

**AFC Management, LLC**

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**March 31, 2022**

**FORM ADV PART 2A  
BROCHURE**

This brochure provides information about the qualifications and business practices of AFC Management, LLC. If you have any questions about the contents of this brochure, contact us at 561-510-2390. 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 AFC Management, LLC is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

AFC Management, LLC is a registered investment adviser. Registration with the United States Securities and Exchange Commission or any state securities authority does not imply a certain level of skill or training.

## **Item 2 Summary of Material Changes**

Form ADV Part 2 requires registered investment advisers to amend their brochure when information becomes materially inaccurate. If there are any material changes to an adviser's disclosure brochure, the adviser is required to notify you and provide you with a description of the material changes.

We have updated this brochure as of March 31, 2022, as part of the annual amendment process. The information in this annual update does not reflect any material changes to information contained in our most recently brochure dated March 31, 2021.

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## Item 4 Advisory Business

### Description of Firm

AFC Management, LLC ("AFC") was formed in January 2020 and became an SEC-registered investment adviser in March 2021. Our principal place of business is in West Palm Beach, FL. We are organized as a limited liability company under the laws of the State of Delaware and a wholly-owned subsidiary of Advanced Flower Capital Management, LLC.

AFC is beneficially owned by Leonard Tannenbaum, Robyn Tannenbaum, other members of the Tannenbaum family and Jonathan Kalikow. Mr. Tannenbaum, Mrs. Tannenbaum and Mr. Kalikow beneficially own over 70%, 10% and 5% of the outstanding equity of AFC, respectively.

As used in this brochure, the words "we," "our" and "us" refer to AFC and the words "you," "your" and "client" refer to you as either a client or prospective client of AFC.

### Portfolio Management Services

Currently, AFC provides investment management services to AFC Warehouse Holding, LLC, a pooled investment vehicle ("AFC Warehouse"), and AFC Gamma, Inc., a publicly traded Maryland real estate investment trust ("AFC Gamma", together with AFC Warehouse, the "Funds"). AFC may in the future, subject to any limitations described in the Management Agreements (defined below) it enters into with its clients, advise other real estate investment trusts, investment companies, private investment funds, structured finance vehicles, institutional investors, business development companies or other persons or entities.

AFC specializes in managing investments in established cannabis industry operators. The investment objective of our Funds is to seek attractive, risk-adjusted returns by providing capital to cannabis companies operating in states that have legalized cannabis for medical and/or adult use. The Funds have different investment strategies but AFC Gamma's strategy includes investments primarily structured as senior debt investments secured by real estate and in certain situations secured by equipment, licenses and/or other assets of the applicable loan parties to the extent permitted by applicable laws. AFC Warehouse's strategy includes equity investments in the cannabis industry, including warrants and equity issued by cannabis operators looking to complete infrastructure projects and to further expand their business. When managing assets within a Fund, we remain subject to the investment guidelines and restrictions included in the operative documents and disclosure documents of the applicable Fund (the "Governing Documents").

Our Funds are excluded from the definition of an investment company under the Investment Company Act by either section 3(c)(1), section 3(c)(5) and/or section 3(c)(7). AFC Gamma is a public company registered under the U.S. Securities and Exchange Act of 1934, as amended (the "Exchange Act"), while AFC Warehouse's securities are not registered. AFC Gamma is qualified as a commercial mortgage real estate investment trust ("REIT"). AFC Warehouse is closed to new investors and has begun the process of divesting its investments.

AFC has entered into separate management agreements with the Funds (each a "Management Agreement" and together the "Management Agreements") for its services in

managing loans, investments and day-to-day operations and to otherwise perform services for the Funds. Under the Management Agreements, AFC has contractual responsibilities to the Funds, including to provide the management teams, who serve as the Funds' executive officers, and comprise the Investment Committee. AFC, in its capacity as manager of the Funds' loans and operations, will at all times be subject to the supervision and direction of the governing bodies of the Funds and will have only such functions and authority as the Funds may delegate to it, including managing the business affairs in conformity with the policies that are approved and monitored by the governing bodies of the Funds. In connection with its management and operation of the Funds' business activities, AFC may retain, at our sole cost and expense, such services of persons and firms as we deem necessary or advisable. In addition, subject to the approval of the applicable Fund (which shall not be unreasonably withheld).

This brochure contains a summary of information relevant to the subject headings as stated herein, and no disclosure or other statement contained in this brochure serves as a substitute or shall supersede any of the terms and conditions as outlined in the Funds' Governing Documents. To the extent any of the statements herein conflict with the Funds' Governing Documents, such Governing Documents shall govern, and investors in the Funds will be bound by the terms, fees, conditions, risks and other relevant information contained therein.

## **Assets Under Management**

As of December 31, 2021, AFC had approximately \$495,000,000 in discretionary assets under management. AFC does not manage any assets on a non-discretionary basis.

## **Item 5 Fees and Compensation**

### **AFC GAMMA**

AFC Gamma shall pay AFC a management fee (the "Base Management Fee") of an amount equal to 0.375% of AFC Gamma's equity, determined as of the last day of each quarter. The Base Management Fees are reduced by the Base Management Fee Rebate (as defined in the Management Agreement). Under no circumstances will the Base Management Fee be less than zero. AFC Gamma's equity, for purposes of calculating the Base Management Fees, could be greater than or less than the amount of stockholders' equity shown on its financial statements. The Base Management Fees are payable independent of the performance of AFC Gamma's loan portfolio. In addition, the Base Management Fees can be reduced by the following: an amount equal to 50% of the aggregate amount of any other fees earned and paid to AFC during the applicable quarter resulting from the investment advisory services and general management services rendered by AFC to AFC Gamma under the Management Agreement, including any agency fees relating to AFC Gamma's loans, but excluding any incentive compensation (further described below) and any diligence fees paid to and earned by AFC and paid by third parties in connection with due diligence of potential loans.

In addition to the Base Management Fee, AFC receives incentive compensation of an amount with respect to each fiscal quarter (or portion thereof that the Management Agreement is in effect) based upon achievement of targeted levels of earnings. No incentive compensation is payable with respect to any fiscal quarter unless our Core Earnings (as

defined in the Management Agreement) for such quarter exceed the amount equal to the product of (i) 2% and (ii) Adjusted Capital (as defined in the Management Agreement) as of the last day of the immediately preceding fiscal quarter (such amount, the "Hurdle Amount"). The incentive compensation for any fiscal quarter will otherwise be calculated as the sum of (i) the product of (A) 50% and (B) the amount of Core Earnings for such quarter, if any, that exceeds the Hurdle Amount, but is less than or equal to 166-2/3% of the Hurdle Amount and (ii) the product of (A) 20% and (B) the amount of Core Earnings for such quarter, if any, that exceeds 166-2/3% of the Hurdle Amount. Such compensation is subject to Clawback Obligations (as defined below), if any.

### **Incentive Compensation Clawback**

Once incentive compensation is earned and paid to AFC, it is not refundable, notwithstanding any losses incurred by AFC Gamma in subsequent periods, except that if aggregate Core Earnings for any fiscal year do not exceed the amount equal to the product of (i) 8.0% and (ii) AFC Gamma's Adjusted Capital as of the last day of the immediately preceding fiscal year (such amount, the "Annual Hurdle Amount"), AFC will be obligated to pay AFC Gamma (such obligation to pay, the "Clawback Obligation") an amount equal to the aggregate incentive compensation that was earned and paid to AFC during such fiscal year (such amount, the "Clawback Amount"); provided that under no circumstances will the Clawback Amount be more than the amount to which the Annual Hurdle Amount exceeds the aggregate Core Earnings for the specified fiscal year. The Clawback Obligation is determined on an annual basis and any incentive compensation earned during a specified fiscal year will not be subject to the Clawback Obligation with respect to the incentive compensation earned during any prior or subsequent fiscal year.

