

**Part 2A of Form ADV:
Firm Brochure**



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This brochure provides information about the qualifications and business practices of Upper90 Capital Management, LP and its affiliates (“Upper90”, “we” or “us”). If you have any questions about the contents of this brochure, please contact us at (347) 463-7055 or investor.relations@upper90.io. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority. Upper90 Capital Management, LP is a registered investment adviser.

Registration with the SEC or any state securities authority does not imply a certain level of skill or training. Additional information about Upper90 is also available on the SEC’s website at www.adviserinfo.sec.gov. You can search this site by a unique identifying number, known as a CRD number. Our firm's CRD number is 304179.

Item 2: 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. Since the August 25, 2021 other-than-annual amendment filing, this brochure has been amended as follows:

Item 4: This item has been update to reflect Jason Finger as a principal owner of Upper90 Capital Management, LP alongside William Libby.

Item 10: This item has also been updated to reflect capital markets activities provided for other companies for compensation as a business activity of affiliates of Upper90 Capital Management, LP.

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Item 4: Advisory Business

Upper90 Capital Management, LP (F/K/A Upper90 Capital Management, LLC) (“Upper90”) is a Delaware limited partnership founded in May 2018. Upper90 provides investment management services to privately offered partnerships and limited liability companies (generally referred to throughout this document as a “Fund”, or collectively, the “Funds”). Upper90 Fund, LP (“Fund I”), Upper90 Fund II, LP (“Fund II”, collectively with Fund I, the “Main Funds”) are private investment funds that primarily make alternative credit investments in disruptive businesses leveraging technology and data. Upper90 eCommerce Opportunities Fund, LP (the “eCommerce Fund”, collectively with the Main Funds, the “Flagship Funds”) is a private investment fund that makes equity investments in early-stage ecommerce aggregators.

The investment objective of the Main Funds is to provide capital to emerging businesses that have predictable revenue or substantial collateral where debt can be provided as an attractive alternative to equity for expansion. These companies have capital needs not best met by venture capital and are not currently a core focus for traditional bank lenders, thus creating the opportunity set for Upper90. The Main Funds strive to produce compelling risk-adjusted absolute returns uncorrelated with traditional credit and equity markets. The Main Funds target a return to investors of high current yield with regular distributions of income and equity upside participation, both structured with an eye towards downside protections.

The primary focus of the Flagship Funds is on eCommerce, consumer technology and financial technology sectors in which Upper90 has a competitive sourcing and underwriting advantage. Target companies are those capable of supporting a high current yield that have independently raised equity from leading financial sponsors. The Flagship Funds seek to create a well-diversified portfolio but with variability in position-sizing based on company-specific anticipated risk-adjusted return capabilities as well as overall portfolio construction considerations. Given their focus on debt investments, the Main Funds limit exposure to pre-revenue companies or investments for which there is a potentially long holding period without current yield being generated by underlying asset performance. The duration of a majority of the Main Funds and the co-investments vehicles (the “Co-Investment Vehicles”) holding debt securities is expected to be between 2 years and 5 years and products will include, but will not be limited to, corporate debt, including asset-based and cashflow-based loans, secured, senior, subordinated and mezzanine debt, operating joint ventures, preferred equity, derivatives and equity-linked products and other financial instruments and investments. The duration of the eCommerce Fund and the Co-Investment Vehicles that hold equity or equity-like securities is expected to be between 7 and 10 years and products will include, but will not be limited to, common equity, preferred equity, warrants, convertible notes, options, simple agreements for future equity, derivatives and equity-linked products and other financial instruments and investments.

While the Main Funds focus primarily on senior-secured credit investments, they have the flexibility to invest lesser amounts in equity instruments that enhance returns for their respective limited partners where it has access to certain off-market opportunities at discounted valuations because of structural, sizing, or other considerations. Additionally, this flexibility may help to align interests between the Main Funds and borrowers, create more advantageous terms for the credit facility and provide potential for additional upside performance. This equity or equity-like enhancement may also take the form of freely delivered warrants, profit participations, revenue sharing arrangements, or an outright purchase of preferred or common equity as well as convertible notes.

In addition to the Flagship Funds, Upper90 has formed twenty nine (29) additional Co-Investment Vehicles to take advantage of excess capacity in deals funded by the Main Funds, directly providing unique co-investment opportunities to limited partners of the Main Funds. Upper90 intends to continue offering similar opportunities, should they be available, for limited partners in the Main Funds.

As of December 31, 2021, Upper90 had \$1,015,202,576 billion in regulatory assets under management on a discretionary basis; as of this date, Upper90 did not manage assets on a non-discretionary basis.

Upper90 Capital Management LP's principal owners are William Libby and Jason Finger. Upper90 manages each Fund within the guidelines and restrictions set forth in the Funds' governing documents and within respective regulatory guidelines or limitations. Investment advice is provided directly to the Funds, and it is not tailored for the individual needs of investors.

Item 5: Fees and Compensation

Upper90 serves as the investment manager of each Fund. As compensation for our advisory services, Upper90 receives from each Fund a management fee based on assets under management or capital commitments and a performance-based carried interest (which we refer to as carried interest). The management fees, depending on the Fund, range from 0.0% to 2.0% per annum. Fees are calculated and collected quarterly, either in arrears or in advance as set forth in the applicable offering documents. Management fees are based on either (i) the value of each limited partner's capital account (calculated by the Funds' third-party administrator (each, an "administrator") or (ii) the value of each limited partner's or non-managing member's, as applicable, capital commitment, in each case as set forth in such Fund's governing documents. If a Fund is managed by Upper90 for less than a full fiscal quarter, a *pro rata* portion of the management fee will be paid out of any capital contributions made to the Fund based on the actual number of days remaining in such partial fiscal quarter. Upper90 has the right to waive or reduce our management fee with respect to any investor in our Funds.

The General Partner (as defined below) of each Fund shall be paid carried interest equal to 0% to 25%, as set forth in the applicable offer documents, of the net profits in excess of the applicable preferred return as distributions are made to the limited partners or non-managing members, as applicable. Carried interest for a Fund may be subject to a preferred return for limited partners on realized investments and net investment income distributions as set forth in an applicable offering document. These carried interests are allocated to the capital account of each partner during such fiscal year and will be reallocated to the capital account of the Fund's General Partner as set forth in Item 10 below. Each General Partner has the right, in its sole discretion, to periodically waive or reduce the carried interest for certain limited partners without exercising the right for other limited partners. Please refer to each Fund's private placement memorandum for additional detail regarding management fees and carried interest.

