensation structures and/or amounts, the Firm may have an incentive to allocate investment opportunities to the Funds from which the Firm or its related persons may derive, directly or indirectly, a higher fee, compensation or other benefit.

The Firm has adopted written policies and procedures relating to the allocation of investment opportunities and will make allocation determinations consistently therewith.

PNC Bank and/or its subsidiaries are expected to pursue, either directly or indirectly, investment opportunities that are the same as, or similar to, those pursued by certain Funds. These investment opportunities are generally limited in number and will not be fungible.

In particular, PNC Bank and/or its subsidiaries will from time to time invest, directly or through other funds managed by third parties, in opportunities that have been sourced by the Firm. The Firm may allocate certain opportunities that are appropriate for the Funds to PNC Bank and/or its subsidiaries, and away from the Funds. Any such allocation will be determined by the Firm in good faith and in accordance with its allocation procedures, which generally provide that investment opportunities will be allocated among Funds and to PNC Bank directly in a fair and equitable manner over time. To this end, the Firm generally evaluates each investment opportunity independently for each eligible Fund, including proprietary Funds, as further described below. In addition, the Firm or an affiliate may from time to time acquire investments for its own balance sheet through secondary market transactions.

#### **A. LIHTC Funds Investment Allocation Procedure**

Certain opportunities to invest in LIHTC Operating Entities and LIHTC Properties (“LIHTC Investment Opportunities”) could be suitable for both PNC Bank or an affiliate and one or more LIHTC Funds. In particular, PNC Bank is in direct competition with the LIHTC Funds for LIHTC Investment Opportunities, which creates a conflict of interest between PNC Bank and one or more LIHTC Funds. The Firm has adopted an investment allocation procedure with respect to LIHTC Investment Opportunities to assist it in resolving such allocation decisions. The procedure requires that the Firm exercise good faith and reasonable discretion in allocating LIHTC Investment Opportunities that are suitable for both PNC Bank and/or one or more LIHTC Funds in a manner that is fair and equitable over time. The Firm will consider a number of factors in determining what is fair and equitable over time, including, but not limited to, investment objectives of each potential purchaser (including CRA objectives and target yield), available capital, characteristics of the investment opportunity (most notably location), investment guidelines/parameters of the potential purchasers, composition of the existing portfolio, where each potential purchaser is in their investment period, certainty of closing the LIHTC Investment Opportunity and the impact of the proposed investment on the diversification of the potential purchasers’ portfolios. The relative weight or significance of each of the factors will vary in each allocation determination. LIHTC Investment Opportunities will not be allocated to any potential purchaser over another potential purchaser in order (i) to systematically favor any potential purchaser at the expense of any other; (ii) solely to generate higher fees paid to, or to produce greater compensation for, PNC Bank, the Firm or any other PNC Financial affiliate; or (iii) to manage or equalize investment performance among different purchasers.

#### **B. Preservation Funds Investment Allocation Procedure**

In connection with its Preservation Fund investment activities, the Firm may encounter situations in which it must determine how to allocate investment opportunities in

Preservation Operating Entities and Preservation Properties (“Preservation Investment Opportunities”) among various clients.

The Firm has adopted an investment allocation procedure relating to the allocation of Preservation Investment Opportunities and will make allocation determinations consistently therewith. The procedure provides that if a given Preservation Investment Opportunity is suitable only for one Preservation Fund, such investment opportunity will be allocated to that particular Preservation Fund. If a Preservation Investment Opportunity is suitable for more than one Preservation Fund, then the Firm will follow a rotational process; provided, however, that the Firm shall not, until such time as at least seventy five percent (75%) of aggregate capital commitments have been called for investment for a Preservation Fund, cause any other Preservation Fund to acquire any investments that would otherwise be suitable for, in the discretion of the Firm, the Preservation Fund with less than seventy five percent (75%) of called aggregate capital commitments. The application of a rotational allocation process means that a Preservation Fund will not participate in all eligible Preservation Investment Opportunities that arise during its investment period and that certain of such opportunities will be allocated to other Preservation Funds.

In addition, certain Firm Employees are involved in the selection of investments made by PNC Bank or its affiliates in affordable housing investment funds managed by unaffiliated third parties that are similar to the investment activities of the Preservation Funds. To mitigate this potential conflict, any such investment opportunities identified by PNC Bank or its affiliates are subject to the investment allocation procedures adopted by the Firm.

