



# FitzWalter Capital (US) LLC

## Part 2A of Form ADV

### The Brochure

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United States of America

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This brochure provides information about the qualifications and business practices of FitzWalter Capital (US) LLC. If you have any questions about the contents of this brochure, please contact us on (212) 476-7746. 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.

Additional information about FitzWalter Capital (US) LLC is also available on the SEC's website at: [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

Registration with the SEC or with any state securities authority does not imply any level of skill or training with respect to the investment advisory services FitzWalter Capital (US) LLC provides.

THIS BROCHURE DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY SECURITY.

## **Item 2 - Material Changes**

Item 4 has been updated to include the amount of regulatory assets under management.

Item 8 has been updated to reflect relevant risks.

In addition, please be aware that certain non-material changes were made to the Brochure, such as general updates to various disclosures, which we recommend that you read in its entirety.

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## Item 4 - Advisory Business

### *General Description of Advisory Firm*

FitzWalter Capital (US) LLC (the “Firm”) was formed in 2020, as part of the FitzWalter group (“FitzWalter” or the “Group”), which includes entities described in Item 4, and will serve as a sub-advisor to its sole member and principal owner, FitzWalter Capital Limited (the “UK Manager”). The UK Manager is owned by FitzWalter Capital Partners HoldCo Limited (“FitzWalter HoldCo”), which is owned by Ben Brazil.

FitzWalter Capital Partners GP Limited (the “General Partner”), in its capacity as the general partner of a pooled investment vehicle, FitzWalter Capital Partners I, LP (the “Fund”) and any other vehicles as may be organized to co-invest alongside the Fund (“Co-investment Entities”) together with the Fund (the “Clients”), has appointed the UK Manager to act as the alternative investment fund manager of the Fund.

### *General Description of FitzWalter*

FitzWalter will primarily invest in distressed credit assets for the purposes of their resolution, as well as opportunistically investing in other control oriented special situations (particularly those with material financial stress). FitzWalter will be focused on investments with the following characteristics:

- “Fulcrum” instruments in a capital structure and hence offering de facto equity upside participation;
- Significant potential for value creation through a change to ownership and governance and providing the opportunity to acquire sufficient influence to play a material role in driving such a restructuring (“distress for control”);
- Instruments with material legal rights to support the prosecution of a restructuring (particularly senior loans), and predictable legal systems and jurisdictions to support those rights; and
- Underpinning businesses and assets which represent visible, recurring corporate earnings, hard assets and other characteristics which provide a solid value foundation on which a resolution can build.

In pursuing this strategy, FitzWalter will be aiming to capture:

- Full compensation for the time, skills and effort it will apply in the resolution of relevant financial distress and the prosecution of restructuring, development and exit of investments;
- Advantaged entry prices which may arise through the inefficiencies of distressed credit markets as an access point to investments (including as a result of limitations on original holders of credit assets to apply the time, skills and effort described above);
- Asymmetry between largely uncapped upside potential and the materially bounded downside risk that results from a focus on senior credit assets; and
- The opportunity to be discriminatory arising from the impact of the global pandemic on businesses and assets that in other circumstances would be unlikely to experience financial stress.

Examples of the strategy include:

- “Loan to own”: FitzWalter will seek to acquire loans and other credit assets for the purposes of acquiring economic ownership of the underpinning collateral and prosecuting requisite restructuring in order to own, and ultimately exit a resolved, stabilized and developed business or asset; and
- “New money”: The investment by FitzWalter of newly contributed equity capital to facilitate a restructuring where the existing lenders wish to continue to maintain an exposure (rather than sell)

but where the capital structure needs new capital to support governance, liquidity and operational requirements.

Implementation of the strategy may include a “stakebuilding” phase in credit or equity markets as a precursor to, and in furtherance of, a control investment.

The Fund has a flexible investment mandate and will seek to invest across a broad investment universe (including corporate, infrastructure and real assets) to identify attractive opportunities. *Please refer to the Offering Memorandum for more details.*

#### *Description of Advisory Services*

The Firm provides investment advisory services to the UK Manager, which in turn provides investment management services to the General Partner, in respect of the Clients as discussed in more detail below:

#### **A. Investment Sourcing**

The Firm provides origination services regarding relevant assets and businesses in the target jurisdictions of the General Partner’s distressed credit markets strategy. The Firm focuses primarily on origination and evaluation of assets in the USA, but its scope of services is not limited to this jurisdiction. The Firm may source investments from a network across management teams, restructuring advisors, commercial banks, investment banks, trading desks, direct lenders, private equity firms and other distressed debt investors.