The aggregate Core Earnings, Annual Hurdle Amount, Clawback Amount and any components thereof for the initial and final fiscal years that the Management Agreement is in effect will be prorated based on the number of days during the initial and final fiscal years, respectively, that the Management Agreement is in effect, to the extent applicable.

### **AFC WAREHOUSE**

AFC Warehouse shall pay AFC a management fee (the "Management Fee") equal to 1.75% per annum payable quarterly in arrears. The Management Fee is calculated based on AFC Warehouse's equity as of the last day of the calendar quarter. The Management Fee will be reduced by any other fees earned and paid to AFC (other than the incentive compensation described below) from the investment advisory services and general management services rendered to AFC Warehouse, including any syndication, structuring, diligence, monitoring or agency fees relating to the investments.

In addition to the Management Fee, AFC receives incentive compensation from AFC Warehouse with respect to each calendar quarter (or portion thereof that the Management Agreement is in effect) based upon achievement of targeted levels of Core Earnings (as defined in the Management Agreement). To the extent earned by AFC, the incentive compensation will be payable to AFC quarterly in arrears in cash.

No incentive compensation is payable with respect to any fiscal quarter unless AFC

Warehouse's Core Earnings for such quarter exceed the amount equal to the product of (i) 1.75% and (ii) Adjusted Capital (as defined in the Management Agreement) as of the last day of the immediately preceding fiscal quarter (such amount, the "Warehouse Hurdle Amount"). The incentive compensation for any fiscal quarter will otherwise be calculated as the sum of (i) the product (the "Catch-Up Amount") of (A) 50% and (B) the amount of Core Earnings for such quarter, if any, that exceeds the Warehouse Hurdle Amount, but is less than or equal to 166-2/3% of the Warehouse Hurdle Amount and (ii) the product (the "Excess Earnings Amount") of (A) 20%, and (B) the amount of our Core Earnings for such quarter, if any, that exceeds 166-2/3% of the Warehouse Hurdle Amount.

### **Incentive Compensation Clawback**

Once incentive compensation is earned and paid to AFC, it is not refundable, notwithstanding any losses incurred by AFC Warehouse in subsequent periods, except that if aggregate Core Earnings for any fiscal year do not exceed the amount equal to the product of (i) 7.0% and (ii) AFC Warehouse's Adjusted Capital as of the last day of the immediately preceding fiscal year (such amount, the "Warehouse Annual Hurdle Amount"), AFC will be obligated to pay AFC Warehouse (such obligation to pay, the "Warehouse Clawback Obligation") an amount equal to the aggregate incentive compensation that was earned and paid to AFC during such fiscal year (such amount, the "Warehouse Clawback Amount"); provided that under no circumstances will the Warehouse Clawback Amount be more than the amount to which the Warehouse Annual Hurdle Amount exceeds aggregate Core Earnings for the specified fiscal year. The Warehouse Clawback Obligation is determined on an annual basis and any incentive compensation earned during a specified fiscal year will not be subject to the Warehouse Clawback Obligation with respect to the incentive compensation earned during any prior or subsequent fiscal year.

The aggregate Warehouse Core Earnings, Warehouse Annual Hurdle Amount, Warehouse Clawback Amount and any components thereof for the initial and final fiscal years that the Management Agreement is in effect will be prorated based on the number of days during the initial and final fiscal years, respectively, that the Management Agreement is in effect, to the extent applicable.

Certain officers and employees of AFC have been granted, or may in the future be granted, at the discretion of the Board of Directors (or applicable committee thereof) of AFC Gamma, stock options in AFC Gamma pursuant to the AFC Gamma 2020 Stock Incentive Plan.

Investors in the Funds must understand the proposed method of compensation to AFC or its affiliates and its risks prior to investing in any of the Funds. Such investors should refer to the appropriate Fund's most recent filings with the SEC (if applicable) and applicable offering documents and/or organizational documents for detailed information regarding fees, fee offsets and performance-based compensation. It is also important to note that any new fund launched by AFC may have similar or materially different terms than the current Funds.

### **Additional Fees and Expenses**

In addition to the fees discussed above, the Funds will be responsible for all costs and expenses and will reimburse AFC or its affiliates for expenses paid or incurred on behalf of the

Funds, including due diligence costs, legal, accounting and financial advisor fees and related costs. In addition, the Funds bear all expenses incurred in the operation of the Funds and their respective subsidiaries (including, without limitation, in maintaining the status of AFC Gamma as a REIT) and in the acquisition, ownership, operation, growth, development, leasing, financing, management and disposition of portfolio investments, including such expenses incurred in connection with transactions that are not consummated, as well as filing and regulatory expenses specifically attributable to the Funds and their respective subsidiaries and all expenses of the offering of interests in the Funds.

For the avoidance of doubt, the Funds have paid, or reimbursed AFC's principals for, certain start-up expenses paid to third-party lawyers, accountants and valuation consultants, it being understood that any start-up expenses not borne by the Funds are intended to be borne by AFC's principals.

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

As described in Item 5 (Fees and Compensation) above, AFC receives performance fees from the Funds. Any performance-based compensation will be paid in accordance with Section 205(3) of the Investment Advisers Act of 1940 and Rule 205-3 thereunder.

Clients and investors should be aware that a performance-based fee arrangement may create an incentive for AFC to recommend investments, which may be riskier or more speculative than those which would be recommended under a different fee arrangement. Since AFC does not offer advisory services to Funds that do not pay performance-based compensation, they do not have an incentive to favor performance-based compensation accounts over non-performance-based compensation accounts. However, in theory, AFC has an incentive to favor a fund paying higher aggregate performance-based compensation than one paying less; a fund that is at or above its preferred return level compared to one that is in a significant loss position; or a fund in which officers and employees of the firm may have more of their personal capital invested. AFC seeks to mitigate these potential conflicts, including (where appropriate) by investing the capital of affiliates into the Funds, but also by following procedures that we believe are reasonably designed to ensure that all Funds are treated equitably over time and to prevent conflicts from influencing allocation decisions among Funds.

Performance-based fees may also create an incentive for AFC to overvalue investments, which lack a market quotation. In order to address such conflict, we have adopted policies and procedures that require AFC to "fairly value" any investments, which do not have a readily ascertainable value.

See Item 10 below for information regarding certain potential conflicts of interest.

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

As noted above, currently, AFC provides investment management services to AFC Warehouse, a privately offered pooled investment vehicle and AFC Gamma, a publicly traded Maryland REIT registered under the Exchange Act.

We may, in the future, provide advice and services to other entities with similar or materially



different objectives than the Funds.

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

The following is a summary of the methods of analysis and investment strategies taken by AFC when providing investment advisory services to the Funds. AFC manages the investments and day to-day operations of the Funds, subject at all times to the further terms and conditions set forth in the Management Agreements, Governing Documents and such further limitations or parameters as may be imposed from time to time by the respective Fund's Board of Directors. This section also includes a description of the material risks associated with investing in these strategies. Existing and prospective investors are advised to review the offering documents for the full details on each strategy and the associated risks.

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

AFC and AFC Gamma intend to primarily focus on cannabis industry operators with strong collateral, in the form of real estate and in certain situations equipment, licenses and other assets owned by the borrower. AFC and AFC Warehouse intend to primarily focus on cannabis industry operators with attractive balance sheets, revenue that is growing year-over-year and significant growth opportunities. AFC will regularly evaluate loans and currently retains an independent, third-party valuation firm, to provide input on the valuation of unquoted assets. The collateral underlying the loans is located in states in the U.S. that we believe have attractive regulatory environments for cannabis operators, economic conditions and commercial real estate fundamentals.