### **C. HTC Funds Investment Allocation Procedure**

Certain opportunities to invest in HTC Operating Entities and HTC Properties (“HTC Investment Opportunities”) could be suitable for PNC Bank, PNC Financial or an affiliate on one hand, and one or more HTC Funds on the other. The Firm has adopted an investment allocation procedure with respect to HTC Investment Opportunities to assist it in resolving such allocation decisions. The procedure requires that the Firm exercise good faith and reasonable discretion in allocating HTC Investment Opportunities that are suitable for PNC Bank, PNC Financial or an affiliate and/or one or more HTC Funds in a manner that is fair and equitable over time. The Firm will consider a number of factors in determining what is fair and equitable over time, including, but not limited to, investment objectives of each potential purchaser (including CRA objectives and target yield), available capital, characteristics of the investment opportunity (most notably location), investment guidelines/parameters of the potential purchasers, composition of the existing portfolio, and the impact of the proposed investment on the diversification of the potential purchasers’ portfolios. The relative weight or significance of each of the factors will vary in each allocation

determination. HTC Investment Opportunities will not be allocated to any potential purchaser over another potential purchaser (i) to systematically favor any potential purchaser at the expense of any other; (ii) solely to generate higher fees paid to, or to produce greater compensation for, PNC Bank, the Firm or any other PNC Financial affiliate; or (iii) manage or equalize investment performance among different purchasers.

#### **D. NMTC Funds Investment Allocation Procedure**

Certain opportunities to invest in lower tier investments, CDEs and QALICBs (“NMTC Investment Opportunities”) could be suitable for both PNC Bank or an affiliate and one or more NMTC Funds. In particular, PNC Bank will be in direct competition with NMTC Funds for NMTC Investment Opportunities, which will create a conflict of interest between PNC Bank and one or more NMTC Funds. From time to time, PNC Bank or an affiliate may itself act as, own or control a CDE in which an NMTC Fund may invest. The Firm has adopted an investment allocation procedure with respect to NMTC Investment Opportunities to assist it in resolving such allocation decisions. The procedure requires that the Firm exercise good faith and reasonable discretion in allocating NMTC Investment Opportunities that are suitable for both PNC Bank and/or one or more NMTC Funds in a manner that is fair and equitable over time. The procedure also requires the Firm to consider a number of factors in determining what is fair and equitable over time, including, investment objectives of each potential purchaser (including CRA objectives and target yield), available capital, characteristics of the investment opportunity (most notably location), investment guidelines/parameters of the potential purchasers, composition of the existing portfolio, where each potential purchaser is in their investment period, and the impact of the proposed investment on the diversification of the potential purchasers’ portfolios. The relative weight or significance of each of the factors will vary in each allocation determination. The purpose of the procedure is to ensure that NMTC Investment Opportunities will not be allocated to any potential purchaser over another potential purchaser in order (i) to systematically favor any potential purchaser at the expense of any other; (ii) solely to generate higher fees paid to, or to produce greater compensation for, PNC Bank, the Firm or any other PNC Financial affiliate; or (iii) to manage or equalize investment performance among different purchasers.

#### **11.5 Retention of the Firm by an Affiliate**

An affiliate of the Firm serves as the managing member for each Fund. On behalf of a Fund, the Fund Managing Member enters into an Investment Management Agreement with the Firm to provide investment advisory and management services to the Fund and Fund Managing Member, subject to the governing documents of the Fund. This agreement is not entered into as a result of an arm’s-length transaction, and its terms may not be the most beneficial for investors. Notwithstanding the foregoing, each Fund’s governing



documents are designed to ensure that the Firm will not be paid compensation for its investment management services by the applicable Fund or Fund Managing Member in an amount that exceeds the compensation or fees which the Fund Managing Member is otherwise entitled to in the Fund Agreement.

## **11.6 Transactions between the Firm and Affiliates of PNC Bank**

Conflicts of interest arise when the Fund Managing Member and/or the Firm enter into agreements or transactions with affiliates for the provision of products or services to the Fund or the underlying assets. Given the affiliation with such entities, the Fund Managing Member or the Firm may have an incentive, pecuniary or otherwise, to use or seek to use affiliates of the Firm for certain transactions or services.

Arrangements or agreements with such affiliates are not the result of an arm's-length transaction, and the Firm cannot guarantee that such transactions or services are provided by affiliates on the most favorable terms for the Funds.

Examples of the material transactions during the course of a Fund's operational existence in which conflict of interests may arise include the following:

### **A. Affiliated Placement Agents/Broker-Dealers**

An affiliate of PNC serves as a placement agent for certain Funds. PNC Capital Markets, LLC, a FINRA registered broker-dealer ("PNC Capital"), an affiliate of the Fund Managing Member and the Firm, generally is retained by the Fund Managing Member on behalf of a Fund to offer units in the Fund on a "*best efforts*" basis. As a Placement Agent for the Fund, PNC Capital will receive commissions attributable to interests sold by it, and may promote the sale of interests due to its status as an Affiliate regardless of investment suitability or profitability. Because of its receipt of commissions and its status as an affiliate of the Fund Managing Member and the Firm, PNC Capital has an inherent conflict of interest in the performance of its duties under the placement agent agreement with the Funds.

In addition, other placement agents that provide similar services and receive commissions may include affiliates of one or more investors in a Fund.