#### **B. Investment Evaluation and Recommendation of Investment**

The Firm provides analysis and evaluation services, including due diligence of investment opportunities. Such due diligence may include company or asset-level analysis, industry analysis, capital structure analysis, legal analysis and assessment of management and corporate governance quality.

The Firm may also make use of materials provided by the target, work directly with industry participants and experts that the Firm has existing relationships with or has sourced through external networks and/or commission commercial, financial, legal and other reports from third party advisors. The Firm will bring the opportunity to the UK Manager and the UK Manager’s Investment Committee for approval.

The UK Manager has delegated the portfolio management function to the Investment Committee, which has the authority to sign off on new investments and material investment decisions.

#### **C. Negotiating and Executing Investments**

Should any investment recommendation be accepted by the Investment Committee, the resources of the Firm or the UK Manager can be deployed to facilitate the purchase or divestment, and manage the transaction, including, but not limited to, investments that involve substantial restructuring negotiations.

#### **D. Portfolio Monitoring**

Once an asset has been acquired for the Fund’s portfolio, the Firm will assist in the oversight of the portfolio monitoring, including, but not limited to, regular dialogue with portfolio company management, detailed review of management reporting and company events, monitoring of industry developments and periodic re-underwriting of existing investments.

#### *Assets Under Management*

FitzWalter’s regulatory assets under management are approximately US\$919,970,000 as at 31 December 2021, all of which is managed on a discretionary basis.

## **Item 5 - Fees and Compensation**

The Firm is paid an advisory fee by the UK Manager to cover the costs incurred in exploring and recommending opportunities for investment.

Information on amounts to be charged by the General Partner of each fund will be described in the relevant fund offering documents, and generally takes the form of percentages applied to the Fund's total committed capital and/or invested capital. An affiliate of FitzWalter (the "Special Limited Partner") is entitled to the carried interest. *See Item 6 for additional information on carried interest.*

The General Partner is permitted to enter into side letters and other agreements granting more favorable rights or terms to certain investors.

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

Carried interest is a share of the net profits realized on the disposition of investments that is paid to the Fund's Special Limited Partner as an incentive to maximize performance of the Fund. The carried interest percentage is negotiated and is calculated and distributed in accordance with the specific provisions outlined in the Fund's limited partnership agreement. The fact that a significant portion of the Special Limited Partner's compensation is directly computed on the basis of profits generated by the sale/disposition of Fund assets may create an incentive for carried interest participants to make investments on behalf of the Fund that are riskier or more speculative than would be the case in the absence of such compensation. The existence of a capital commitment by the Ultimate Beneficial Owners of FitzWalter to the Funds may reduce this incentive. Additionally, the Special Limited Partner is subject to a "clawback" of carried interest previously received to the extent that it has received cumulative distributions in excess of amounts otherwise distributable to the Special Limited Partner by the Fund as carried interest, applied on an aggregate basis covering all transactions of the Fund. In no event will the Special Limited Partner of the Fund be required to restore more than the cumulative distributions received by such Special Limited Partner as carried interest on an after-tax basis.

The Firm is entitled to provide advisory services to other clients. This could give rise to conflicts of interest where supervised persons participate in the carried interest plan of the General Partner but not of other clients. These conflicts are managed by FitzWalter's Compliance Manual, including therein the following policies: Allocation Policy, Conflicts of Interest Policy and Code of Ethics.

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

The UK Manager is the Firm's only direct client. The UK Manager has been appointed by the General Partner of the Fund as the alternative investment fund manager of the Fund; and may be serve as an advisor or manager to the General Partner in respect of investments on behalf of other investment vehicles. The Firm therefore acts as the sub-investment advisor to the Fund, which is therefore also counted among the Firm's clients.

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

*Methods of Investment Analysis*

The Firm conducts research on potential investments including:

- Conducting company or asset-level analysis, including business or portfolio perimeter, business model viability, operations, key developments and historical financial performance;
- Industry analysis, including long term trends, industry structure and competitive landscape;
- Capital structure analysis, including corporate structure and relevant credit indentures;
- Legal analysis, including review of relevant regulatory, tax and insolvency regimes; and
- Assessment of management and corporate governance quality.