Key elements of AFC Gamma's strategy include:

- Targeting loans for origination and investment that typically have the following characteristics:
  - principal balance greater than \$10 million;
  - real estate collateral coverage of at least one times the principal balance;
  - secured by commercial real estate properties, including cannabis cultivation facilities, processing facilities and dispensaries; and
  - well-capitalized sponsors with substantial experience in particular relevant sectors and geographic markets.
- Diversifying financing sources with increased access to equity and debt capital, which may provide AFC Gamma with a lower overall cost of funding and the ability to hold larger loan sizes, among other things.

Key elements of AFC Warehouse's strategy include targeting equity investments in AFC Gamma's borrowers negotiated for in connection with AFC Gamma's loans and identifying cannabis operators with significant growth opportunities.

AFC draws upon its expertise in sourcing, underwriting, structuring and funding capabilities to implement our growth strategy. We believe that our current growth strategy provides significant, potential opportunities to our stockholders for attractive risk-adjusted returns over

time. However, to capitalize on the appropriate loan opportunities at different points in the economic and real estate investment cycle, we may modify or expand our growth strategy from time to time.

AFC's investment committee will be focused on managing credit risk when overseeing investments for AFC Gamma and will be focused on identifying attractive equity investments for AFC Warehouse, in each case through a comprehensive investment review process. As part of the investment process, the investment committee for AFC must approve each loan or equity investment, as applicable, before commitment papers are issued.

The portfolio of the Funds is proactively managed to monitor ongoing performance. AFC's investment team works alongside external counsel to negotiate credit agreements, hard asset collateral liens and equity purchase agreements, as applicable. In managing and monitoring ongoing performance, AFC emphasizes the review of financial covenants and monthly and/or quarterly financials, and the inclusion in its credit agreements of limitations on actions that may be adverse to lenders.

An investor in a Fund should understand that the strategy of our Funds involves significant risks, many of which are outside of our control. Investing in securities and other investments involves significant risks, including the risk that Funds could lose some or all of any invested capital. A description of the main risks that the Funds may face in employing their strategies is set forth below. A more complete (but not exhaustive) description of the risks associated with AFC and the Funds' strategies is included in public filings with the SEC (if applicable), and the offering documents of the Funds and should be carefully reviewed prior to investing.

### **Risks Related to AFC's Advisory Business**

**We were recently formed, have limited operating history, and may not be able to operate our business successfully.** We are subject to all of the business risks and uncertainties associated with any new business, including the risk that the Funds will not achieve their investment objectives and that the value of investors' investment in the Funds could decline substantially. We cannot assure you that we will be able to operate our business successfully or profitably or implement our operating policies. Our ability to provide attractive returns for the Funds is dependent on our ability both to generate sufficient cash flow to pay the Fund's investors attractive distributions and to achieve capital appreciation, and we cannot assure you that we will be able to do either. Our limited resources may also materially and adversely impact our ability to successfully implement our business plan. Our limited operating history also precludes us from providing financial information based on actual operations. If we provide you with any pro forma financial projections, they will be based on assumptions that we believe are reasonable concerning future operations and on AFC's experience.

**Competition for the capital investments that the Funds make may reduce the return of these investments, which could adversely affect the Funds' operating results and financial condition.** AFC Gamma competes as an alternative financing provider of debt financing to cannabis companies and AFC Warehouse competes as an equity financing source to such companies. Several competitors have recently entered the marketplace, and these competitors may prevent the Funds from making attractive capital investments on favorable terms. Such competitors may have greater resources than the Funds do and may be

able to compete more effectively as a capital provider. Additionally, some of the Funds' competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of investments, deploy more aggressive pricing and establish more relationships than us.

**Net proceeds of the Funds' offerings are allocated without input from the Fund's equity holders.** Investors will not be able to evaluate the manner in which the net proceeds of offerings will be invested or the economic merit of future investments before purchasing securities in the Funds. As a result, the Funds may use the net proceeds of offerings to invest in investments with which an investor may not agree. Additionally, the Funds' investments will be selected by AFC and equity holders will not have input into such investment decisions. Both of these factors will increase the uncertainty, and thus the risk, of investing in the Funds' securities.

**The Funds' investments' lack of liquidity may adversely affect the Funds' or AFC's business.** The Funds' existing portfolio includes, and our future investments will likely include, investments in private companies, which are less liquid than publicly traded securities. Certain of our target investments such as secured loans are also particularly illiquid investments due to a variety of factors, which may include a short life, potential unsuitability for securitization and greater difficulty of recovery in the event of a default or insolvency by the company in which we have invested. The illiquidity of our investments may make it difficult for us to sell such investments if the need or desire arises. Further, applicable laws and regulations restricting the ownership and transferability of investments in regulated cannabis companies in conjunction with many parties not wishing to invest in cannabis businesses as a result of cannabis being federally illegal may make it difficult for us to sell or transfer such investments to third parties. In addition, many of the investments we make, to the extent they constitute securities, will not be registered under the relevant securities laws, resulting in a prohibition against their transfer, sale, pledge or disposition except in a transaction that is exempt from the registration requirements of, or otherwise in accordance with, those laws. As a result, we may be unable to dispose of such investments in a timely manner or at all.

**The Funds' portfolio may be concentrated in a limited number of investments, which subjects the Funds to an increased risk of significant loss if any asset declines in value or if a particular portfolio company fails to perform as expected.** If a significant investment in one or more companies fails to perform as expected, such a failure could have a material adverse effect on the relevant Fund's business, financial condition and operating results, and the magnitude of such effect could be more significant than if we had further diversified our portfolio. A consequence of this limited number of investments is that the aggregate returns realized by the Funds may be significantly adversely affected if a small number of investments perform poorly, if we need to write down the value of any one investment, if a debt investment is repaid prior to maturity and we are not able to promptly redeploy the proceeds and/or if an issuer is unable to obtain and maintain commercial success. While we intend to diversify the Funds' portfolio of investments as we deem prudent, we do not have fixed guidelines for diversification. As a result, our portfolio could be concentrated in relatively few investments and in a limited number of portfolio companies. If our portfolio of target debt investments is concentrated in certain property types that are subject to higher risk of foreclosure, or secured by properties concentrated in a limited number of geographic locations, economic and business downturns relating generally to such region

or type of asset may result in defaults on a number of our debt investments within a short time period, which may reduce the net income of AFC Gamma and the value of its equity accordingly reduce our ability to pay dividends to its stockholders.

**Loans to relatively new and/or small companies and companies operating in the cannabis industry generally involve significant risks.** The Funds primarily provide loans to established companies operating in the cannabis industry, but because the cannabis industry is relatively new and rapidly evolving, some of these companies may be relatively new and/or small companies. Loans to relatively new and/or small companies and companies operating in the cannabis industry generally involve a number of significant risks, including, but not limited to, the following: (a) these companies may have limited financial resources and may be unable to meet their obligations, which may be accompanied by a deterioration in the value of any collateral securing our loan and a reduction in the likelihood of us realizing a return on our loan; (b) they typically have shorter operating histories, narrower product lines and smaller market shares than larger and more established businesses, which tend to render them more vulnerable to competitors' actions and market conditions (including conditions in the cannabis industry), as well as general economic downturns; (c) they typically depend on the management talents and efforts of a small group of persons; therefore, the death, disability, resignation or termination of one or more of these persons could have a material adverse effect on such borrower and, in turn, on us; (d) there is generally less public information about these companies. Unless publicly traded, these companies and their financial information are generally not subject to the regulations that govern public companies, and we may be unable to uncover all material information about these companies, which may prevent us from making a fully informed lending decision and cause us to lose money on our loans; (e) they generally have less predictable operating results and may require substantial additional capital to support their operations, finance expansion or maintain their competitive position; (f) we, our executive officers and directors and our Manager may, in the ordinary course of business, be named as defendants in litigation arising from our loans to such borrowers and may, as a result, incur significant costs and expenses in connection with such litigation; (g) changes in laws and regulations, as well as their interpretations, may have a disproportionate adverse effect on their business, financial structure or prospects compared to those of larger and more established companies; and (h) they may have difficulty accessing capital from other providers on favorable terms or at all.