### **B. Loan Products or Services Provided by Firm Affiliates to the Fund or the Operating Entities**

During the operational existence of a Fund, PNC Bank or another affiliate of the Firm or Fund Managing Member may provide loans and other financial products and services to the Fund, including but not limited to pre-syndication advances, a working capital line of credit, and/or a bridge financing facility. In addition, PNC Bank or another affiliate of the Firm or Fund Managing Member may provide to an Operating Entity, HTC Landlord Entity, QALICB, other NMTC financing participant (each a "Project Borrower"), or to affiliates of a Project Borrower, one or more other financial products

or services, such as: pre-development, construction and bridge financing; instruments to provide credit enhancement; letters of credit; acting as a servicer on loans to the Project Borrowers; and/or permanent financing, hereinafter, described as the “Loans.” Due to the use of shared personnel, in certain cases, information collected during the performance of due diligence of investments for the Funds may be considered by PNC Bank or an affiliate in the determination of the terms of the provision of such loan products or services.

Although it is the intent of the Fund Managing Member and the Firm that such Loans made from affiliated entities benefit the Fund and/or its investments, they present inherent conflicts of interest.

For instance, the terms of such Loans may not be achieved as a result of arm’s-length bargaining. The Firm cannot ensure that a Loan is provided on terms most favorable to a borrower in the market, including but not limited to the various fees, costs and reimbursed expenses paid to PNC Bank or the affiliate directly or indirectly by the Project Borrower.

Each Fund Agreement will be the subject of a separate negotiation, and there can be no assurance that a particular Fund’s investors will have rights that are equivalent to (or superior to) the rights of investors in another Fund. This potential disparity includes differences in the rights of investors relative to affiliate transactions involving a Loan from PNC Bank or an affiliate.

Conflicts of interest also arise in connection with Loans where PNC Bank or an affiliate attempts to exercise its rights in the event of a default under a Loan. For example, Loans to LIHTC and Preservation Operating Entities are generally senior in the capital structure to a Fund’s investment in such Operating Entity. In the event of restructuring or insolvency of such Operating Entities, the holders of senior debt may exercise remedies and take other actions that are not in the interest of, or are adverse to, a Fund. In cases where a Loan to Project Borrower becomes distressed, such Loan is subject to a workout or foreclosure. Although these occurrences have historically been infrequent and the Firm believes they will continue to be rare in the future, they give rise to an opportunity for PNC Bank or an affiliate, as lender, to pursue its contractual remedies, including foreclosure that would be contrary to the interests of a Fund as the equity owner of the relevant Operating Entity or HTC Landlord Entity and therefore indirectly contrary to the interest of the Fund’s investors. When PNC Bank or an affiliate attempts to exercise its rights with respect to a Loan to a QALICB or another NMTC financing participant or an affiliate thereof, such actions could be adverse to a NMTC Fund and its investors. The borrower of such a Loan could become insolvent or file bankruptcy as a result of a Loan default, which would negatively impact the NMTC transaction and potentially lead to a recapture of NMTC.

Should such an event occur, where the Firm determines, in its judgment, that an actual conflict of interest is likely to have otherwise developed in connection with a loan from PNC Bank (or, alternatively, where the investors elect to exercise applicable rights under the Fund Agreement), a variety of steps will be taken to mitigate the conflict. If authorized under the Fund Agreement, this could include the appointment of an independent special advisor to the Fund. The special advisor will be selected or approved in accordance with the applicable Fund Agreement (e.g., by request of the investors in the Fund). The costs and expenses associated with any such special advisor will be borne by the Firm or the Fund Managing Member, and not by the Fund or any investor. Once selected, the special advisor will advise the Fund or will have authority to take action on behalf of the Fund with respect to such Loan, Investment Property or Operating Entity, as applicable.

In connection with Preservation Funds, potential conflicts are further managed through the use of the Advisory Committee, which has the authority to approve decisions associated with such matters as well as request that a special advisor be selected to represent the borrower's interests with respect to a Loan.

The Fund Managing Member or the Firm may also be subject to a conflict of interest in determining the timing of any loan or credit facility pay off as a delayed satisfaction of such debt could result in more interest and fees for PNC Bank in its capacity as lender.

In addition to the foregoing, PNC Bank and/or its affiliates may also provide Loans to (i) the seller from whom an Operating Entity purchases an Investment Property; or (ii) the buyer of an Investment Property from an Operating Entity (including the buyer of a Preservation Investment Property from a Preservation Operating Entity for a competing affordable housing fund managed by an unaffiliated third-party in which PNC Bank or its affiliate is an investor). The sale or refinancing of an Investment Property may benefit PNC Bank and/or its affiliates by repaying Loans or other obligations owed to PNC Bank and/or its affiliates prior to any sale or refinancing proceeds becoming available to such Fund. In each such case there may be conflicts of interest between the interests of PNC Bank and/or its affiliate, as lender, and the Fund.

### **C. Sale or Refinancing of Operating Properties**

In making a decision as to whether or not to sell or transfer a Fund's interest (by exercise of a put option or otherwise) in an Operating Entity or an NMTC lower tier investment, or as to whether or not a Fund should consent to the sale or refinancing of an Investment Property by an Operating Entity (or the redeployment of a CDE's QEI proceeds to a new QALICB(s)), the Firm may encounter potential conflicts of interest. Decisions about certain dispositions or redeployments will generally be made by the Firm without consulting with or seeking approval from the investors in such Fund, unless the applicable Fund Agreement requires investor consent to a sale or refinancing.