As part of its research process, it may also make use of materials provided by the investment target, work directly with industry participants and experts that the Firm has existing relationships with or has sourced through external network, and obtain additional analyses, including commissioning commercial, financial, legal and other reports from third party advisors.

The Firm can be called upon to provide services relating to any investments at the UK Manager's request. The Firm relies on the industry knowledge of its US-based investment team members to select the tools of analysis and to carry out the preliminary evaluation of the opportunity.

Based on the compiled information from the research phase, the Firm will apply its own analysis tools and methodologies to evaluate the potential investment and produce a recommendation which is supplied to the UK Manager and its Investment Committee.

#### *Material Risks in Investment Methodology*

The success of the investment methodology will depend in substantial part upon the skill of the Firm's personnel and third-party consultants retained by the Firm. There can be no assurances that such individuals will continue to be employed or to function on behalf of the Fund. The loss of one or more individuals may have a material adverse effect on the ability of the Firm to provide high quality investment advice.

#### *Risk of Loss*

No guarantee or representation is made that the Fund's investment program, including the Fund's investment objective, will be successful. Investment results may vary substantially over time.

#### *Material or Significant Risks Relating to Private Investment Funds Generally and Investment Strategies*

The following risk factors do not purport to be a complete list or explanation of the risks involved in an investment in the Fund. These risk factors include only those risks we believe to be material or significant and relate to particular significant investment strategies or methods of analysis employed by the FitzWalter. Investment in the Fund involves the risk of loss of the entire value of an investor's investment in the Fund. It is critical that investors and prospective investors refer to the relevant Memorandum for a more complete description of the risks of an investment with the FitzWalter.

#### *GENERAL ECONOMIC AND MARKET RELATED RISKS*

Economic and Financial Market Conditions. The operating results, financial condition, activities, and prospects of the Fund could be materially adversely affected by instability in the global financial markets, changes in market, economic, political, technological, regulatory or social conditions, as well as by numerous other factors outside the control of the General Partner including but not limited to financial crises, climate change, natural disasters, interstate conflict and terrorist attacks.

Disruptions in the real economy or financial markets may have a direct or indirect negative effect on a wide range of companies and may substantially reduce their economic value. In the event of such a scenario, the Fund could lose both invested capital in, and anticipated profits from, any affected investments.

Epidemics and Other Health Risks. Many countries have experienced outbreaks of infectious illnesses in recent decades, including swine flu, avian influenza, SARS and COVID-19.

Global health crises may have a material adverse impact on local economies in the affected jurisdictions and also on the global economy, as cross-border commercial activity and market sentiment are increasingly impacted by the outbreak and government and other measures seeking to contain potential spread. In addition to potential adverse consequences for entities in or through which the Fund invests and the value of the Fund's investments therein, the operations of the Advisor and the General Partner (including those relating to the Fund) may be adversely impacted, including through quarantine measures and travel restrictions imposed on the personnel or service providers of the Advisor and the General Partner based or temporarily located in affected countries, or any related health issues of such personnel or service providers. Any of the foregoing events could materially and adversely affect the Fund's ability to source, manage and divest its investments and its ability to fulfil its investment objectives. Similar consequences could arise with respect to other comparable infectious diseases.

Market Stability in Europe. Given the high levels of government indebtedness in many European countries and the pressure on government finances resulting from the Coronavirus Pandemic, the possibility of a default by a sovereign state in Europe in respect of its debt obligations (and speculation as to the consequences of such a default or the action that will be taken by European central banking authorities to prevent, or to mitigate the impact of such a default) may have increased.

Greece, Ireland, Portugal, and certain other European Union countries with high levels of sovereign debt have had difficulty refinancing their debt during the Eurozone financial crisis, and concern that the euro common currency might be devalued or abandoned, or that sovereign default risk may become more widespread and could include Italy or Spain, could lead to significant volatility in the exchange rate between the Euro, US Dollar, and other currencies, and a sharp increase in the risk of "redenomination" of Euro-denominated assets. These factors may affect the ability of the General Partner to find and/or to secure finance for suitable new investment opportunities for the Fund, and may also have an adverse effect on the liquidity and value of the Fund's investments and on returns to Limited Partners.