**We may need to foreclose on debt investments that are in default, which could result in losses.** We may find it necessary to foreclose on debt investments that are in default. Foreclosure processes are often lengthy and expensive. Results of foreclosure processes may be uncertain, as claims may be asserted by the relevant portfolio company or by other creditors or investors in such portfolio company that interfere with enforcement of our rights, such as claims that challenge the validity or enforceability of our debt investment or the priority or perfection of our mortgage or other security interests.

**The properties underlying our debt investments may be subject to contingent or unknown liabilities that could adversely affect the value of these properties, and as a result, our investments.** Properties underlying our debt investments may be subject to contingent, unknown or unquantifiable liabilities that may adversely affect the value of our investments. Such defects or deficiencies may include title defects, title disputes, liens or other encumbrances on mortgaged properties. The discovery of such unknown defects, deficiencies

and liabilities could affect the ability of our portfolio companies to make payments to us or could affect our ability to foreclose and sell the underlying properties, which could adversely affect our results of operations and financial condition.

**Construction loans involve an increased risk of loss.** Our debt investment portfolio includes construction loans and we may continue to invest in such loans in the future. If we fail to fund our entire commitment on a construction loan or if a portfolio company otherwise fails to complete the construction of a project, there could be adverse consequences associated with the loan, including, but not limited to: a loss of the value of the property securing the loan, especially if the portfolio company is unable to raise funds to complete it from other sources; a portfolio company's claim against us for failure to perform under the loan documents; increased costs to the portfolio company that the portfolio company is unable to pay; a bankruptcy filing by the portfolio company; and abandonment by the portfolio company of the collateral for the loan.

**Some of the Funds' portfolio investments may be recorded at fair value and, as a result, there will be uncertainty as to the value of these investments.** Some of the Funds' portfolio investments may be in the form of positions or securities that are not publicly traded. The fair value of securities and other investments that are not publicly traded may not be readily determinable. Subject to the discretion of the relevant Fund's Board of Directors, we may value these investments quarterly, or more frequently as circumstances dictate, at fair value, which may include unobservable inputs. Because such valuations are subjective, the fair value of certain of the relevant Fund's assets may fluctuate over short periods of time and determinations of fair value may differ materially from the values that would have been used if a ready market for these investments existed.

**Declines in market prices and liquidity in the capital markets can result in significant net unrealized depreciation of our portfolio, which in turn would reduce our net asset value.** Volatility in the capital markets can adversely affect our investment valuations. Decreases in the market values or fair values of our investments are recorded as unrealized depreciation. The effect of all of these factors on our portfolio can reduce our net asset value (and, as a result our asset coverage calculation) by increasing net unrealized depreciation in our portfolio.

**The investments and other assets we will acquire may be subject to impairment charges, and we may experience a decline in the fair value of our assets.** We will periodically evaluate the investments the Funds acquire and other assets for impairment indicators. The judgment regarding the existence of impairment indicators is based upon factors such as market conditions, portfolio company performance and legal structure. If we determine that an impairment has occurred, we would be required to make an adjustment to the net carrying value of the asset, which could have an adverse effect on results of operations in the period in which the impairment charge is recorded.

**Economic recessions or downturns could impair the portfolio companies the Funds invest in and harm their operating results.** Because the operations of the Funds' portfolio companies may be heavily dependent on enterprise or retail sales, many of the portfolio companies may be susceptible to economic downturns or recessions and, during such periods, may be unable to satisfy their debt service obligations to the Funds. Therefore, during

these periods, non-performing assets may increase and the value of the portfolio may decrease if the Funds are required to write-down the values of the investments.

**The Funds' debt investments may be risky, and we could lose all or part of our investment.** The debt that the Funds invest in is typically not initially rated by any rating agency, but we believe that if such investments were rated, they would be below investment grade (rated lower than "Baa3" by Moody's Investors Service, lower than "BBB-" by Fitch Ratings or lower than "BBB-" by Standard & Poor's Ratings Services), which under the guidelines established by these entities is an indication of having predominantly speculative characteristics with respect to the underlying company's capacity to pay interest and repay principal. Therefore, certain of the Funds' debt investments may result in an above-average amount of risk and volatility or loss of principal. While the debt investments the Funds may invest in are often secured, such security does not guarantee that a lender will receive principal and interest payments according to the terms of the debt investment, or that the value of any collateral will be sufficient to allow a lender to recover all or a portion of the outstanding amount of such investment should a lender be forced to enforce our remedies.

**The portfolio companies that the Funds invest in may incur debt that ranks equally with, or senior to, the Funds' investments in such companies.** By their terms, such instruments may provide that the holders are entitled to receive payment of interest or principal on or before the dates on which the Funds are entitled to receive payments in respect of the Funds' investments. These instruments may prohibit portfolio companies from paying interest on or repaying the Funds' investments in the event and during the continuance of a default under such instrument or upon the occurrence of other specified events. Also, in the event of insolvency, liquidation, dissolution, reorganization or bankruptcy of a portfolio company, holders of securities ranking senior to the Funds' investment in that portfolio company typically are entitled to receive payment in full before the Funds receive any distribution in respect of the Funds' investment. After repaying such holders, the portfolio company may not have any remaining assets to use for repaying its obligation to the Funds'.

**The portfolio companies that the Funds invest in may be highly leveraged, which may have adverse consequences to these companies and to the Funds as an investor.** These companies may be subject to restrictive financial and operating covenants and the leverage may impair these companies' ability to finance their future operations and capital needs. As a result, these companies' flexibility to respond to changing business and economic conditions and to take advantage of business opportunities may be limited.

**The growth of the Funds depends on external sources of capital, which may not be available on favorable terms or at all.** The Funds intend to grow by expanding their respective portfolios of investments, which the Funds may intend to finance primarily through newly issued equity or debt. The Funds may not be in a position to take advantage of attractive investment opportunities for growth if they are unable, due to global or regional economic uncertainty, changes in the state or federal regulatory environment relating to our business, the Funds' operating or financial performance or otherwise, to access capital markets on a timely basis and on favorable terms or at all.

**The Funds may incur significant debt, which may subject them to restrictive covenants and increased risk of loss and may reduce cash available for distributions to their**

**equity holders.** Subject to market conditions and availability, the Funds may incur significant debt through bank credit facilities (including term loans and revolving facilities), public and private debt issuances and derivative instruments, in addition to transaction or asset-specific funding arrangements. The percentage of leverage the Funds employ will vary depending on available capital, the ability to obtain and access financing arrangements with lenders, debt restrictions contained in those financing arrangements and the lenders' and rating agencies' estimate of the stability of the investment portfolio's cash flow.

**Any lending facilities will impose restrictive covenants.** Any lending facilities that the Funds enter would be expected to contain customary negative covenants and other financial and operating covenants, that among other things, may affect the ability to incur additional debt, make certain investments or acquisitions, reduce liquidity below certain levels, make distributions to the Funds' equity holders, redeem debt or equity securities and impact our flexibility to determine operating policies and investment strategies.

**Interest rate fluctuations could increase financing costs, which could lead to a significant decrease in results of operations, cash flows and the market value of investments.** Primary interest rate exposures will relate to the financing cost of debt.