In some cases, certain disposition fees which are permitted under the Fund Agreement to be earned by the Fund Managing Member may incentivize the Fund Managing Member or the Firm to consent to a LIHTC or Preservation Operating Entity that requests to sell or refinance an LIHTC or Preservation Investment Property while such a sale or refinancing may not be in the economic interest of the investors in a Fund. In addition, the purchaser of a Fund's interest in an Operating Entity may, directly or indirectly, be an affiliate of the Fund Managing Member or the Firm, in which case, such transaction would not constitute an arm's-length transaction. Accordingly, in making any such decision, the interests of the Firm may not necessarily be the same as those of the investors in the Fund.

In current LIHTC Fund Agreements, any sale of a LIHTC Fund's interest in a LIHTC Operating Entity that constitutes a principal transaction can only be made upon the Fund Managing Member receiving the requisite level of consent from the investors in the Fund (which, in all events, must be at least a majority consent of the investors, excluding any interest owned by PNC Bank as an investor in such LIHTC Fund).

As for Preservation Funds, all related party transactions are subject to approval by the Advisory Committee (after written disclosure to the Advisory Committee of the terms of such transaction and the capacity of PNC Bank and/or its affiliates in such transaction, as applicable), as provided in the current form of Preservation Fund Agreement.

The disposition fees earned by a LIHTC and Preservation Fund Managing Member may create an incentive for the Firm, as an affiliate of each Fund Managing Member, to seek more speculative investments on behalf of a Fund than would otherwise be the case in the absence of such performance based compensation. In addition, due to the method of calculating the Fund Managing Member disposition fee, the amount of such fees earned by the Fund Managing Member may be affected by the timing of dispositions and other factors. Further, in consenting to a sale of a Fund asset or a Fund's interest in an Operating Entity, the Managing Member may ask that any potential buyer grant the Managing Member or an affiliate the "Right of First Negotiation" ("ROFN"). The ROFN provides the holder of such right the opportunity to make an offer to purchase an interest in the buyer of such asset and an allocation of any future tax credits that the asset may be eligible to receive, if such buyer syndicates the associated tax credits. The foregoing conflicts will be mitigated to a substantial extent by the terms of the Fund Agreement limiting a Fund Managing Member's authority to consent to a sale or refinancing unless certain conditions are met.

#### **D. Acquisition of Investments and Warehousing**

Warehouse Funds acquire Operating Entity and NMTC lower tier investments to hold temporarily in the event that the acquisition of such Operating Entity or NMTC lower tier investments close prior to the time that the Fund is in a position to acquire such interests. The interest of a Warehouse Fund in being relieved of its obligations to such

Operating Entities or NMTC lower tier investment could conflict with the Fund's interest in acquiring Operating Entities or NMTC lower tier investments best suited to its needs.

In connection with LIHTC, HTC and NMTC Funds, any purchase by a Fund of an interest in an Operating Entity (or NMTC lower tier investment) constituting a principal transaction (such as an acquisition from a Warehouse Fund) can only be made once the Fund Managing Member has received the requisite level of consent from the investors in the Fund specified in the Fund Agreement (which, in all events, must be at least a majority consent in a multi-investor Fund). Moreover, by investing in a LIHTC, HTC or NMTC Fund at its inception, investors have had an opportunity to review the Operating Entities, NMTC lower tier investments and Investment Properties which the Firm has selected as investments for the Fund (whether such investments were previously warehoused or not).

In connection with Preservation Funds, the Advisory Committee must approve of a transfer from a Preservation Warehouse Fund to a Preservation Fund, except in certain circumstances that are set forth in a particular Preservation Fund Agreement. Typically, no distributions are made to a Preservation Warehouse Fund during the time that a Preservation Warehouse Fund holds the interest in an Operating Entity for a Preservation Fund, and all cash flow with respect to such Operating Entity is distributed to the Preservation Fund that ultimately acquires the investment.

The consideration given by the Fund in exchange for an interest in any such Warehoused Investment will not be negotiated at arm's length and will be determined by multiplying the remaining tax credits related to such Warehoused Investment by the total cost per credit as determined by the Fund's Managing Member or its Affiliate in its sole discretion. As a result, the consideration paid by the Fund may exceed fair market value or the value that would be determined by a third-party appraisal.

Funds will pay an interest cost in addition to the consideration given for the Warehoused Investment for holding the Warehoused Investment (typically based on PNC Bank's one month internal cost of funds multiplied by the number of days that the Warehoused Investment was held by the Warehouse Fund, multiplied by the amount of equity funded by the Warehouse Fund to date for such Warehoused Investment). The internal cost of funds varies and could exceed a market interest rate or the interest rate a third party lender may charge.

#### **E. Custodial Services Provided by Firm Affiliates to the Fund**

Fund Agreements permit the Fund Managing Member to hold certain monies of the Funds in demand deposit accounts and/or invest those monies in short-term investments, as defined in each Fund Agreement. Such short-term investments are expected to be held in accounts at PNC Bank and the Funds will pay a fee to PNC Bank (as custodian) in

connection with such investments. The account fee will be reasonable and customary and competitive (but not necessarily the lowest cost available in the marketplace) with those fees which would be applicable to a third party for comparable account services.