Risks Associated with European Investments. As a general matter, investments in European countries pose numerous risks and may differ from one European country to another. The General Partner will analyze risks in the applicable European countries before making such investments, but no assurance can be given that a political or economic climate, or particular legal or regulatory risks, of one European country when compared to another European country might not adversely affect an investment by the Fund. Risks involved in investments in the securities of a European company that has its principal place of business in one European country when compared to a company that has its principal place of business in a different European country may include but are not limited to (i) differing business cultures and legal regimes; (ii) greater price fluctuations and market volatility, less liquidity and smaller capitalization of securities markets; (iii) differences in auditing and financial reporting standards which may result in the unavailability of material information about issuers; (iv) less extensive regulation of the securities markets; (v) longer



settlement periods for securities transactions; (vi) differences in tax regimes and changes in tax treaties; and (vii) less developed corporate laws regarding fiduciary duties and the protection of investors. The foregoing factors may increase transaction costs and adversely impact the value of the Fund's European investments.

Impact of Brexit. Following the UK's withdrawal from the EU ("Brexit"), the UK and the EU entered into a free trade agreement on 1 January 2021 to govern their future relationship on a number of areas (the "Treaty"). Although the EU and the UK agreed the Treaty, trade in goods and services between the UK and the EU is disrupted through the imposition of new customs checks and processes at the border. The UK's departure from the customs union and the single market has rendered its access to EU markets significantly more restricted than it has been until now.

The Treaty does not cover the UK's future relationship with the EU on financial services. The EU and the UK have agreed a memorandum of understanding establishing a framework for regulatory cooperation in financial services, which does not include a new framework for mutual market access. While some EU directives contemplate access to EU markets by financial services firms established in countries deemed to have equivalent standards, even if UK domestic law continues to be equivalent to EU law (which is not guaranteed), there is no certainty that the EU will facilitate equivalence decisions. Where the EU makes such equivalence decisions, it may unilaterally revoke them at short notice. It is therefore expected that there will be disruption in all areas in which there is currently harmonizing EU legislation, because the current legal framework has ceased to apply to the UK with nothing to replace it unless and until the UK negotiates alternative arrangements with the EU and/or with individual member states.

The Fund's operations in the UK may be subject to the future application of EU-based legislation to the private fund industry in the UK and will depend on the territorial scope of such operations and the actions of the UK government. Any re-negotiated terms or amended laws and regulations may have an adverse impact on the Fund and its investments, including the ability of the Fund to achieve its investment objectives. Brexit may result in significant market dislocation, heightened counterparty risk, an adverse effect on the management of market risk and increased legal, regulatory or compliance burden for Limited Partners, the AIFM and/or the Fund, each of which may have a negative impact on the operations, financial condition, returns or prospects of the Fund.

Following Brexit, there may also be an adverse effect on the tax treatment of the Fund's investments. In particular, EU directives preventing withholding taxes being imposed on intra-group dividends, interest and royalties no longer apply to payments made into and out of the UK, so the UK's double tax treaty network with EU member states will need to be considered in their stead.

While the most immediate impacts on corporate transactions will likely be related to changes in market conditions, the development of new regulatory regimes and parallel competition law enforcement may have an adverse impact on transactions, particularly those occurring in, or impacted by conditions in, the UK and elsewhere in Europe.

Impact of Government and Regulatory Interventions in Markets. Since the Great Financial Crisis, world financial markets have experienced extraordinary conditions, including, among other things, bank failures, extreme losses and volatility in securities markets and the failure of credit markets to function. In reaction to these events, regulators and monetary authorities in the US and several other countries undertook unprecedented regulatory and monetary actions, and such regulators continue to consider and implement measures to maintain the stability and safety of global financial markets, particularly as a result of the Coronavirus Pandemic. However, global financial markets remain volatile. The Fund may be adversely affected by the foregoing events, or by similar or other events in the future. In the longer term, there may be significant new regulatory actions and other events that could limit the Fund's activities and investment

opportunities or change the functioning of the capital markets, and there is the possibility of a severe worldwide economic downturn. Consequently, the Fund may not be capable of, or successful at, preserving the value of its assets, generating positive investment returns or effectively managing risks.

Ukraine/Russia Conflict. On 21 February 2022, Russia recognized the sovereignty of the self-declared ‘Donetsk People’s Republic’ and ‘Luhansk People’s Republic’ in the Donbas region of Eastern Ukraine. Shortly thereafter, Russia commenced large scale military operations in Ukraine (the “Ukrainian War”). In response to the Ukrainian War, the US, the UK and the member states of the EU and other countries across the globe (including Australia and Canada) have imposed a significant series of sanctions against Russia and Belarus. While many of these sanctions are targeted at specific financial institutions, businesses, key members and personnel associated with Russia and separatist regimes in the Donbas region, the US, EU and UK and others have also imposed wider, country-wide financial and trade sanctions that may limit the ability of Russian companies to trade with or raise funds on international capital markets.