Each Fund will pay all fees and expenses incurred by or on behalf of such Fund in connection with the offering of Interests and the organization of the Fund and the General Partner, including, without limitation, legal, accounting, tax, marketing and other organizational and offering expenses ("Organizational Expenses") incurred in connection with establishing such Fund or offering its interests to prospective investors. A Fund's Management fees will be reduced by 100% of certain fee income and other income received by Upper90 or its affiliates, as set forth in the applicable offering documents. Some Funds have a limit (the "Organizational Expense Cap") on the total amount of Organizational Expenses incurred and paid by the Fund; Upper90 or the General Partner or their respective affiliates will bear any Organizational Expenses in excess of the applicable Organizational Expenses Cap. Any applicable cap will be disclosed in such Fund's governing documents.

The Funds, other than as set forth in the immediately preceding paragraph, bear their own operating and other expenses (for each Fund, "Fund Expenses"), including, but not limited to, (i) investment-related expenses, whether relating to investments that are consummated or unconsummated (e.g., brokerage, prime brokerage and futures commission merchant fees, commissions and expenses; due diligence costs; investment banking fees; sourcing or finder's fees (which may include a fixed fee retainer, or a fee with a management fee component and/or a performance fee component); custodial fees; bank service fees; interest expense; consulting, appraisal and other professional fees (including investment bankers', attorneys' and accountants' fees); investment-related travel and lodging expenses (subject to the Upper90's internal travel policies and procedures) and other expenses related to the purchase, monitoring, sale, settlement, custody, transmittal or valuation of Portfolio Investments (ii) research-related expenses (including, without limitation, news and quotation equipment and services, market data services, third-party research consultant services, data providers and analytic services); (iii) investment-related computer

hardware and software expenses (including order management and other systems) and data licensing expenses (e.g., Bloomberg and pricing feeds); (iv) expenses related to portfolio and risk management products and services (including, without limitation, expenses related to portfolio and risk management software); (v) the costs of organizing and maintaining, and expenses incurred by and relating to, any subsidiaries of any Fund, special purpose vehicles and/or alternative investment vehicles (“AIVs”); and (vi) operational expenses; legal and compliance expenses; professional fees (including, without limitation, expenses of consultants, valuation firms, attorneys, accountants, public relations firms and other experts); expenses related to regulatory and compliance filings, licenses, registrations and fees associated with a Fund and its investment activities (including, without limitation, expenses related to consulting services, software and systems in connection with such filings), e.g., Form PF and similar filings; the costs and expenses incurred in connection with any indebtedness of the Fund and its subsidiaries, special purpose vehicles and/or AIVs (including, without limitation, the costs of establishing such indebtedness and loan administration costs); accounting, audit and tax compliance and preparation expenses (including, without limitation, accounting-, audit- or tax-related computer hardware and software); expenses relating to the offer and sale of Interests; expenses incurred in connection with negotiating and complying with provisions of any Side Letter (as defined below); management fees; fees to the administrator and auditor; costs of preparing and distributing reports and notices; cybersecurity insurance and liability insurance and related insurance for the benefit of indemnified parties (including, the Fund’s *pro rata* portion of any applicable insurance premiums); taxes; expenses of meetings of the limited partner advisory committees of the Main Funds; and extraordinary expenses (including, without limitation, indemnification expenses; fees and expenses incurred in connection with any tax audit by any taxing authority and any related administrative settlement and judicial review; and fees and expenses incurred in connection with the reorganization, dissolution, winding-up or termination of a Fund) and other similar expenses related to a Fund. Generally, Fund Expenses, other than the management fee and any expenses that such Fund’s General Partner determines should be allocated to a particular partner or partners will be allocated among the partners *pro rata* based on their respective capital commitments, and any expenses associated with a particular portfolio investment will be allocated to the limited partners participating in such portfolio investment based on their respective participation in such portfolio investment.

Any expenses common to one Fund and any other Fund or Funds generally will be borne by such entities in Upper90’s Expense Allocation Policy or otherwise in an equitable manner as reasonably determined by Upper90. Although Upper90 will attempt to allocate such expenses on a basis that it considers equitable, it may not be possible to precisely determine what portion of such shared expenses are attributable to each Fund and there can be no assurance that such expenses will in all cases be allocated proportionately. Accordingly, some portion of services paid for by a Fund may be used in some portion for the benefit of other Funds.

To the extent assets are invested in a Fund that invests in another Fund managed by Upper90, these assets generally will not be included as a limited partner’s capital account or committed capital, as applicable, for purposes of calculating or charging the management fee in such other Fund.

Item 6: Performance-Based Fees and Side-By-Side Management

As discussed in Item 5, General Partners are entitled to receive performance-based compensation (i.e., carried interest) from our Funds. For each Fund with carried interest, such Fund’s General Partner’s right to the carried interest may create an incentive for Upper90 to make investments that are riskier, more speculative or more highly levered than would be the case in the absence of performance-based compensation. It may also create an incentive for Upper90 to engage in riskier, more speculative or more highly levered investments to the Funds with higher performance allocations or fees.

Item 7: Types of Clients

Upper90's Funds are typically organized as either Delaware limited partnerships or Delaware limited liability companies. A Fund may invest in multiple portfolio investments or may be formed for the sole purpose of investing in a single portfolio company through a Co-Investment Vehicle. In each instance, a Co-Investment Vehicle is formed for the limited purpose of enabling a single investment in a portfolio company to be held by the Co-Investment Vehicle for a finite period of time. The offering documents of a Co-Investment Vehicle may range in detail such as denoting the actual investment name, or a detailed description of the investment and any relevant disclosures. In the future, we may also manage an exempted feeder fund whose shares would be offered to qualified non-U.S. investors and tax-exempt U.S. investors. Investment in any Fund is designed only for sophisticated persons who are accredited and qualified investors (and in the case of Fund II, qualified purchasers), and those who are able to bear the total loss of their capital contribution to the Fund.