#### **F. Miscellaneous Transactions with Affiliates**

- (i) The Firm and/or a Fund Managing Member may retain other services of an affiliate, such as establishing a depository account, with respect to other activities of the Fund and pay a fee to such affiliates for their services. The investors in a Fund will not receive the benefit of fees or other compensation received by the Firm, Fund Managing Member, PNC Bank or their respective affiliates in connection with the provision of services to a Fund.
- (ii) PNC Bank and its affiliates and subsidiaries may use some of the same service providers (e.g., legal counsel, accountants and appraisal firms) as are retained on behalf of a Fund. In some cases, fee rates, amounts or discounts may be offered to PNC Bank, its affiliates and subsidiaries by a third party service provider which differ from those offered to a Fund as a result of scheduled or ad hoc rate changes, differences in the scope, type or nature of the service or transaction, alternative fee arrangements and negotiation.
- (iii) Certain employees, officers, principals and other persons associated with the Firm (“Associated Persons”) also perform services as employees, officers, principals or in another capacity for the Fund Managing Member and affiliates of the Firm, including PNC Bank (“Related Entities”). While performing services and functions for the Firm, Associated Persons may become aware of information with respect to a potential Fund or a Fund investment and may use such information for the benefit of a Related Entity, whose interests may not be aligned with the Firm, the Funds or Fund investors. In addition, such Associated Persons may be compensated by a Related Entity (or more than one Related Entity) for services performed for that Related Entity. Notwithstanding the foregoing, the Firm has policies and procedures in place to ensure that the Firm employees, officers, principals and other associated persons act in a manner consistent with their or the Firm’s fiduciary duties.

#### **G. Conflicts Related to Purchases and Sales**

Conflicts may arise when a LIHTC, HTC or NMTC Fund makes an investment in an Operating Entity or NMTC lower tier investment where another Fund or PNC Bank, PNC Financial or an affiliate is a co-investor. Certain Investment Opportunities may be appropriate for more than one LIHTC, HTC or NMTC Fund and/or PNC Bank, PNC Financial or an affiliate at the same, different or overlapping levels of an Operating Entity’s or NMTC lower tier investment’s capital structure. Questions may arise with respect to certain actions of the Operating Entity or NMTC lower tier investment,

including whether payment obligations and covenants should be enforced, modified or waived, whether debt should be refinanced, what action should be taken in a troubled situation (including whether or not to enforce claims), whether or not to advocate or initiate a restructuring or liquidation inside or outside of bankruptcy, and the terms of any work-out or restructuring. These questions are potentially conflicts of interest among co-investors. Investments by more than one LIHTC, HTC or NMTC Fund and/or PNC Bank or an affiliate in an Operating Entity or NMTC lower tier investment will also raise the risk of using assets of a client of the Firm or PNC Bank to support positions taken by other clients of the Firm or PNC Bank. There can be no assurance that the return of a LIHTC, HTC or NMTC Fund participating in a transaction would be equal to and not less than another LIHTC, HTC or NMTC Fund or PNC Bank (or an affiliate), as applicable, participating in the same transaction or that it would have been as favorable as it would have been had such conflict not existed.

Further, a NMTC Fund could invest in transactions where a QALICB owns property that qualifies for HTCs under the HTC Program or a comparable state historic rehabilitation tax credit program. In such cases, any of PNC Bank, PNC Financial Services Group or an affiliate thereof, including an HTC Fund, could be the investor in such HTCs. The interests of such HTC investor could be adverse to the NMTC Fund in the same transaction.

#### **H. Cross-Transactions**

In certain cases, the Firm will, from time to time cause a Fund to purchase investments from another Fund (or other entity in which PNC and/or its affiliates have an interest), or it will cause a Fund to sell investments to another Fund (or entity). Such transactions create conflicts of interest because a Fund may not receive the best price otherwise possible. The Firm and its affiliates may receive management or other fees in connection with their management of the relevant Funds involved in such a transaction, and may also be entitled to share in the investment profits of the relevant Funds. In such cases, the respective Fund Managing Members will seek consent of the investors in the Funds involved in the transaction, if required by the relevant Fund's governing documents, before completion of the transaction. Such consent will be obtained as necessary, or requested and received upon investors' admittance in the Fund. If permitted in a Funds' Fund Agreement, approval for a cross-transaction may be obtained through deemed consent.