While the future scope of sanctions cannot be determined at this point, these current sanctions and any future enlargement of such sanctions or similar measures in relation to the Ukrainian War or any subsequent military action or further conflict arising from the Ukrainian War could have significant and pronounced negative effects on US, European and Asian public markets and the prices of commodities, and could also adversely affect the economic performance of portfolio investments and the Fund.

While the most immediate impacts on corporate transactions will likely be related to changes in market conditions, further measures taken in response to the Ukrainian War that are not known at this stage may have an adverse impact on transactions, particularly those occurring in, or impacted by conditions in, Russia or Ukraine.

#### *RISKS ASSOCIATED WITH DISTRESSED AND SPECIAL SITUATIONS INVESTING*

Risks of Inherent Loss Resulting from Pursuing a Distressed and Special Situations Strategy. The Fund expects to invest in the instruments of companies that are experiencing significant financial or business difficulties as well as “deep-value” investments, including companies involved in bankruptcy or other reorganization or liquidation proceedings. Although such investments may result in significant returns to the Fund, they involve a substantial degree of risk. Any one or all such companies may be unsuccessful in their reorganization as contemplated or their ability to improve their operating significantly less than originally projected at the time of investment or timing of any liquidation could be significantly delayed. As such, these investments could subject the Fund to certain additional potential liabilities that may exceed the value of the Fund’s original investment therein.

Further, the level of analytical sophistication, both financial and legal, necessary for successful investment in companies experiencing significant business and financial difficulties is unusually high. This is compounded by the fact that the Fund will target, in general, investments in companies for which there is much less public information or research available. There is no assurance that the General Partner will correctly evaluate the intrinsic value of any or all of the companies in which the Fund invests. In any reorganization or liquidation proceeding relating to a company in which the Fund invests, the Fund may lose its entire investment, or may be required to accept cash or securities with a value less than the Fund’s original investment and/or may be required to accept payment over an extended period of time. Under such circumstances, the returns (if any) generated from such investments may not compensate the Fund adequately for the risks assumed.

Bankruptcy-Related Issues. The Fund may invest from time to time in companies that become involved in bankruptcy proceedings, which involves significant risks, such as the following. First, many events in a bankruptcy are the product of contested matters and adversary proceedings which are beyond the control of the creditors. Second, a bankruptcy filing may have adverse and permanent effects on a company. For instance, the company may lose its market position and key employees and otherwise become incapable of restoring itself as a viable entity. Further, if the proceeding is converted to a liquidation, the liquidation value of the company may not equal the liquidation value that was believed to exist at the time of the investment. Third, the duration of a bankruptcy proceeding is difficult to predict. A creditor's return on investment can be impacted adversely by delays while the plan of reorganization is being negotiated, approved by the creditors and confirmed by the bankruptcy court. Fourth, the administrative costs in connection with a bankruptcy proceeding are frequently high and will be paid out of the debtor's estate prior to any return to creditors. Fifth, creditors can lose their ranking and priority if they exercise "domination and control" over a debtor and other creditors can demonstrate that they have been harmed by such actions, especially in the case of investments made prior to the commencement of bankruptcy proceedings. Sixth, certain claims, such as claims for taxes, may have priority by law over the claims of certain creditors. The duration of bankruptcy proceedings can only be roughly estimated and is subject to unpredictable and potentially lengthy delays. Such passage of time may have an adverse impact on the Fund's ultimate return on its investments. Moreover, the outcome of bankruptcy proceedings is inherently unpredictable and beyond the control of the creditors.

Defaulted Securities and Instruments. The Fund may invest in the securities and instruments of companies involved in bankruptcy proceedings, reorganizations and financial restructurings and may have a more active participation in the affairs of the issuer than is generally assumed by an investor. This may subject the Fund to litigation risks or prevent the Fund from disposing of such securities and instruments. In a bankruptcy or other proceeding, the Fund, as a creditor, may be unable to enforce its rights in any collateral or may have its security interest in any collateral challenged, disallowed or subordinated to the claims of other creditors. While the Fund may attempt to avoid taking the types of actions that would lead to equitable subordination or creditor liability, there can be no assurance that such claims will not be asserted or that the Fund will be able to successfully defend against them.