A Fund's limited partners or non-managing members, as applicable, include, but are not limited to, individuals, trusts, investment advisers, pension and profit-sharing plans, charitable organizations and business entities. In order to be eligible to invest in our Funds (other than Fund II, the eCommerce Fund and certain SPVs) an investor must be an "accredited investor" within the meaning of Regulation D under the Securities Act of 1933 and a "qualified client" within the meaning of the Advisers Act. In order to be eligible to invest in Fund II, the eCommerce Fund and certain SPVs, an investor must be an "accredited investor" within the meaning of Regulation D under the Securities Act of 1933, a "qualified client" within the meaning of the Advisers Act and "qualified purchaser" within the meaning of the Investment Company Act of 1940 (the "Company Act"). Each investor in Upper90's Funds is required to represent that their investment in such Fund is being acquired for their own account, for investment, and not for resale or distribution. Investments in Upper90's Funds are suitable only for sophisticated investors for whom an investment in our Fund does not constitute a complete investment program and who fully understand, are willing to assume, and who have the financial resources necessary to withstand the risks involved in our Funds' specialized investment program and to bear the potential loss of their entire investment in those investments. The minimum initial capital commitment in Upper90's Funds ranges from \$10,000 to \$500,000, though individual commitments of lesser amounts may be accepted at the discretion of the applicable General Partner.

Upper90 or a Fund's General Partner may, on behalf of the Funds, enter into separate agreements, commonly referred to as "side letters" (each, a "Side Letter"), or other similar agreements with a particular investor in connection with its admission to the Fund without the approval of any other investor. Such occurrence would have the effect of establishing rights under, or supplementing the terms of, the applicable Fund's operating agreement with respect to such investor in a manner more favorable than those applicable to other investors. Such rights or terms in any such Side Letter or other similar agreement may include, without limitation: (i) reporting obligations, (ii) lower fees, (iii) waiver of certain confidentiality obligations, (iv) "most favored nation" provisions, (v) priority access to one or more co-investment opportunities or (vi) rights or terms requested or necessary in light of particular investment, legal, regulatory or public policy characteristics of an investor.

The General Partners of the Main Funds, the eCommerce Funds and certain SPVs have entered into Side Letters with respect to qualifying investors in accordance with the operating agreement of such Fund or SPV. For the Main Funds, these investors receive a lower carried interest rate (or a waiver of any carried interest), a lower management fee rate (or a waiver of any management fees) and/or priority access to the co-investment opportunities of Fund I and Fund II, as applicable. For the eCommerce Fund and certain SPVs, these investors receive a lower carried interest fee rate (or a waiver of any carried interest) and/or a lower management fee rate (or a waiver of any management fees). These arrangements for the Main Funds, the eCommerce Fund and certain SPVs are also disclosed in the private placement memorandum and the governing documents of such Fund or SPV; for additional details on these arrangements please consult the applicable governing documents for the Fund or contact investor.relations@upper90.io.

Item 8: Methods of Analysis, Investment Strategies and Risk of Loss

This section is intended to explain the essential elements of strategies employed by Upper90 and the potential for material risks involved with investing in such strategies. Upper90 employs fundamental industry analysis, quantitative modeling, valuation work including forecast estimates and fundamental business and industry risk analysis.

The Funds strive to generate outsized risk-adjusted returns by extending credit or equity financing, as applicable, to innovative high growth businesses. The core focus of the Main Funds is to provide “growth debt” to these businesses as well as offering capital advisory services by structuring bespoke instruments that optimize an early stage company’s capital structure. These structures are custom-tailored but also institutional-grade such that as a business’ needs grow from \$10m to \$100m, institutional parties are comfortable participating alongside Upper90 in a facility originated with the rigor that would stand up to their own investment committees as has happened several times with investments by Upper90’s previous funds. Upper90 typically will target revenue-generating companies with product-market fit that are ready to scale. Most companies will have raised Series A or B preferred equity from established venture capital partners though the Main Funds may participate in a few earlier stage companies in industries where Upper90 has strong operational expertise, and is able to structure protections in place to draw such Fund’s invested capital. Upper90 has found that once companies raise their Series C round of financing, they are typically mature to the point that they have access to credit facilities and other instruments with costs of capital that are below the hurdle rate of Upper90’s Main Funds and credit-focused Co-Investment Vehicles.

Upper90 will also target companies that do not fall in the typical cycle of venture equity financing and have been bootstrapped and, because the Funds do not underwrite to the equity sponsor, the Investment Manager will evaluate the business purely on its performance metrics, unit economics and ability to service debt. In fact, there is an ostensible opportunity to finance numerous, well-run businesses that fall outside the venture equity mandate since Upper90 does not need the multi-billion dollar exit scenario to materialize in order to provide investors with its stated performance goals.

Upper90 has been an early participant in the trend of debt instruments to more efficiently finance repeatable, data-driven businesses that have traditionally only had equity financing as an option. Upper90 believes that venture equity is an appropriate tool for high-risk, high-reward investing activities such as product development and R&D. However, once a business has found a product-market-fit and is ready to scale, Upper90 believes that a business can be more efficiently financed to the benefit of both the founding teams and earlier equity investors. Of course, when creating a new market for “growth debt” the market is quite inefficient and the price discovery mechanism quite poor. This offers Upper90 an advantage to create what it believes are above market returns per-unit risk that is being taken, while using its credit structuring expertise to provide downside protections that are increasingly absent from the broader credit markets. Upper90 offers highly bespoke and potentially high returning instruments by combining elements of traditional credit underwriting with data-driven quantitative techniques using rich new alternative datasets being generated by portfolio companies in their daily operations. Upper90 is improving upon its proprietary infrastructure to capture terms, pricing, datasets and other business metrics to further optimize its structures as well as its sophisticated tools that aid in price discovery which it believes will create a sustainable moat. Upper90’s proprietary technology suite spans the entire investment and operational process and creates advantages in underwriting, servicing and monitoring of its portfolio leveraging technology, data and APIs.

Investing in any Fund is speculative and involves a significant degree of risk, including the risk of total loss of capital. The investment strategies employed by Upper90 are not intended as a complete investment program.

An investment in a Fund and the corresponding Fund's investment strategy involves significant risks, including those associated with investments in the Fund's targeted industry and market. An investor could lose all

or a substantial amount of his or her investment in the Fund. The Fund's performance may be volatile and is suitable only for persons who can afford material fluctuations in the value of their capital. The Fund has limited liquidity and is only suitable for persons who have determined a limited need for liquidity, and who meet the suitability standards set forth in each Fund's private placement memorandum. There is no assurance that any Fund will be successful or that its investment objective will be achieved. No secondary market for the interests is expected to develop for any portfolio company in a Fund, and there are severe restrictions on an investor's ability to withdraw and transfer interests.