**Any bank credit facilities that used in the future to finance operations may require the Funds to provide collateral or pay down debt.** We may utilize bank credit facilities (including term loans and revolving facilities) to finance the Funds' investments if they become available on acceptable terms. The Funds may not have funds available to repay debt at that time, which would likely result in defaults unless we are able to raise the funds from alternative sources, which we may not be able to achieve on favorable terms or at all.

**Changes in laws or regulations governing AFC or the Funds' operations, including laws and regulations governing cannabis and REITs, changes in the interpretation thereof or newly enacted laws or regulations and any failure by us to comply with these laws or regulations, could require changes to certain business practices, negatively impact operations, cash flow or financial condition, impose additional costs on us or otherwise adversely affect our business.** As manager to the Funds, we are subject to regulation by laws and regulations at the local, state and federal levels, including laws and regulations governing cannabis by state and federal governments and REITs. These laws and regulations, as well as their interpretation, may change from time to time, and new laws and regulations may be enacted. We cannot predict the nature and timing of future laws, regulations, interpretations or applications, or their potential effect. However, any change in these laws or regulations, changes in their interpretation, or newly enacted laws or regulations and any failure by us to comply with current or new laws or regulations or such changes thereto, could require changes to certain of our business practices, negatively impact the Funds' operations, cash flow or financial condition, impose additional costs on the Funds or otherwise adversely affect our or the Funds' business.

**We rely upon information technology in our operations, and security breaches and other disruptions in our systems could compromise our information and expose us and the Funds to liability, which would cause our business and reputation to suffer.** In the ordinary course of our business, we collect and store sensitive data, including intellectual property, proprietary business information and that of the portfolio companies and business

partners, including personally identifiable information of the portfolio companies and employees, on our networks. Despite our security measures, our information technology and infrastructure may be vulnerable to attacks by hackers or breached due to employee error, malfeasance or other disruptions. These incidents may be an intentional attack or an unintentional event and could involve gaining unauthorized access to our information systems or those of our portfolio companies for purposes of misappropriating assets, stealing confidential information, corrupting data or causing operational disruption. Any such breach could compromise our networks and the information stored there could be accessed, publicly disclosed, lost or stolen. The result of these incidents may include disrupted operations, misstated or unreliable financial data, liability for stolen assets or information, increased cybersecurity protection and insurance costs, litigation, damage to business relationships and regulatory fines and penalties. The costs related to cyber or other security threats or disruptions may not be fully insured or indemnified by other means.

**Ineffective internal controls could impact business and operating results.** Our internal control over financial reporting may not prevent or detect misstatements because of its inherent limitations, including the possibility of human error, the circumvention or overriding of controls or fraud. Even effective, internal controls can provide only reasonable assurance with respect to the preparation and fair presentation of financial statements.

**The current outbreak of COVID-19, or the future outbreak of any other highly infectious or contagious diseases, could materially and adversely impact or cause disruption to the portfolio companies and their operations, and in turn our ability to continue to execute our business plan and the strategies of the Funds.** The outbreak of COVID-19 has severely impacted global economic activity and caused significant volatility and negative pressure in financial markets. The global impact of the outbreak has been rapidly evolving, and many countries, including the United States, have reacted by instituting quarantines, mandating business and school closures and restricting travel. As a result, the COVID-19 pandemic is negatively impacting almost every industry directly or indirectly, including the regulated cannabis industry. COVID-19 (or a future pandemic) could have material and adverse effects on the portfolio companies and their operations, as well as on the performance, financial condition, results of operations and cash flows of the Funds.

**Maintaining AFC Gamma's qualification as a REIT.** A REIT is a corporate entity that invests in real estate and/or engages in real estate financing. A REIT reduces or eliminates corporate income taxes. REITs can be publicly or privately held. Public REITs may be listed on public stock exchanges. REITs are required to declare 90% of their taxable income as dividends, but they actually pay dividends out of funds from operations, so cash flow has to be strong or the REIT must dip into reserves, borrow to pay dividends, or distribute them in stock (which causes dilution). After 2012, the IRS stopped permitting stock dividends. Most REITs must refinance or erase large balloon debts periodically. The credit markets are no longer frozen, but banks are demanding, and getting, harsher terms to re-extend REIT debt. Some REITs may be forced to make secondary stock offerings to repay debt, which will lead to additional dilution of the stockholders. Fluctuations in the real estate market can affect the REIT's value and dividends.

**Warrants.** A warrant is a derivative (security that derives its price from one or more underlying assets) that confers the right, but not the obligation, to buy or sell a security – normally an



equity – at a certain price before expiration. The price at which the underlying security can be bought or sold is referred to as the exercise price or strike price. Warrants that confer the right to buy a security are known as call warrants; those that confer the right to sell are known as put warrants. Warrants are in many ways similar to options. The main difference between warrants and options is that warrants are issued and guaranteed by the issuing company, whereas options are traded on an exchange and are not issued by the company. Also, the lifetime of a warrant is often measured in years, while the lifetime of a typical option is measured in months. Warrants do not pay dividends or come with voting rights.

**Maintenance of AFC Gamma's exemption from registration under the Investment Company Act may impose significant limits on AFC Gamma's operations.** AFC Gamma intends to conduct its operations so that they will be exempt from the provisions of the Investment Company Act pursuant to an exemption contained in 3(c)(5) thereunder. The Investment Company Act provides certain protection to investors and imposes certain restrictions on registered investment companies (including, for example, limitations on the ability of registered investment companies to incur leverage), none of which will be applicable to AFC Gamma. AFC Gamma classifies its assets for purposes of the 3(c)(5)(C) exemption based upon no-action positions taken by the SEC staff and interpretive guidance provided by the SEC and its staff. These no-action positions are based on specific factual situations that may be substantially different from the factual situations AFC Gamma may face. No assurance can be given that the SEC or its staff will concur with AFC Gamma's classification of AFC Gamma's assets. In addition, the SEC or its staff may, in the future, issue further guidance that may require AFC Gamma to re-classify AFC Gamma's assets for purposes of the Investment Company Act. If AFC Gamma is required to reclassify its assets, they may no longer be in compliance with the exemption from the definition of an investment company provided by Section 3(c)(5)(C) of the Investment Company Act. A change in the value of any of AFC Gamma's assets could negatively affect their ability to maintain their exemption from regulation under the Investment Company Act. To maintain compliance with the applicable exemption under the Investment Company Act, AFC Gamma may be unable to sell assets AFC Gamma would otherwise want to sell and may need to sell assets AFC Gamma would otherwise wish to retain. In addition, AFC Gamma may have to acquire additional assets that AFC Gamma might not otherwise have acquired or may have to forego opportunities to acquire assets that AFC Gamma would otherwise want to acquire and would be important to AFC Gamma's investment strategy. A failure by AFC Gamma to maintain this exemption would require us to significantly restructure AFC Gamma's investment strategy. For example, because affiliate transactions are generally prohibited under the Investment Company Act, AFC Gamma would not be able to enter into transactions with any of AFC Gamma's affiliates. If AFC Gamma was required to register as an investment company it could have a material adverse effect on AFC Gamma's ability to operate the business and pay distributions. If AFC Gamma was required to register as an investment company but failed to do so, AFC Gamma would be prohibited from engaging in AFC Gamma's business, and criminal and civil actions could be brought against it. In addition, AFC Gamma's contracts would be unenforceable unless a court required enforcement, and a court could appoint a receiver to take control of such entity and liquidate its business.