Illiquidity of Investments. Due to the illiquid nature of many of the anticipated investments, the General Partner is unable to predict with confidence what, if any, exit strategy will ultimately be available for any given core position. Exit strategies which appear to be viable when an investment is initiated may be precluded by the time the investment is ready to be realized due to economic, legal, political or other factors.

## *RISKS GENERALLY ASSOCIATED WITH INVESTMENTS IN DEBT AND EQUITY INSTRUMENTS*

Debt Instruments. Investments in debt instruments such as bank loans and high yield debt instruments entail normal credit risks (i.e., the risk of non-payment of interest and principal) and market risks (i.e., the risk that interest rates and other factors will cause the value of the instrument to decline). A debt instrument may be subject to early redemption features, refinancing options, pre-payment options, or similar provisions which, in each case, could result in the issuer repaying the principal on an obligation held by the Fund earlier than expected and could have an adverse effect on the Fund's ability to achieve its investment objective.

General Credit Risks. The value of any underlying collateral, the creditworthiness of the borrower and the priority of the lien are each of great importance. Furthermore, the Fund cannot assure that claims may not be asserted that might interfere with enforcement of the rights of the holder(s) of the relevant debt. In the event of a foreclosure, the liquidation proceeds upon sale of such asset may not satisfy the entire outstanding

balance of principal and interest on the loan, resulting in a loss to the Fund. Any costs or delays involved in the effectuation of a foreclosure of the loan or a liquidation of the underlying property will further reduce the proceeds and thus increase the loss. The Fund may not have the right to proceed directly against obligors on the Fund's interests. Furthermore, environmental liabilities may arise with respect to collateral securing the obligations.

The Fund cannot guarantee the adequacy of the protection of the Fund's interests, including the validity or enforceability of the loan and the maintenance of the anticipated priority and perfection of the applicable security interests. Furthermore, the Fund cannot assure that claims may not be asserted that might interfere with enforcement of the Fund's rights. In the event of a foreclosure, the Fund or an affiliate of the Fund may assume direct ownership of the underlying asset. The liquidation proceeds upon sale of such asset may not satisfy the entire outstanding balance of principal and interest on the loan, resulting in a loss to the Fund. Any costs or delays involved in the effectuation of a foreclosure of the loan or a liquidation of the underlying property will further reduce the proceeds and thus increase the loss.

Equity Instruments. The Fund may invest in equity instruments, including common stock, preferred stock and convertible stock. The value of these may fluctuate in response to factors affecting the particular company, as well as broader market and economic conditions. Moreover, in the event of a company's bankruptcy, claims of certain creditors, including bondholders, will have priority over claims of common stockholders and are likely to have varying types of priority over holders of preferred and convertible stock.

#### *RISKS ASSOCIATED WITH INVESTMENTS IN REAL ESTATE*

Real Estate and Tangible Assets Risks Generally. The Fund's investments will be subject to the risks inherent in the ownership and operation of real estate assets. These risks include adverse changes in national and international economic conditions, adverse local market conditions, the financial conditions of tenants, buyers and sellers of properties, changes in availability and cost of debt financing, changes in interest rates, real estate taxes and other operating expenses, environmental laws and regulations, zoning laws and other governmental rules and fiscal policies, energy prices, changes in the relative popularity of certain property types, risks associated with operating problems related to the presence of certain construction materials, risk of mismanagement of the real estate assets by third parties, uninsurable losses, design, construction, title or other defects or problems, and other factors which are beyond the control of the General Partner, the Advisor or their affiliates. Other tangible assets in which the Fund may invest are subject to a variety of risks, not all of which can be foreseen or quantified, including economic, environmental, regulatory risks as well as risks specific to the asset in question such as technical, operating or maintenance issues. For example, investments in power assets are subject to extensive regulation (e.g., Federal Energy Regulatory Commission approval in the US). Or, as another example, airplane values are affected by air traffic which in turn is affected by a number of factors including the general state of the economy, price discounting and similar promotions, aviation fuel costs, and regulation.

Certain losses of a catastrophic nature, such as wars, earthquakes, typhoons, terrorist attacks or other similar events, may be either uninsurable or insurable at such high rates that to maintain such coverage would cause an adverse impact on the related investments. In general, losses related to terrorism are becoming harder and more expensive to insure against. If a major uninsured loss occurs, the Fund could lose both invested capital in and anticipated profits from the affected investments.