The following is a summary of certain risks involved with the Upper90's investment strategy. **More detailed descriptions of the Funds' investment strategies, methods of analysis and risks are included in each Fund's offering documents (i.e., such Fund's private placement memorandum and/or subscription agreement) or its governing documents (i.e., the Fund's operating agreement). There can be no assurance that the investment objectives of any Fund will be achieved and a total loss of investment is possible. When considering an investment carefully read the Fund's private placement memorandum and obtain their own advice from legal, accounting, tax and other advisors in connection with an investment in a Fund before making an investment decision.**

Risks associated with the markets and companies in which Upper90 invests include, but are not limited to:

- *Limited or No Operating History.* The Funds and the General Partners have no operating history. Upper90 currently manages the Flagship Funds and twenty nine (29) of Co-investment Vehicles. However, past performance is not indicative of future results and there can be no assurance that any of the Funds will achieve results comparable to those previously achieved by the Funds. Accordingly, prospective limited partners of each Fund should draw no conclusions from the prior performance of the Funds and should not expect the Funds to achieve similar results.
- *Dependence on Key Individuals.* Limited partners have no authority to make decisions on behalf of the Fund. The success of each Fund depends upon the ability of Upper90 to develop and implement investment strategies that achieve the Fund's investment objective. The Fund's performance is largely dependent on the talents and efforts of highly skilled individuals. Upper90's ability to effectively manage the Fund's portfolio depends on the ability of the Upper90 and its affiliates to attract new employees and to retain and motivate existing employees. Moreover, if any Fund were to lose the services of one or more of the Upper90's principals or key employees, the consequence to such Fund could be material and adverse and could lead to the premature termination of such Fund.
- *Absence of Regulatory Oversight.* While a Fund may be considered similar to a registered investment company, all Funds are not required and do not intend to register as such under the Company Act or the laws of any other jurisdiction. Accordingly, the provisions of the Company Act (which require, among other things, investment companies to have a majority of disinterested directors, that securities be held in custody and individually segregated from the securities of any other person and marked to clearly identify such securities as the property of such investment company) are not applicable to investors in the Funds.
- *Business and Regulatory Risks of Investment Funds.* Legal, tax and regulatory changes within and/or outside the United States could occur during the term of any Fund that may adversely affect such Fund. The regulatory environment for private investment funds is evolving, and changes in the regulation of private investment funds may adversely affect the value of investments held by any of the Funds and the ability of the Funds to obtain the leverage it might otherwise obtain or to pursue its investment program. In addition, many markets in which the Funds conduct business are subject to comprehensive statutes, regulations and, in some cases, margin requirements. The Securities and Exchange Commission (the "SEC"), other regulators and self-regulatory organizations and exchanges are authorized to take extraordinary actions in the event of emergencies, in addition to their authority to make rules and regulations governing the markets and their participants generally. The effect of any future regulatory change on a Fund could be material and adverse.

- *General Economic Conditions.* The success of any investment is necessarily affected to some extent by market and economic conditions at the time; such conditions within and/or outside the United States may prevent the Funds from executing its investment strategy with respect to such investment in the manner originally contemplated and/or could cause the Funds to incur substantial losses. Interest rates, the price of investments and participation by other investors in the financial markets may also affect the value of investments purchased by the Funds. Limited partners should realize that the liquidity and value of their investments in any Funds are affected by general economic conditions, conditions in the credit markets, constraints imposed by financing arrangements, contractual prohibitions, inability to dispose of investments at attractive prices due to buyers' inability to secure financing or other reasons mentioned below. Issuers in which the Funds may invest, or become a creditor to, may face intense competition, changing business and economic conditions and other developments that may adversely affect their performance.
- *Inflation; Supply Chain Disruptions.* The Funds may be exposed to inflation risk with respect to income from any investments of the Funds (including, without limitation, the fixed income securities held by certain Funds). High inflation may lead to tighter credit conditions in addition to increasing prices. Certain portfolio companies of the Funds may be adversely impacted by supply chain disruptions which may restrict the quantities or adversely impact the prices of certain raw materials, commodities and products that may be purchased or sold by such companies. Furthermore, if interest rates rise, such as during an inflationary period, the cost of acquisition capital to purchasers may also rise, which could adversely impact the business models of certain of the Funds' portfolio companies. During a period of higher inflation, the real returns of the Funds' investments may decline.
- *Coronavirus Risks and Catastrophe Risks.* In November 2019, the virus SARS-CoV-2, which causes the coronavirus disease known as COVID-19, surfaced in Wuhan, China. The disease spread around the world, resulting in the temporary closure of many corporate offices, retail stores and manufacturing facilities across the globe, as well as the implementation of travel restrictions and remote working and "shelter-in-place" or similar policies by numerous companies and national and local governments. These actions caused the disruption of manufacturing supply chains and consumer demand in certain economic sectors, resulting in significant disruptions in local and global economies. The short-term and long-term impact of COVID-19 on the operations of Upper90 and the performance of the Funds is difficult to predict. Any potential impact on such operations and performance will depend to a large extent on future developments and actions taken by authorities and other entities to contain COVID-19 and its economic impact. These potential impacts, while uncertain, could adversely affect the performance of the Funds. Furthermore, the Funds may be subject to the risk of loss arising from direct or indirect exposure to various catastrophic events, including the following: hurricanes, earthquakes and other natural disasters; war, terrorism and other armed conflicts; cyberterrorism; major or prolonged power outages or network interruptions; and public health crises, including infectious disease outbreaks, epidemics and pandemics. To the extent that any such event occurs and has a material effect on global financial markets or specific markets or issuers in which the Funds invest (or has a material negative impact on the operations of Upper90 or the service providers), the risks of loss can be substantial and could have a material adverse effect on the Funds and the limited partners' investments therein.
- *Nature of Investment.* An investment in any Fund requires a long-term commitment, with no certainty of return. This offering is a non-specified asset offering and prospective Limited Partners will not have an opportunity to evaluate specific assets prior to investing. The possibility of partial or total loss of capital exists and a limited partner should not subscribe unless it can readily bear the consequences of such loss.
- *A Limited Partner should be aware that it may lose all or part of its investment.* All investments involve the risk of loss of capital. However, no guarantee or representation is made that any Fund's investment program will be successful. The Fund's investment program may utilize such investment techniques as

option transactions, margin transactions, short sales, leverage and forward contracts, which can, in certain circumstances, increase the adverse impact to which the Fund's portfolio may be subject.