#### **I. Principal Transactions**

Section 206 under the Advisers Act regulates principal transactions among an investment firm and its affiliates, on the one hand, and the clients thereof, on the other. Generally, if an investment firm or an affiliate thereof proposes to purchase a security from, or sell a security to, a client (what is commonly referred to as a "principal transaction"), the Firm must make certain disclosures to the client of the terms of the

proposed transaction and obtain the client's consent to the transaction. For example, a Fund may acquire an investment from PNC Bank, in which case a consent will be sought in accordance with the terms of the relevant Fund Agreement. Similarly, it is anticipated that interests in CDEs owned by an affiliate of PNC Bank may be acquired indirectly by an NMTC Fund, subject to receiving consent as required under the operative transaction documents. If permitted in a Funds' Fund Agreement, approval for a principal transaction may be obtained through deemed consent. In connection with the Firm's management of the Funds, the Firm and its affiliates will engage in certain principal transactions. The Firm has established certain policies and procedures to comply with the requirements of the Advisers Act as they relate to principal transactions, including that disclosures required by Section 206 of the Advisers Act be made to the applicable Fund(s) regarding any proposed principal transactions and that any required prior consent to the transaction be received.

#### **J. Management of the Funds**

The Firm provides investment advisory services to a number of Funds that may have investment objectives similar to each other. The Firm expects that an affiliate will in the future establish one or more additional investment funds with investment objectives substantially similar to, or different from, those of the current Funds. Allocation of available investment opportunities between the Funds and any such investment fund could give rise to conflicts of interest. See "*Allocation of Investment Opportunities among Clients*" above. In addition, it is expected that employees of the Firm responsible for providing advisory services to a particular Fund will have responsibilities with respect to other Funds managed by the Firm. Conflicts of interest arise in allocating time, services or functions of these officers and employees.

#### **K. Fee Structure**

Additionally, as discussed above in *Item 6*, the Fund Managing Members are entitled to cash flow distributions under the terms of the Fund Agreements of such Funds.

#### **L. Fund Level Borrowing**

The Funds from time-to-time borrow funds or enter into other financing arrangements for various reasons, including to fund capital contributions at the closing of an investment or to cover any shortfall resulting from an investor's default or exclusion. If a Fund borrows in lieu of calling capital to fund the acquisition of an investment, the borrowing would be imputed to the limited partners in such Fund on a pro-rata basis.

Although borrowings by the Fund have the potential to enhance overall returns that exceed the Fund's cost of funds, such borrowings increase the potential risk exposure of the Fund to a particular investment above the level that the Fund would typically have had where an investment was limited to equity. Any such borrowings will further



diminish returns (or increase losses on capital) to the extent overall returns are less than the Fund's cost of funds. In addition, borrowings by the Fund are secured by capital commitments made by Fund investors to the Fund as well as by the Fund's assets and the documentation relating to such borrowings provides that during the continuance of a default under such borrowings, the interests of the investors may be subordinated to such Fund-level borrowing. To the extent a Fund uses borrowed funds in advance or in lieu of capital contributions, the Fund's investors generally make correspondingly later capital contributions. As a result, the Fund's use of borrowed funds will impact the calculation of net performance metrics (to the extent that they measure investor cash flows) and may make net return calculations higher than they would otherwise be without fund-level borrowing. This can impact the net cash flow that the Fund Managing Member receives, as these calculations generally depend on the amount and timing of capital contributions.

#### **M. Service Providers**

The Firm and/or its affiliates may engage certain service providers to provide services to the Firm, the Funds and/or the Operating Entities or NMTC lower tier investments. Such service providers are, in certain circumstances, investors in a Fund and may include, for example, investment bankers and/or other investors who provide financial services (including mezzanine and/or lending arrangements). The engagement of any such service provider may be concurrent with an investor's admission to a Fund, or during the term of such investor's investment in the Fund.

The Firm will have a conflict of interest with the Funds in recommending the retention or continuation of a service provider to the Funds or an Operating Entity or NMTC lower tier investment if such recommendation, for example, is motivated by a belief that the service provider will continue to invest in Funds or will provide the Firm with information about markets and industries in which the Firm operates or has interest or will provide other services that are beneficial to the Firm. Although the Firm selects service providers that it believes will enhance the performance of the relevant Fund(s) and potentially Operating Entities (and/or NMTC lower tier investments), in some cases, fee rates, amounts or discounts may be offered to the Firm, its affiliates and subsidiaries by a third party service provider which differ from those offered to the Fund as a result of scheduled or ad hoc rate changes, differences in the scope, type or nature of the service or transaction, alternative fee arrangements and negotiation.

#### **N. Side Letter Agreements; Advisory Committee Rights**

A Fund Managing Member may enter into side letter arrangements with certain investors in a multi-investor Fund providing such investors with different or preferential rights or terms. For LIHTC Funds that have been launched more recently, the applicable LIHTC Fund Agreement has provided that each investor in such LIHTC Fund may avail

itself of the rights or terms provided to any other investor in a side letter agreement with such LIHTC Fund.

The Preservation Funds each have established an advisory committee, consisting of representatives of investors whose capital commitment exceeds a certain amount, excluding affiliates of the Firm (namely, PNC Bank or the Fund Managing Member). A conflict of interest may exist when some, but not all limited partners are permitted to designate a member to the advisory committee. The advisory committee will also have the ability to approve conflicts of interests with respect to the Firm and the applicable Fund, which could be disadvantageous to the investors, including those investors who do not designate a member to the advisory committee.