**Maintenance of AFC Warehouse's (or other future private fund's) exclusion or an exemption from registration under the Investment Company Act may impose significant limits on operations.** AFC Warehouse and potential future private funds sponsored by us

intend to conduct its operations so that they will be exempt from the provisions of the Investment Company Act pursuant to an exemption contained in 3(c)(1) or 3(c)(7) thereunder. The Investment Company Act provides certain protection to investors and imposes certain restrictions on registered investment companies (including, for example, limitations on the ability of registered investment companies to incur leverage), none of which will be applicable to such fund. A failure to maintain its exemption would require a fund to significantly restructure its investment strategy. For example, because affiliate transactions are generally prohibited under the Investment Company Act, AFC Warehouse would not be able to enter into transactions with any of its affiliates if it is required to register as an investment company, which could have a material adverse effect on its ability to operate its business and pay distributions. If AFC Warehouse was required to register as an investment company but failed to do so, it would be prohibited from engaging in its business, and criminal and civil actions could be brought against it. In addition, AFC Warehouse's contracts would be unenforceable unless a court required enforcement, and a court could appoint a receiver to take control of AFC Warehouse and liquidate its business.

**Placement fees.** AFC, on behalf of the Funds (or funds formed in the future), may pay private placement or finders' fees, commissions and expenses (including interest thereon) to a placement agent, finder, fundraiser or other similar agent, professional or independent contractor, including but not limited to, with respect to the offering, subscription or sale of interests in the Funds (or future funds). As of March 31, 2022, AFC is not party to any agreement to pay such a fee.

**A portion of the loan portfolio managed by AFC may be comprised of participation and syndicated transaction interests, which could have an adverse effect on our ability to monitor the lending relationships and lead to an increased risk of loss.** Although we historically have underwritten loan participations and syndicated loans consistent with our general underwriting criteria, loans underwritten by a third party may have a higher risk of loss than loans we originate and administer. With respect to loan participations in which we are not the lead lender and in syndicated transactions in which other lenders serve as the agent bank, we rely in part on the lead lender or the agent, as the case may be, to monitor the performance of the loan. Moreover, our decision regarding the classification of such a loan and loan loss provisions associated with such a loan is made in part based upon information provided by the lead lender or agent bank. A lead lender or agent bank also may not monitor such a loan in the same manner as we would for loans that we originate and administer. In addition, information with respect to the collateral securing these loans may be based upon information provided by the lead lender or agent bank and we may not have transparency with respect to the collateral at the time we commit to the loans. If our underwriting or monitoring of these loans is not sufficient, our nonperforming loans may increase and our earnings may decrease.

## **Risks Related to the Cannabis Industry and Related Regulations**

**Cannabis remains illegal under federal law, and therefore, strict enforcement of federal laws regarding cannabis would likely result in our inability to execute our business plan.** Cannabis, other than hemp, is a Schedule I controlled substance under the Controlled Substances Act ("CSA"). Even in states or territories that have legalized cannabis to some extent, the cultivation, possession and sale of cannabis all remain violations of federal law that

are punishable by imprisonment, substantial fines and forfeiture. The Funds' investments do not prohibit portfolio companies from engaging in cannabis business for adult-use that is permissible under the state and local laws. Consequently, certain portfolio companies currently (and may in the future) cultivate adult-use cannabis with the proceeds of investments, if permitted by such state and local laws now or in the future. That could subject the Funds' borrowers to greater and/or different federal legal and other risks as compared to businesses where cannabis is cultivated exclusively for medical use, which could materially adversely affect the business of the Funds.

**Our ability to grow our business depends upon state laws pertaining to the cannabis industry.** New laws that are adverse to the portfolio companies may be enacted, and current favorable state or national laws or enforcement guidelines relating to cultivation, production and distribution of cannabis may be modified or eliminated in the future, which would impede our ability to grow and could materially adversely affect the business of the Funds.

**We and the portfolio companies of the Funds may have difficulty accessing the service of banks and other financial institutions, and may be limited in the ability to provide debt to participants in the cannabis industry, which could materially and adversely affect business, financial condition, liquidity and results of operations of the Funds and our business.** Certain financial transactions involving proceeds from the trafficking of cannabis can form a basis for prosecution under the federal money laundering statutes, unlicensed money transmitter statute and the Bank Secrecy Act. Previous guidance issued by the Financial Crimes Enforcement Network, a division of the U.S. Department of the Treasury, clarified how financial institutions can provide services to cannabis-related businesses consistent with their obligations under the BSA. While the federal government has not initiated financial crimes prosecutions against state-law compliant cannabis companies or their vendors, the government theoretically could, at least against companies in the adult-use markets. The continued uncertainty surrounding financial transactions related to cannabis activities may result in financial institutions discontinuing services to the cannabis industry or limit our ability to provide capital investments to the cannabis industry.

**We may have difficulty accessing bankruptcy courts.** Because cannabis is illegal under federal law, federal bankruptcy protection is currently not available to parties who engage in the cannabis industry or cannabis-related businesses. Recent bankruptcy rulings have denied bankruptcies for dispensaries upon the justification that businesses cannot violate federal law and then claim the benefits of federal bankruptcy for the same activity and upon the justification that courts cannot ask a bankruptcy trustee to take possession of and distribute cannabis assets as such action would violate the CSA. Therefore, we may not be able to seek the protection of the bankruptcy courts, and this could materially affect our business, the Funds or the ability to obtain credit.

**Certain assets of the Funds' portfolio companies may not be used as collateral or transferred to the Funds due to applicable state laws and regulations governing the cannabis industry, and such restrictions could negatively impact profitability.** Each state that has legalized cannabis in some form has adopted its own set of laws and regulations that differ from one another. In particular, laws and regulations differ among states regarding the collateralization or transferability of cannabis-related assets, such as cannabis licenses, cannabis inventory and ownership interests in licensed cannabis

companies. Prohibitions or restrictions on the Funds to acquire certain cannabis-related assets could have a material adverse effect on the business, financial condition, liquidity and results of operations of the Funds and AFC.

**Liability relating to environmental matters may impact the value of properties that Funds may acquire upon foreclosure of the properties underlying debt investments.** To the extent the Funds foreclose on properties with respect to which the Funds have extended debt investments in the form of mortgage loans, the Funds may be subject to environmental liabilities arising from such foreclosed properties. In particular, cannabis cultivation and manufacturing facilities may present environmental concerns of which we are not currently aware.

**The Funds' portfolio companies rely upon state and local licenses to operate cannabis businesses.** The Funds' portfolio companies' ability to cultivate, process, distribute or sell medical and/or adult-use cannabis depends upon their ability to obtain and maintain a license in each jurisdiction in which they operate. The licenses are subject to ongoing compliance and reporting requirements. Failure to comply with the requirements of the licenses or any failure to maintain the licenses would have a material adverse impact on the business, financial condition and operating results of the portfolio companies and us.

Prospective Investors are advised to review the Funds' offering documents for a more extensive description of the applicable risks associated with investing in the Funds.

## **Item 9 Disciplinary Information**

We are required to disclose the facts of any legal or disciplinary events that are material to a client's evaluation of our advisory business or the integrity of our management.

In connection with their prior experience, certain of AFC's key personnel and its affiliates and the Funds' officers and directors have been named defendants in litigation or other legal proceedings involving their managed entities. For example, in 2015, Fifth Street Finance Corporation ("FSC") and Fifth Street Asset Management ("Fifth Street") and certain officers and directors of FSC and Fifth Street, including Mr. Tannenbaum and Alexander Frank (an independent director of AFC Gamma), were named as defendants in actions alleging that the defendants breached their fiduciary duties by causing FSC to enter into an unfair investment advisory agreement with Fifth Street and engaging in a scheme designed to artificially inflate FSC's assets. In addition, in 2018, Fifth Street Management, LLC ("FSM"), during a time in which Mr. Tannenbaum and Mr. Frank were affiliates, was subject to a cease and desist order from the SEC (the "Order") relating to allegations of improper allocation of expenses to clients and failures relating to its review of a client's valuation model. The Order was limited to FSM and no individual or FSM-affiliated entity was subject to the Order at any time. Additionally, each of these matters has been resolved with no admission of wrongdoing by any party and the dismissals of all claims against each of the named individuals but we cannot provide assurance that these prior legal proceedings or future legal proceedings involving the Funds, AFC, AFC's key personnel or investment professionals or its affiliates or the Funds' officers or directors will not cause reputational harm to the Funds or AFC.