- *Inability to Deploy Committed Capital.* Upper90 may not be able to identify a sufficient number of investments that meet the Fund's investment objectives in the time period anticipated. Consequently, there is no guarantee that Upper90 will be able to invest all of the capital raised in a Fund's offering, which may affect the performance of such Fund.
- *Concentration of Holdings.* Subject to the investment limitations set forth in a Fund's governing documents, Upper90 may invest a substantial portion of a Fund's capital in a single investment. There is no assurance as to the degree of diversification that will actually be achieved in the Fund's investments either by geographic region or asset type. Any Fund may make or may have made investments that it may not, or is unable to, sell as contemplated, which could lead to a longer than intended holding period and reduced diversification. Each Fund will be susceptible to significant fluctuations in value resulting from adverse economic conditions affecting such Fund's investments. An investment in any Fund or any combination of Funds is not a diverse investment program.
- *Illiquidity of Interests.* An interest in a Fund ("Interests") represent highly illiquid investments and should be acquired only by investors able to commit their funds for an indefinite period of time. There is no public market for these Interests and it is highly unlikely that one will develop. The Interests are not registered under U.S. federal or state securities laws or the securities laws of any other jurisdiction and may not be resold unless they are subsequently registered or an exemption from such registration is available. Transfers of Interests are also subject to the approval of such Fund's General Partner (which may be given or denied in the sole discretion of the General Partner) and satisfaction of certain other conditions set forth in such Fund's governing documents.
- *Dilution from Subsequent Closings.* Despite the payment of associated capital charges, new limited partners subscribing for Interests in a Fund will participate in the existing investments, thereby diluting the interest of existing limited partners in such Fund.
- *In-Kind Distributions.* There can be no assurance that the Fund will be able to liquidate all of its investments by the time of the Fund's dissolution at favorable prices. Accordingly, illiquid securities may be distributed in kind upon dissolution. In addition, there may be times where the General Partner of a Fund believes it is advantageous to distribute to investors marketable securities. Until sold, marketable securities and illiquid securities will be subject to the risk of depreciation in value.
- *Investments Longer than Term; Early Termination.* Any Fund may make or may have made investments that, due to various reasons, may not be capable of an advantageous disposition prior to the date a Fund is required to be dissolved, either by expiration of such Fund's term or otherwise. Any Fund may be required to sell, distribute in kind or otherwise dispose of investments at a disadvantageous time as a result of dissolution. Furthermore, in the event of the early termination of a Fund, such Fund would have to distribute to the limited partners their *pro rata* interest in the assets of such Fund. Such an early termination would have the effect of accelerating the unamortized portion of any Organizational Expenses for such Fund, thereby decreasing amounts otherwise available for distributions. It is possible that at the time of such sale or distribution, certain securities held by such Fund would be worth less than the initial cost of such securities, resulting in a loss to limited partners.
- *Board Participation.* Certain Funds are represented on the boards of directors of certain of its portfolio companies or may have its representatives serve as observers to such boards of directors. Although such positions in certain circumstances may be important to a Fund's investment strategy and may enhance the Upper90's ability to manage the portfolio investments, they may also have the effect of impairing the

General Partner's ability to sell the related securities when, and upon the terms, it may otherwise desire. The designation of representatives, observers, directors and other measures contemplated could expose the assets of a Fund to claims by a portfolio company, its security holders, creditors and regulators, including the claims that the Fund is a controlling person and thus is liable for securities laws violations of a portfolio company. These measures could also result in certain liabilities in the event of the bankruptcy or reorganization of a portfolio company; could result in claims, including claims for indemnity, against the Fund if the designated directors violate their fiduciary or other duties to a portfolio company or fail to exercise appropriate levels of care under applicable corporate or securities laws, environmental laws or other legal or regulatory principles or regimes; and could expose a Fund to claims that it has interfered in management to the detriment of a portfolio company. In general, each Fund will indemnify its General Partner and Upper90 from all such claims. While the General Partner of each Fund intends to manage such Fund in a way that will minimize its exposure to these risks, the possibility of successful claims cannot be precluded.

- *Litigation.* Litigation can and does occur in the ordinary course of the management of an investment portfolio of securities. Such litigation can arise as a result of issuer default, issuer bankruptcies and/or other reasons. In certain cases, such issuers may bring claims and/or counterclaims against the Funds, their respective General Partners, Upper90 and/or their respective principals and affiliates alleging violations of securities laws and other typical issuer claims and counterclaims seeking significant damages. The expense of defending against claims made against a Fund by third parties and paying any amounts pursuant to settlements or judgments would be borne by such Fund to the extent that (a) such Fund has not been able to protect itself through indemnification or other rights against the portfolio companies, (b) such Fund is not entitled to such protections, or (c) the portfolio company is not solvent.
- *Side Letters.* The General Partner of each Fund may enter into, deliver and perform Side Letters with limited partners that have the effect of establishing rights under, or supplementing or altering the terms of, their investment in the Funds without any act, consent or approval of any limited partner or any Limited Partner Advisory Committee.
- *Failure to Make Capital Contributions.* If limited partners of any Fund fail to fund their subscription obligations or make required capital contributions when due, the Fund's ability to complete its investment program or otherwise continue operations may be substantially impaired. A default by a substantial number of limited partners would limit opportunities for investment diversification and likely reduce returns to the Funds. Any limited partner who defaults in making a required capital contribution will be subject to certain adverse consequences pursuant to the provisions of such Fund's operating agreement.
- *Leverage and Financing Risk.* To the extent a Fund is able to obtain credit, such Fund or one or more special purpose vehicles owned by such Fund (each, an "SPV") may use leverage to finance purchases of its Investments or leverage its investments with non-recourse debt financing (subject to customary and standard recourse carve-outs). The Fund may also obtain recourse debt financing collateralized by such Fund's assets, including any undrawn capital commitments of such Fund through the use of a subscription line of credit. Although the use of leverage may enhance returns and increase the number of investments that can be made, it is likely to increase volatility and may also substantially increase the risk of loss. The failure by any Fund to obtain indebtedness on favorable terms (or at all) could adversely affect such Fund's investment results. In addition, although certain limitations on leverage are set forth in such Fund's governing documents, there is no limitation on the General Partner's authority to cause such Fund or any SPVs to enter into or provide "bad boy" or "big boy" guarantees that are customary in connection with real estate-related transactions, and any such guarantees will be excluded in applying those leverage limitations.
- *Potential Cross-Fund Liability.* Certain investments may be purchased or held through SPVs that make or hold investments on behalf of a Fund and other affiliated Funds. A Fund's participation in any such

investments may be governed by an agreement that grants such Fund an economic interest in such investments. In exchange for this interest, the Fund will be responsible for paying the purchase price and any other liabilities of the SPV related to the particular investments in which the Fund participates. A creditor having a claim that relates to a particular investment held by the SPV (including an investment in which such Fund does not have an interest) may be able to satisfy such claim against all assets of the SPV, including other investments in which such Fund has an interest.