#### **O. Compensation Structure**

As discussed previously in *Item 5*, certain transactions, such as acquisitions and dispositions of investments by Funds, generate fees to be paid to the Fund Managing Member and/or the Firm, and therefore the Fund Managing Member, the Firm and/or their affiliates may be incentivized to recommend, propose, approve, and consent to, as applicable, a transaction on behalf of a Fund. Similarly, pursuant to existing compensation policies and procedures for the Firm and its affiliates, discretionary bonuses are paid to certain associated persons of the Firm. Such discretionary bonuses are based on numerous factors, including but not limited to the financial performance of the Funds, as well as the amount of fees and revenue generated by the Funds. Further, the Fund activities of dispositions and acquisitions of investments make certain associated persons of the Firm eligible for bonuses or special compensation, and therefore such individuals may be incentivized to recommend, propose, approve and consent to, as applicable, a transaction for a Fund. In addition, employees of the Firm may be given incentives by PNC Bank, which may include monetary compensation, in connection with the use of certain loan products provided by a PNC Bank or an affiliate. Policies and procedures regarding discretionary bonuses and commissions for employees, however, were designed in a manner so as not to influence, or provide more compensation for, recommending or awarding investment opportunities to one type of Fund over another type of Fund managed by the Firm, or for awarding investment opportunities to PNC Bank and/or its affiliates over a Fund managed by the Firm. However, certain commissions for investment origination activities are based on the anticipated amount of fees to be paid to the Fund Managing Member or the Firm. Market conditions and negotiations with investors in each Fund dictate the anticipated fees related to a particular Fund, so the commission may vary for originating a deal depending on the Fund that ultimately makes such investment subject to the commission. Further, the commission for origination activities for investments made directly by PNC Bank is based on a flat percentage, which may be more or less than the anticipated fees of a particular Fund.

## **P. Other Potential Conflicts**

The Fund Agreements each establish complex arrangements among the Fund, the Firm, investors, and other relevant parties. From time to time, questions may arise regarding certain parties' rights and obligations in certain situations, some of which may not have been contemplated upon the negotiation and execution of such documents. In some instances, the operative provisions of the Fund Agreements may be broad, unclear, general, conflicting, ambiguous, or vague, and may allow for multiple reasonable interpretations. In other instances, the Fund Agreement may not address the situation or may not include a directly applicable provision. While the Firm will construe the relevant provisions in good faith and in a manner consistent with its fiduciary duty and legal obligations, the interpretations used may not be the most favorable to a Fund or its investors.

The Firm and its personnel have in the past and may, from time to time in the future, receive certain intangible and/or other benefits and/or perquisites arising or resulting from their activities on behalf of a Fund, including benefits and other discounts provided from service providers. For example, airline travel or hotel stays incurred as Fund expenses may result in "miles" or "points" or credit in loyalty/status programs to Firm personnel, and such rewards and/or amounts will exclusively benefit such personnel and will not be subject to the offset arrangements described above or otherwise shared with such Fund and/or its investors.

Please see the discussion above under the sub-heading "Resolution of Conflicts" for a description of the means by which the Firm and its related persons may seek to alleviate conflicts of interest among the Funds or other persons.

## **11.7. Simultaneous Investment by Affiliates and Funds**

### **A. Investment by an Affiliate in a Fund**

- (i) PNC Bank and/or an affiliate generally invests in each multi-investor Fund and may invest in single investor funds. Conflicts of interest may arise in the course of operations of the Fund as a result of PNC Bank's ownership interest as an investor in a Fund. Except as otherwise provided in the Fund Agreement, PNC Bank and its affiliates that are investors in a Fund will be entitled to vote their interests with respect to all matters requiring or permitting investors in the Fund to vote.
- (ii) PNC Bank may benefit disproportionately for CRA purposes from a Fund's investments in Investment Properties or CDEs due to its broad geographic operations and CRA assessment areas. In addition, the Firm may become aware of opportunities to invest in Operating Entities with Investment Properties or CDEs on behalf of a Fund in geographic areas and markets served by the

operations of PNC Bank and included in PNC Bank's CRA assessment area, due to the Firm's greater knowledge and experience in such areas.

## **B. Indemnification**

The current Fund Agreements generally provide that the Fund Managing Member, the Firm and their affiliates will be indemnified against certain liabilities, and the availability or unavailability of such indemnification could affect the actions of the Fund Managing Member or the Firm. Similar indemnification provisions and conflicts of interest exist with respect to the limited partnership or operating agreements governing the Operating Entities and NMTC lower tier entities. Nothing herein will in any way constitute a waiver or limitation of any rights that the Fund or any managing member may have under such laws if and to the extent that such waiver or limitation is prohibited by law.