Pools of Loans. In connection with the acquisition of whole or other loans, the Fund may be required to purchase other types of mortgage assets as part of an available pool of mortgage assets in order to acquire the desired loans. These other mortgage assets may include mortgage assets that subject the Fund to

additional risks. Acquisition of less desirable mortgage assets may impair the performance of the Fund and reduce returns (if any) to investors. In addition, in connection with the Fund's investments in portfolios of loans, the information available to the Fund and/or the General Partner with respect to individual loans included in the relevant portfolio may be limited. The unavailability of material information may limit or restrict the General Partner's due diligence efforts and could adversely affect the Fund. Further, there is increased counterparty risk to the Fund when purchasing a portfolio of loans in a single transaction from one seller as compared to the purchase of a single loan. Since it is likely that a transaction involving the purchase of a portfolio of loans will represent a greater percentage of the aggregate investments of the Fund as compared to a transaction involving the purchase of a single loan, the adverse effects of a default by a counterparty or a counterparty being in breach of any representation, warranty, covenant, or other obligation in a transaction involving a portfolio of loans will be magnified.

Properties Subject to Ground Leases. The Fund may acquire leasehold interests in respect of properties that are the subject of a ground lease, where third party owners hold the fee interest in those properties (each, a "Fee Owner"). In such cases, the Fund's interest in such a property will be subordinate to the Fee Owner's interest in that property, and the Fund's investment in the leasehold interest will be subject not only to the potentially competing interests of the Fee Owner, but also to interests held by third parties, such as mortgages or other liens (e.g., mechanic's liens) that encumber the Fee Owner's fee interest and which may be superior and potentially adverse to the interests of the Fund. A default by the Fee Owner under any of these competing interests and the enforcement or foreclosure of those interests by the holders thereof may also result in the termination or impairment of the Fund's leasehold interest. In addition, any bankruptcy or insolvency of the Fee Owner could potentially impair or terminate the Fund's leasehold interest. This risk is increased if the fee interest were itself subject to financing liens. In the event of the Fee Owner's bankruptcy, there can be no assurance that a tenant will not acquiesce in a rejection or disaffirmance of the lease by the Fee Owner or its trustee in bankruptcy, or that the Fee Owner's bankruptcy trustee will not seek to sell the property free and clear of the lease.

Environmental Liabilities. The Fund may be exposed to substantial risk of loss from environmental claims arising in respect of investments made with undisclosed or unknown environmental problems, investments involving any environmental accidents and need to address environmental contamination at the property relating thereto, or investments as to which inadequate reserves had been established, including being liable for the costs of removal or remediation of certain hazardous or toxic substances on or in such property. Environmental claims with respect to a specific investment may exceed the value of such investment, and under certain circumstances, subject the other assets of the Fund to such liabilities. The presence of such hazardous or toxic substances, or the failure to properly remediate contamination from such substances, may adversely affect the owner's ability to sell the real estate or to borrow using such property as collateral and may have a significant adverse effect on the value and returns from such property.

#### *RISKS ASSOCIATED WITH INVESTMENTS IN STRUCTURED FINANCE*

Structured Investments. The Fund may opportunistically invest in the equity and/or debt securities of structured finance vehicles. Such securities will have different investment characteristics such as varying maturities, payment priorities and interest rate provisions, and the extent of the payments made with respect to such securities is dependent on the extent of the cash flow on the underlying instruments. Certain classes of such securities may be subordinated to the right of payment of another class, and therefore, such structured investments typically have higher yields and present greater risks than unsubordinated structured investments.



Investments in structured products will be subject to a number of risks, including risks related to the fact that the structured products will often be leveraged, increasing their risk. Many structured products contain covenants designed to protect the providers of debt financing to such structured products. A failure to satisfy those covenants could result in the untimely liquidation of the structured product and a complete loss of the Fund's investment therein. In addition, if the particular structured product is invested in a security in which the Fund is also invested, this would tend to increase the Fund's overall exposure to the credit of the issuer of such securities.

The value of an investment in a structured product will depend on the investment performance of the assets in which the structured product invests and will therefore be subject to all of the risks associated with an investment in those assets. The Fund will not own such assets directly and will therefore not benefit from general rights applicable to the holders of assets, such as the right to indemnity and the rights of setoff, or have voting rights with respect to such assets, and in such cases, all decisions related to such assets, including whether to exercise certain remedies, will be controlled by the structured product.