- *Access to Information of Limited Partners; Material Non-Public Information.* Subject to the Fund's governing documents and any Side Letters, in response to questions and requests and in connection with due diligence meetings and other communications, the Funds and the General Partners may provide information to certain limited partners and prospective limited partners that is not distributed to other limited partners and prospective limited partners. Furthermore, limited partners who are also investors in one or more other Funds may be provided with additional information with respect to certain investments that are held by both the one Fund and another Fund. Such information may affect a prospective limited partner's decision to invest in a Fund. Each limited partner is responsible for asking such questions as it believes are necessary in order to make its own investment decisions. Furthermore, because of their responsibilities in connection with investment-related activities of Upper90 and its affiliates, certain employees of Upper90 and its affiliates may acquire confidential or material non-public information or be restricted from initiating transactions in certain securities. Due to these restrictions, the Funds may not be able to initiate a transaction that it otherwise might have initiated and may not be able to sell an investment that it otherwise might have sold.
- *Cybersecurity Risk.* As part of its business, each of the General Partners and Upper90 processes, stores and transmits large amounts of electronic information, including information relating to the transactions of the Funds and personally identifiable information of investors. Similarly, service providers of the Funds, including each Fund's administrator, may process, store and transmit such information. Each of the General Partners and Upper90 has procedures and systems in place that it believes are reasonably designed to protect such information and prevent data loss and security breaches. However, such measures cannot provide absolute security.
- *Contingent Liabilities.* From time to time the Funds may incur or may have incurred contingent liabilities in connection with an investment. Any reserves or escrows that the General Partners may establish or fund in respect of contingent liabilities may prove to be of insufficient size to meet the liabilities actually incurred. In that regard, limited partners may be required to return amounts distributed to them to fund obligations, including indemnity obligations, subject to certain limitations set forth in the Fund's governing documents.
- *Credit Risks.* While loans and most other assets purchased or originated by the Funds will generally be collateralized, the Funds may be exposed to losses resulting from default. Therefore, the value of the underlying collateral, the creditworthiness of the borrower or other counterparty and the priority of the lien are each of great importance. The Fund cannot guarantee the adequacy of the protection of its security interests, including the validity or enforceability of the applicable investment contract and the maintenance of the anticipated priority and perfection of the applicable security interests. The liquidation proceeds upon sale of a collateralized asset may not satisfy the entire outstanding balance of principal and interest payable, resulting in a loss to the Funds. Any costs or delays involved in the effectuation of a foreclosure of the asset or a liquidation of the underlying property will further reduce the proceeds and thus increase the loss.
- *Interest Rate Risk.* Changes in interest rates can affect the value of the Funds' investments. The United States has experienced a decade-long period of historically low interest rate levels. However, the potential recovery of the U.S. economy, recent and potential future changes in U.S. government policy, including the tapering of the U.S. Federal Reserve Board's quantitative easing program and increases in the federal

funds rate, increase the likelihood that interest rates will rise in the future. Increases in interest rates may cause the value of debt instruments and real estate and other assets which serve as collateral for an investment to decline. Changes in interest rates may also affect the rate at which the Fund can obtain financing, which could potentially diminish the returns of the Funds. Certain of the Funds' investments may be particularly sensitive to changes in interest rates, including investments in lower-rated instruments, debt instruments with longer maturities, debt instruments paying no interest (such as zero-coupon debt instruments) or debt instruments paying non-cash interest in the form of other debt instruments.

- *Investment in Early-Stage Companies.* The Funds may invest in the securities of smaller, early-stage companies which will involve greater risks than are generally associated with investments in more established companies. Early-stage companies tend to have a lower capitalization and fewer resources and, therefore, are often more vulnerable to financial failure. Such companies may also have shorter operating histories on which to judge future performances.
- *Dilution and Follow-up Investments.* The Funds may invest in early-stage companies that are seeking capital. These companies can be expected to have significant capital requirements that may cause such companies to raise additional capital after the Fund's investment. Accordingly, investments by the Fund, in these early-stage companies may be subject to significant dilution and require capital by the Fund for follow-on investments. If the Funds does not have resources available to participate in subsequent rounds of financing, or is unwilling to do so, that shortfall may significantly and negatively impact both the portfolio company and the value of the original investment by such Fund.
- *Investing in Restricted Securities and Illiquid Securities.* The Funds invest their assets directly or indirectly in privately-owned companies. Unless any portfolio company subsequently becomes a public company, the Funds' portfolios will be largely or completely comprised of non-marketable securities and non-public companies. Any such securities or other interests acquired by the Funds will generally have restrictions on resale and, even in the absence of such restrictions, may not be marketable. Furthermore, the Funds may invest in securities and other assets which are subject to legal or other restrictions on transfer or for which no liquid market exists. The market prices, if any, for such investments tend to be volatile and may not be readily ascertainable, and the Funds may not be able to sell them when it desires to do so or to realize what it perceives to be their fair value in the event of a sale. The sale of restricted and illiquid securities often requires more time and results in higher brokerage charges or dealer discounts and other selling expenses than does the sale of securities eligible for trading on national securities exchanges or in the over-the-counter markets. The Funds may not be able to readily dispose of such illiquid investments and, in some cases, may be contractually prohibited from disposing of such investments for a specified period of time or, in extreme cases, an indefinite period of time.
- *Hedging Transactions.* The Funds may from time to time purchase or sell forwards, swaps or options on currencies, securities and indices. It is the intention of the Funds to engage in such transactions as a way to mitigate risk associated with its investments; however, it is generally impossible to fully hedge an investment given the uncertainty as to the amount and timing of projected cash flows and investment returns, if any, on the Funds' investments. This may lead to losses on both the Fund's investments and the related transaction.
- *Co-Investments with Third Parties.* The Funds may co-invest with third parties through jointly owned acquisition vehicles, Joint Ventures or other structures. In such situations, the Funds' ability to control its equity investments, if any, will depend upon the nature of the joint investment arrangements with such partners and the Funds' relative ownership stake in such investments. The Funds may be a minority investor in these circumstances. In addition, such arrangements may restrict such Fund's ability to dispose of its investments for potentially significant periods of time. Such investments may involve risks not present in investments where a third party is not involved.