## Item 10 Other Financial Industry Activities and Affiliations

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

AFC is affiliated with AFC Advisor, LLC ("AFC Advisor"), a newly formed investment adviser that intends to enter into an investment advisory agreement with a business development company. Certain employees of AFC also perform duties and/or have some involvement with AFC Advisor. AFC recognizes that this affiliation may create certain conflicts of interest, specifically with respect to time spent by senior management on activities that do not pertain to AFC's business.

### **Arrangements with Affiliated Entities**

Our advisory services are separate and distinct from the compensation paid to our affiliates for their services.

Referral arrangements with an affiliated entity present a conflict of interest for us because we may have a direct or indirect financial incentive to recommend an affiliated firm's services. While we believe that compensation charged by an affiliated firm is competitive, such compensation may be higher than fees charged by other firms providing the same or similar services. You are under no obligation to use the services of any firm we recommend, whether affiliated or otherwise, and may obtain comparable services and/or lower fees through other firms.

**Outside Activities of Personnel and their Related Parties.** Certain personnel of AFC or the Funds will, in certain circumstances, be subject to a variety of conflicts of interest relating to their responsibilities to clients, their respective portfolio companies, and their outside personal or business activities, including as members of investment or advisory committees or boards of directors of or advisors to investment funds, corporations, foundations or other organizations. Such positions may create a conflict if such other entities have interests that are adverse to those of the Funds, including if such other entities compete with the Funds for investment opportunities or other resources. This involvement may create conflicts of interest in making investments on behalf of the Funds, prospective funds, accounts and other entities. Although AFC will generally seek to minimize the impact of any such conflicts, there can be no assurance they will be resolved favorably for the Funds. Also, AFC personnel are generally permitted to invest in alternative investment funds, private equity funds, real estate funds, hedge funds and other investment vehicles, as well as engage in other personal trading activities relating to companies, assets, securities or instruments (subject to AFC's code of ethics), some of which will involve conflicts of interests. There can be no assurance that conflicts of interest arising out of such activities will be resolved in favor of the Funds. Additionally, certain personnel and other professionals of AFC may have business, personal, financial or other relationships with companies in such industries and sectors in which the Funds invest or other industries, which gives rise to potential or actual conflicts of interest. To the extent AFC determines appropriate, conflict mitigation strategies may be put in place with respect to a particular circumstance, such as internal information barriers or recusal, disclosure or other steps determined appropriate by AFC.

***There are various conflicts of interest in AFC's relationship with the Funds.***

AFC is subject to conflicts of interest arising out of our relationship with the Funds and their respective affiliates. Executive officers of the Funds are also employees of AFC or one or more of its affiliates. There is no guarantee that the policies and procedures adopted by AFC and its affiliates, the terms and conditions of the Management Agreements or the policies and procedures adopted by the Funds and their affiliates, will enable AFC to identify, adequately address or mitigate these conflicts of interest.

Some examples of conflicts of interest that have arisen or may arise by virtue of our relationship with the Funds include:

*AFC's advisory activities.* While AFC and its affiliates have agreed that for so long as AFC is managing the Funds, neither it nor any of its affiliates will sponsor or manage any other mortgage REIT that invests primarily in loans of the same kind as AFC Gamma, AFC and its affiliates may otherwise manage other investment vehicles that have investment objectives that compete or overlap with, and may from time to time invest in, the Funds' (including AFC Gamma's) target asset classes. This may apply to existing investment vehicles or investment vehicles that may be organized in the future. Consequently, the Funds, on the one hand, and these other investment vehicles, on the other hand, may from time to time pursue the same or similar loan opportunities. We may also give advice to other investment vehicles that may differ from the advice given to the Funds, even though their investment objectives may be the same or similar to the Funds'.

*Time and Attention.* Certain of the officers and directors of AFC also serve or may serve as officers, directors or partners of certain affiliates, including the Funds, as well as investment vehicles sponsored by such affiliates, including investment vehicles or managed accounts not yet established, whether managed or sponsored by affiliates or AFC. Accordingly, the ability of AFC and its officers and employees to engage in other business activities may reduce the time AFC spends managing the business of the Funds. These activities could be viewed as creating a conflict of interest insofar as the time and effort of the professional staff of AFC and its officers and employees will not be devoted exclusively to the business of the Funds; instead, it will be allocated between the Funds' business and the management of these other investment vehicles or engagement in other business activities.

*Allocation of loans and investment opportunities.* AFC and its affiliates endeavor to allocate loan opportunities and investment opportunities in a fair and equitable manner, subject to their internal policies. The internal policies of AFC and its affiliates are intended to enable the Funds to share equitably with any other investment vehicles that are managed by affiliates of AFC. In general, loan and investment opportunities are allocated taking into consideration various factors, including, among others, the relevant investment vehicles' available capital, their investment objectives or strategies, their risk profiles and their existing or prior positions in a borrower, particular loan or portfolio company, their potential conflicts of interest, the nature of the opportunity and market conditions, as well as the rotation of loan or investment opportunities. Nevertheless, it is possible that the Funds may not be given the opportunity to participate in certain loans or other investment opportunities made by investment vehicles managed by affiliates of AFC. In addition, there may be conflicts in the allocation of loan and

investment opportunities among the Funds and the other investment vehicles managed by affiliates of AFC. In addition, to the extent a loan or investment opportunity does not fall within the types of loans or investment opportunities that are required to be provided to a specific entity (based upon AFC's internal policies), affiliates of AFC may participate in any and all of such loans or investment opportunities for their personal accounts or participate alongside the Funds (or vehicles formed in the future) in any such loans or investments. The Funds (or vehicles formed by AFC in the future) and the underlying investors will not be entitled to share in any benefit or profits associated with participation by AFC or its affiliates in such loans or investments for their personal accounts.

*Co-investments.* Other investment vehicles managed by affiliates of AFC, or affiliates of AFC for their own accounts, may co-invest with the Funds or hold positions in a loan or a portfolio company where the Funds have also invested, including by means of splitting commitments, participating in loans or investments or other means of syndicating loans. This may raise potential conflicts of interest between the Funds and such other investment vehicles or affiliates. To the extent such investment vehicles or affiliates (for their own accounts) seek to acquire the same target assets as the Funds, subject to the internal policies of AFC and its affiliates, the scope of opportunities otherwise available to the Funds may be adversely affected and/or reduced. In such circumstances, the size of the investment opportunity in loans or portfolio companies otherwise available to the Funds may be less than it would otherwise have been, and the Funds may participate in such opportunities on different and potentially less favorable economic terms than such other parties if AFC deems such participation as being otherwise in the Funds' best interests. Furthermore, when such other investment vehicles or affiliates have interests or requirements that do not align with the Funds' interests, including differing liquidity needs or desired investment horizons, conflicts may arise in the manner in which any voting or control rights are exercised with respect to the relevant borrower or investor. If the Funds participate in a co-investment with an investment vehicle managed by an affiliate of AFC or another affiliate of AFC and such vehicle fails to fund a future advance on a loan or investment, the Funds may be required to, or may elect to, cover such advance and invest additional funds. In addition, if the Funds and such other investment vehicles invest in different classes or types of debt, equity or other investments relating to the same borrower or portfolio company, actions may be taken by such other investment vehicles or affiliates that are adverse to the Funds' interests, including, but not limited to, during a work-out, restructuring or insolvency proceeding or similar matter occurring with respect to such loan. AFC is beneficially owned by Mr. Tannenbaum, Mrs. Tannenbaum, other members of the Tannenbaum family and Mr. Kalikow. Mr. Tannenbaum, Mrs. Tannenbaum and Mr. Kalikow beneficially own over 70%, 10% and 5% of the outstanding equity of AFC, respectively. Mr. Tannenbaum has also invested personally in some of the Funds' portfolio companies and some of the same assets that the Funds have invested in, which assets are managed by AFC. AFC, AFC Advisor, AFC Gamma and AFC Warehouse are parties to an application for exemptive relief filed with the SEC.