## **Item 12. Brokerage Practices**

The Firm typically does not engage the services of a broker-dealer in the ordinary course of its advisory activities on behalf of the Funds with respect to the acquisition of securities in which a Fund invests. However, under certain circumstances, the Firm may engage the services of a broker-dealer in order to assist in the sale of a LIHTC Property after the LIHTC recapture period has expired with respect to such LIHTC Property and the Operating General Partner has not repurchased the LIHTC Fund's interest in the LIHTC Operating Entity. Similarly, the Firm may engage the services of a broker-dealer in order to assist in the sale of the assets of a Preservation, HTC or NMTC Fund, which will each have valuation, marketability and other considerations unique to those assets. In these cases, the Firm seeks to negotiate and execute transactions in an efficient manner and consistent with its fiduciary duties to the Funds. In assessing the best overall terms available for any transaction, the Firm considers the full range and quality of a broker or dealer's services and other considerations, including cost, expertise in a particular region and/or with respect to a specific type of property, and reputation.

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

### **13.1. General Firm Activities**

The Operating Entities and CDEs are generally private, illiquid and long-term in nature, and accordingly, the Firm's review of them is not directed toward a short-term decision to dispose of assets. However, the Firm closely monitors the Operating Entities and CDEs and maintains ongoing oversight of them. Additionally, the Firm's Investment Committee, Asset Management Committee and Management, Operating and Risk Committee actively monitor and review each Fund's investments on a periodic basis at regular committee meetings.

### **13.2. Periodic Reports to Clients**

The Firm or the Fund Managing Member will provide written reports of each Fund to the investors in such Fund at such frequency as will be required by the applicable Fund Agreement. Typically the Firm or the Fund Managing Member provides to the investors in a Fund, among other things, (1) on an annual basis, financial statements that are audited in accordance with generally accepted accounting principles, and other information; and (2) on a quarterly basis, unaudited summary financial and other information. The Firm and the applicable Fund Managing Member will from time to time, in their sole discretion, provide additional information relating to such Fund to one or more investors in such Fund as they deem appropriate.

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

While not a client solicitation arrangement, the Fund Managing Member from time to time engages one or more persons to act as a placement agent for a Fund in connection with the offer and sale of interests to certain potential investors. Such persons generally will receive a fee in an amount equal to a fixed dollar amount per units sold for their services, which amount is payable from the gross offering proceeds of the Fund.

### **Item 15. Custody**

The Firm is deemed to have “custody” of client assets within the meaning of SEC Rule 206(4)-2 under the Advisers Act when PNC Bank or a related person acts in any capacity that gives it legal ownership of, or access to, client assets, (e.g., when PNC Bank serves as a general partner, managing member, or comparable position for a Fund).

The investors in a Fund are not the Firm’s clients; however, each investor in a Fund receives audited financial statements of the Fund, prepared in accordance with generally accepted accounting principles, within 120 days following the Fund’s fiscal year end (or within 180 days to the extent that a Fund is deemed to be subject to requirements applicable to a “fund of funds” under applicable laws and regulations). Investors should review these audited financial statements carefully.

### **Item 16. Investment Discretion**

The Firm provides, pursuant to an Investment Management Agreement, investment management services to Funds. In general, the Firm advises Funds on a discretionary basis which is limited by contractual terms with investors in each Fund Agreement. In the Investment Management Agreement, a Fund Managing Member grants the Firm discretionary authority to manage the Fund’s assets, subject to the overall supervision of the Fund Managing Member and any limits upon the Firm’s investment discretion as described in the Investment Management Agreement or the Fund Agreement.

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

The Firm, the Fund Managing Member or an affiliate will exercise, subject to the approval of any investors in a Fund pursuant to the Fund Agreement or other document setting forth rights of investors, on behalf of the Funds, any voting, consent and/or waiver rights with respect to investments held by Funds. If the Firm has not contractually been given the right to vote in these contexts, it may make recommendations to a Fund Managing Member or an affiliate in the event that such vote requires the provision investment advice or guidance. Although the investments that a Fund typically holds (e.g., real estate assets) do not include proxy rights, the Funds will, from time to time and under certain circumstances, be asked to consent to matters or actions with respect to certain corporate actions of an Operating Entity or CDE. In the case of a Fund's investment in another Fund managed by the Firm or an affiliate, the Firm will typically exercise the vote or consent of the investing Fund based on the underlying consent of the investing Fund's investors, as set forth in the investing Fund's governing documents.

The general principle of the Firm's policies and procedures is to exercise any such rights prudently and solely in the best long-term economic interest of the Funds considering all relevant factors and without undue influence from individuals or groups who have an economic interest in the outcome of such vote, consent or waiver.

### **17.1. Portfolio Securities Voting, Consent, and Waiver Policy**

The Firm's policies and procedures are designed to ensure that if a material conflict of interest is identified in connection with a particular vote, consent or waiver, the vote, consent or waiver is not improperly influenced by the conflict. For example, in the event that an investment professional determines that he or she has a material conflict of interest, the investment professional will vote or consent to such matter in accordance with the recommendation of a service provider that is free from such conflict (if applicable) or as instructed by the investors in a Fund (or any advisory committee thereof) (if applicable).

Written requests for copies of the Firm's policies and procedures with respect to voting, consents, and waivers and information about how the Firm exercises such rights should be directed to PNC Real Estate at: One East Pratt Street, Suite 3000, Baltimore, MD 21202, Attn: Chief Compliance Officer, Telephone: (410) 237-5232.

## **Item 18. Financial Information**

Not applicable.