- *Lender Liability Considerations.* In recent years, a number of judicial decisions in the United States have upheld the right of borrowers to sue lending institutions on the basis of various evolving legal theories (collectively, “lender liability”). Generally, lender liability is founded upon the premise that an institutional lender has violated a duty (whether implied or contractual) of good faith and fair dealing owed to the borrower or has assumed a degree of control over the borrower resulting in a creation of a fiduciary duty owed to the borrower or its other creditors or shareholders. The Funds’ investments could involve investments in which they may be subject to lender liability or equitable subordination claims affecting investments.
- *Risks Associated with Bankruptcy.* Many of the events within a bankruptcy case are adversarial and often beyond the control of the creditors. While creditors generally are afforded an opportunity to object to significant actions, there can be no assurance that a bankruptcy court would not approve actions which may be contrary to the interests of the Funds. Furthermore, there are instances where creditors and equity holders lose their ranking and priority as such if they are considered to have taken over management and functional operating control of a debtor. The reorganization of a company usually involves the development and negotiation of a plan of reorganization, plan approval by creditors and confirmation by the bankruptcy court. This process can involve substantial legal, professional and administrative costs to the company and the Funds; it is subject to unpredictable and lengthy delays. Such investments can result in a total loss of principal.
- *Non-U.S. Investments and Currencies.* The Funds may invest a portion of their assets in the debt or other securities and instruments of issuers located outside the United States. Investing in securities of non-U.S. issuers involves certain considerations comprising both risks and opportunities not typically associated with investing in securities of U.S. issuers. In addition to business uncertainties, such investments may be affected by political, social and economic uncertainty affecting a country or region. Many financial markets are not as developed or as efficient as those in the United States, and as a result, liquidity may be reduced and price volatility and transaction costs may be higher. The legal and regulatory environment may also be different, particularly as to bankruptcy and reorganization. Financial accounting standards and practices may differ, and there may be less publicly available information in respect of such companies. Furthermore, the Funds’ investments that are denominated in a non-U.S. currency are subject to the risk that the value of a particular currency will change in relation to one or more other currencies. Upper90 intends, but is under no obligation, to employ hedging techniques to minimize these risks, but there can be no assurance that such strategies will be effective.

Item 9: Disciplinary Information

There are no legal or disciplinary events that are material to Upper90’s business or the integrity of our management.

Item 10: Other Financial Industry Activities and Affiliations

Upper90’s Funds are formed as either Delaware limited partnerships or limited liability companies which require a general partner and managing member, respectively (in each case, a “General Partner”, and collectively, the “General Partners”). Each of the General Partners to the Funds managed by Upper90 is an affiliated entity of Upper90.

Upper90’s principals, employees and advisors may devote portions of their time to existing portfolio companies and other related investment activities, including but not limited to the activities of Upper90 and the Funds’ different portfolio companies.

A Fund's General Partner may appoint from time-to-time loan service companies, which may include affiliates of a Fund's General Partner to act as the servicers of specific portfolios of assets owned by the Fund. These loan service companies may also provide due diligence services to a Fund and are provided pursuant to servicing agreements between a Fund and the service company. Fees to servicers that are affiliates of the Fund's General Partner are on an arms-length basis and may include fees as detailed in a Fund's offering documents. A General Partner may enter into servicing arrangements with vendors with respect to specific types of assets based upon an affiliation to specialized expertise or systems. A Fund may also engage and retain advisors, consultants and other similar professionals who are not employees or affiliates of Upper90. These advisors may receive payments from, or allocations with respect to a Fund, a Fund's portfolio company and/or other entities. Such advisors provide services in relation to the identification, acquisition, holding, improvement and disposition of a Fund's portfolio companies, including operational aspects of such companies. In addition, advisors retained by a General Partner or Upper90 may also have the opportunity to invest directly in portfolio companies, generally at the same time and on the same terms as the Funds.

Upper90 and its affiliates may acquire or possess an interest in a portfolio company outside of a Fund. See Item 11 for more information.

Affiliates of Upper90 Capital Management, LP perform capital markets activities for certain companies in exchange for fees paid in cash or securities, such as warrants. Given that certain affiliates of Upper90 Capital Management, LP may perform these activities for portfolio companies or their subsidiaries or other affiliates, these activities may present a conflict of interest or the appearance of a conflict of interest for investors in certain funds or SPVs of Upper90. Given the potential for conflicts of interest or the appearance of a conflict of interest, these activities are disclosed in a fund's or SPV's offering documentation whenever such activities have either occurred previously or are reasonably likely occur in the future in the good faith determination of Upper90 Capital Management, LP. Additional information on Upper90's investor's relations team can answer further questions regarding such capital markets activities via email at investor.relations@upper90.io.

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

Upper90 has a code of ethics (the "Code of Ethics") that is available upon request. The Code of Ethics sets forth guidance for Upper90's employees as each must conduct such activity in accordance with the following general principles:

- conduct themselves with integrity and dignity and act in an ethical manner in their dealings with clients, professional associates, and the public;
- acknowledge that there is an element of professional ethical conduct required that exceeds ethical standards in daily life; and
- place the interests of the Funds first, and not take inappropriate advantage of their positions with Upper90 for their own personal benefit.

Upper90's policy prohibits any employee from acting upon, misusing, or disclosing any material, non-public information, known as insider information, and any violations of this policy will result in prompt disciplinary action and/or termination. Upper90's policy does allow employees to maintain personal securities accounts provided any such investing by the employees or household family members is consistent with Upper90's fiduciary duty to its clients. The employee must report all such account and reportable transactions to Upper90's Chief Compliance Officer.

Upper90's policy is to protect the confidentiality, integrity and security of any non-public, personal information of its clients and prospects and to prevent unauthorized access to, or the use or disclosure of, such information.

Upper90's employees and their affiliated persons may come into possession from time to time of material nonpublic or other confidential information about public companies which, if disclosed, could affect an investor's decision to buy, sell or hold a security. Under applicable law, the employees and their affiliated persons are prohibited from improperly disclosing or using such information for their personal benefit or for the benefit of any person, regardless of whether such person is a client of Upper90.

The principals and employees of Upper90 and their affiliates may directly or indirectly own an interest in Upper90's Funds. Upper90 believes that such interests do not create a conflict of interest and instead operate to align the interests with the Funds. Upper90 and its affiliates may acquire or possess interests in a portfolio company outside of a Fund (each, an "External Investment", and collectively, the "External Investments") and the External Investments may be of a different class or type, with different rights and preferences, than those held by the Fund. The External Investments shall be disclosed to investors in the Funds or the limited partner committees of the Main Funds pursuant to the terms of the governing documents of each Fund.

Item 12: Brokerage Practices

Upper90's practices involves privately negotiated transactions in which best execution obligations do not arise in the same context as transactions in publicly traded securities. With respect to such private transactions, Upper90 believes it fulfills its best execution responsibilities through careful evaluation and negotiation of the terms of each such transaction. Although it is not anticipated, Upper90 could purchase or sell publicly traded securities from time to time.