*Loans in which other investment vehicles managed by affiliates of AFC hold different loans.* The Funds may invest in, acquire, sell assets to or provide financing to investment vehicles managed by affiliates of AFC and their borrowers or purchase assets from, sell assets to, or arrange financing from any such investment vehicles and their borrowers. Any such transactions will require approval by a majority of the Funds' independent directors (or as otherwise required by the entity's operative documents). There can be no assurance that any

procedural protections will be sufficient to ensure that these transactions will be made on terms that will be at least as favorable to the Funds as those that would have been obtained in an arm's-length transaction.

**Revolving Credit Facility.** Certain affiliates of AFC act as agent to and/or lenders under AFC Gamma's Revolving Credit Facility, as amended (the "Revolving Credit Facility"), which provides revolving loan commitments of up to \$75.0 million and bears interest at a fixed rate of 4.75% per annum, payable in cash in arrears. The Revolving Credit Facility contains an unused fee of 0.25% per annum on the undrawn amount of the revolving loan commitments and a one-time commitment fee of 0.25% of the total revolving loan commitments. As of March 31, 2022, AFC Gamma did not have any borrowings outstanding under the Revolving Credit Facility. The obligations under the Revolving Credit Agreement and the other loan documents delivered in connection therewith are secured by a first priority security interest in substantially all of its existing and future assets. The maturity date of the Revolving Credit Facility is the earlier of (i) September 30, 2022 and (ii) the closing date of a qualifying refinancing credit facility. The Revolving Credit Facility is intended to serve as a backstop until we are able to secure outside debt financing. It is possible that the interests of AFC and its applicable affiliates could be in conflict with AFC Gamma's and the interests of its stockholders. Any such financing agreements will require approval by a majority of AFC Gamma's independent directors. There can be no assurance that any procedural protections will be sufficient to ensure that these agreements will be made on terms that will be at least as favorable to AFC Gamma as those that would have been obtained in an arm's-length transaction.

**Side Letters.** AFC and AFC Warehouse may enter into side letters or similar arrangements, which may have preferential terms for certain investors. AFC and AFC Warehouse may enter into these side letters with investors at various times and the terms of such side letters will not be disclosed to all Investors.

**Diverse Investor Group.** The investors in the Funds may have conflicting investment, tax, regulatory and other interests with respect to their investment in the Funds. The conflicting interests of individual investors may relate to or arise from, among other things, the nature of investments made by, the structuring or the acquisition of investments and the timing of disposition of investments. As a consequence, conflicts of interest may arise in connection with decisions made by AFC, including with respect to the nature or structuring of investments, that may be more beneficial for one investor or one set of investors than for another investor or another set of investors, particularly with respect to investors' individual tax situations. In selecting and structuring investments appropriate for the Funds, AFC will consider the investment and tax objectives of investors of the Funds as a whole, not the investment, tax or other objectives of any investor individually.

**Personnel.** Certain personnel of AFC, the Funds and/or their respective affiliates, including the directors and officers thereof, may devote only a portion of, or in some cases none of, their time to the provision of advisory and management services to the Funds (or to any fund) and such persons may have significant obligations unrelated to the Funds or the provision of advisory and management services. Such personnel will provide the time necessary for the proper performance of their duties to the Funds, even though they are involved in other activities (including those related to other investment vehicles, including but not limited to



those independent of the Funds).

A more detailed description of applicable conflicts of interest related to AFC and the Funds is set forth in the Funds offering documents and SEC filings, if applicable.

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

### **Description of Our Code of Ethics**

AFC has adopted a code of ethics pursuant to Rule 204A-1 under the Advisers Act that establishes procedures governing the conduct and securities transactions of each of AFC's officers, employees and supervised persons. The code of ethics includes guidelines for professional standards of conduct for persons associated with AFCAFC. AFC's goal is to protect the interests of its clients at all times and to demonstrate AFC's commitment to its fiduciary duties of honesty, good faith and fair dealing with its clients. All persons associated with AFC are expected to adhere strictly to these guidelines. Persons associated with AFC are also required to report any violations of our code of ethics. Additionally, we maintain and enforce written policies reasonably designed to prevent the misuse or dissemination of material, non-public information about our clients or their account holdings by persons associated with AFC.

Clients or prospective clients may obtain a copy of our code of ethics by contacting us at the telephone number on the cover page of this brochure.

## **Item 12 Brokerage Practices**

AFC has discretionary authority with respect to the Funds it manages, including the securities to be acquired and sold by the Funds (if any), the loans made to or acquired by the Funds (if any) the timing and amount of any such transactions, the broker or dealer to be used (if any) and any related commissions or fees to be paid.

Transactions are primarily privately negotiated transactions in which the services of a broker dealer are not retained. As such, we do not have any soft-dollar arrangements. However, in instances in which public securities are bought or sold, AFC may retain the services of a registered broker-dealer.

## **Item 13 Review of Accounts**

AFC is required to prepare and deliver written reports and other data required by the Funds' Governing Documents, in sufficient time to the parties entitled thereto.

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

We do not receive any compensation from any third party in connection with providing investment advice to you nor do we compensate any individual or firm for client referrals.

## **Item 15 Custody**

AFC does not maintain physical possession of client cash and/or securities. However, AFC does have access to cash and securities in the Funds, along with the authority to perform various acts that result in custody, as defined under Rule 206(4)-2 of the Advisers Act.

Consistent with the requirements under the Advisers Act, the Funds' assets are held in accounts maintained with custodians that qualify as "Qualified Custodians." Qualified Custodians are banks, registered broker-dealers, registered futures commission merchants and foreign financial institutions that hold customer assets in separate customer accounts.

In accordance with guidance from the SEC, with respect to certain investments in privately offered securities, a specified custodian may hold only documentation relating to or referencing such investments but not the actual investment itself, and/or investments of a Fund may not be registered in the name of the custodian. Consequently, the custodian may not have control over the disposition of such investments, or the ability to direct delivery of sale proceeds or other distributions from such investments to the custodian. Further, for such investments, the custodian may not have the ability to validate or reconcile ownership of the investment with any third party, including the issuer.

Investors in the Funds receive account statements from the Fund Administrator. In addition, the Funds are audited annually in accordance with GAAP by an independent public accounting firm that is registered with, and subject to regular inspection by the Public Company Accounting Oversight Board (PCAOB). Copies of the audited financial statements are distributed to, or made available through the SEC's EDGAR system, all investors within 120 days of the Funds' fiscal year end. In the case of AFC Gamma, audited financial statements are also filed with the SEC.

## **Item 16 Investment Discretion**

AFC maintains discretion of the Funds and has the authority to determine which investments and the size of the investments to be bought or sold for the Funds, subject to the investment guidelines outlined in the Governing Documents.

## **Item 17 Voting Client Securities**

Since we do not generally transact in publicly traded securities, we do not anticipate the receipt of proxy materials for investments held by our Funds. To the extent we do, AFC shall vote all such proxies in the best interests of its clients.

## **Item 18 Financial Information**

We have not filed a bankruptcy petition at any time in the past ten years.