In such circumstances, Upper90 considers various factors in determining which broker is most likely to deliver best execution including, but are not limited to:

- Upper90's knowledge of negotiated commission rates and spreads currently available;
- the nature of the security or instrument being traded;
- the size and type of the transaction;
- the nature and character of the markets for the security or instrument to be purchased or sold;
- the desired timing of the trade;
- the activity existing and expected in the market for the particular security or instrument;
- confidentiality;
- the execution, clearance, and settlement capabilities as well as the reputation and perceived financial soundness of the broker selected, and other brokers considered;
- Upper90's knowledge of actual or apparent operational problems of any broker;
- the broker/dealer's execution services rendered on a continuing basis and in other transactions; and
- the reasonableness of spreads or commissions.

Upper90 does not maintain relationships with broker-dealers that feature soft-dollar benefits or referral arrangements.

Item 13: Review of Accounts

Upper90 monitors each of the investments it makes in portfolio companies on an ongoing basis.

Investors in each Fund will receive written financial reports, including an unaudited balance sheet, a statement of net income or net loss, a statement of changes in financial position or a cash flow statement, and a supplemental statement of such investor's capital account on a quarterly basis. On an annual basis, investors in each Fund also will receive audited financial statements of the Fund, valuations of the Fund's investments and tax information necessary for the completion of U.S. tax returns.

Each Fund's General Partner shall determine the fair value of the Fund's assets in its discretion as provided in such Fund's operating agreement.

Item 14: Client Referrals and Other Compensation

It is possible Upper90 or the Funds will make arrangements with affiliated or unaffiliated third-party marketers or solicitors (collectively, "Marketers") to arrange introductions with prospective clients or provide strategic business advice to Upper90 with respect to marketing its products. Upper90 anticipates that these activities could lead to client (including, limited partner or non-managing member, as applicable) referrals. In exchange for these services, Upper90 expects to pay a fee, issue a profits interest or provide other consideration to the Marketers. Fees will be paid pursuant to a written agreement between the parties and terms may vary between different agreements.

In some arrangements, Upper90 may pay a fee to the Marketer after the client hires Upper90 as its investment adviser as follows: the referral fee paid represents a portion of the investment management fee paid by the client to Upper90 and is paid to Marketer at an agreed-upon frequency (e.g., quarterly); Upper90 may continue to pay the Marketer a fee or other consideration on a continuing basis so long as the client remains a client of Upper90. In these types of arrangements, if the client does not hire Upper90 as its investment manager, the referral fee is not paid to the Marketer. Separate and apart from any referral fee, Upper90 may pay the third-party a fixed flat fee for any in-person meetings with prospective clients that are organized by the third-party. Additionally, Upper90 may reimburse the third-party for travel and related costs if Upper90 requests that the third-party arrange a meeting with a prospective client. Upper90 also has arrangements with Marketers that assist Upper90 in the development and marketing of investment products or other strategic business advice services. Upper90 anticipates that these activities could also lead to client referrals. Under these arrangements, Upper90 pays the third-party a fixed flat fee for each day the third-party engages in activities related to the development and marketing of investment products of Upper90's investment strategies without regard to whether the third-party refers a client to Upper90.

All fees in the arrangements discussed above are paid entirely by Upper90. Clients (including, limited partners or non-managing members, as applicable) do not pay any portion of the fees. Furthermore, there is no difference in the amount or level of investment advisory fees charged to clients who are referred to Upper90 by Marketers to whom Upper90 pays a fee pursuant to the arrangements discussed above. However, clients (including, limited partners or non-managing members, as applicable) should be aware that Upper90's policies regarding investment management fees as discussed in Item 5 in this brochure are applicable. Therefore, Upper90 reserves the right to negotiate investment management fees based upon the nature of the services rendered, account size, account structure, servicing requirements or any other pertinent factors unique to the relationship.

Referred clients (including, referred limited partners) should be aware of the potential conflicts of interest that exist between such referred client and (i) Upper90 or (ii) the Marketer with respect to the arrangements described above. Marketers may refer potential clients to Upper90 based in part because they will receive an on-going fee from Upper90 and not solely because Upper90 provides investment strategies that are appropriate and suitable for the client. To mitigate this conflict, Upper90 retains ultimate discretion to accept client referrals from solicitors; however, that does not mitigate client's potential conflict of interest with Marketers.

Item 15: Custody

Although no Fund maintains direct custody of client assets, Upper90 acts as the general partner or managing member of private investment vehicles and therefore is deemed by the SEC to have custody of those assets because the General Partners of the Funds each serve in a capacity that provides it with access to the assets.

Upper90 intends to comply with Rule 206(4)-2 of the Advisers Act (the “Custody Rule”) by meeting the conditions of the pooled vehicle annual audit provision. In order to avoid any potential conflict of interest that indirect custody of client assets may cause, private vehicles as described above are either maintained with a “qualified custodian” or audited annually by an independent auditor who is a member of and subject to inspection by the Public Company Accounting Oversight Board , with such audits delivered to investors in compliance with the SEC’s Custody Rule.

Where assets are held by a qualified custodian, Upper90 will notify clients in writing of the qualified custodian’s name, address and the manner in which the assets are maintained at the time of investment and promptly following any changes to this information.

Item 16: Investment Discretion

Upper90 manages its clients’ assets on a discretionary basis. Upper90 serves as the investment manager for each of the Funds and, within such role, exercises investment discretion. There are generally no limitations placed on such authority. Any limitations to Upper90’s discretionary authority are described in such Fund’s governing documents.

Item 17: Voting Client Securities

In the event any Fund is asked to vote a proxy it is our policy to vote proxies in the best interests of our clients. In exercising its proxy voting authority, the General Partner or Upper90, as applicable, will vote any proxy in a manner consistent with such Fund’s investment objectives, typically to maximize investment returns while taking into consideration applicable risk factors, and subject constraints set forth in an offering memorandum or operating agreement. For the avoidance of doubt, the General Partner or Upper90 may not vote with the majority of investors when the interest of the Fund so dictates. Upper90 does allow limited partners to direct Upper90 with respect to voting proxies. Investors may obtain information about how we voted their proxies and a copy of proxy policies and procedures by emailing compliance@upper90.io.

Item 18: Financial Information

Upper90 is not aware of any financial conditions that are reasonably likely to impair our ability to meet our contractual obligations to our clients. As of the date hereof, Upper90 has never been the subject of a bankruptcy petition.