Investments in structured products are highly complex. Their complexity gives rise to the risk that investors, parties involved in their creation and issuance, and other parties with an interest in them may not have the same understanding of how these investments behave, or the rights that the various interested parties have with respect to them. Furthermore, the documents governing these investments may contain some ambiguities that are subject to differing interpretations. Even in the absence of such ambiguities, if a dispute were to arise concerning these instruments, there is a risk that a court or other tribunal might not fully understand all aspects of these investments and might rule in a manner contrary to both the terms and the intent of the documents. Therefore, the Fund cannot be fully assured that it will be able to enjoy all of the rights that it expects to have when it invests in structured products. In addition, due to their complex structure, structured products may be difficult to value and may have reduced liquidity. Structured products are also a relatively recent development in the financial markets.

#### *RISKS GENERALLY ASSOCIATED WITH AN INVESTMENT IN THE FUND*

No Assurance of Investment Return. All of the Fund's investments risk the loss of capital. The General Partner believes that the Fund's investment program moderates this risk. However, there can be no assurance that the Fund's investment program will be successful or that investments purchased by the Fund will increase in value. An investor in the Fund could lose its entire investment in the Fund. All investors should consult their own legal, tax and financial advisors prior to investing in the Fund.

Lack of Operating History. The Fund and the General Partner are newly formed entities and have no operating history. The past investment performance of portfolios advised or managed by the Advisor's and the General Partner's owners, employees and affiliates may not be construed as an indication of the future results of an investment in the Fund. The Fund's investment program should be evaluated on the basis that there can be no assurance that the Advisor's and the General Partner's assessment of the short-term or long-term prospects of investments will prove accurate or that the Fund will achieve its investment objectives.

Non-Controlling Investments. The Fund may hold non-controlling interests in portfolio companies and, therefore, will have a limited ability to protect its positions in such portfolio companies, although as a condition of investment, the General Partner expects that appropriate rights generally will be sought to protect the Fund's interests.

Reliance on Management of Portfolio Companies. While it is the intent of the General Partner to invest in companies with proven operating management, there can be no assurance such management will operate

such company appropriately or successfully. Although the General Partner will monitor the performance of each investment, the Fund will rely upon management to operate the portfolio companies on a day-to-day basis. In addition, the Fund will rely upon management to provide information to the General Partner in respect of the cash flows, performance and projections of the portfolio companies. As a result, the total returns to the investors could be severely affected by any inaccuracy of the reporting of such information, the failure by management to properly report certain financial information or any improper or illegal activities of management.

Limited Due Diligence. Pursuant to its investment strategy, the Fund may acquire stakes in target companies without direct discussions or with only limited discussions with the management of such companies. In addition, due diligence information on which the Fund relies may be difficult to obtain, limited in scope or inaccurate.

Follow On Investments. The Fund may be called upon to provide follow up funding for their respective portfolio companies or have the opportunity to increase its investment in such portfolio companies. There can be no assurance that the Fund will wish to make follow on investments or that they will have sufficient funds to do so. Any decision by the Fund not to make follow on investments or its inability to make them may have, inter alia, a substantial negative impact on the returns in respect of such portfolio company or may diminish the Fund's ability to influence the portfolio company's future development.

#### *RISKS ASSOCIATED WITH LEVERAGE*

Leverage. The Fund may utilize leverage (up to certain limits) to finance, or otherwise in connection with, their investments. The use of such leverage involves a high degree of financial risk. Although borrowings by the Fund have the potential to enhance overall returns that exceed the Fund's cost of funds, they will further diminish returns (or increase losses on capital) to the extent overall returns are less than the Fund's cost of funds. In addition, borrowings by the Fund may be secured by the Capital Commitments of the Partners of the Fund as well as by the Fund's assets.

If the Fund is unable to use indebtedness to finance the acquisition of certain investments, an investor in the Fund may realize lower returns than it would have realized had such investments been leveraged.

Whether the Fund will be able to leverage certain investments will be affected by the eligibility criteria. If the Fund is unable to make investments that meet credit financing eligibility criteria, collateral quality tests or collateral and interest coverage tests, the Fund may not be able to execute its leverage strategy. Further, any defaults may also limit availability for leverage on certain investments, while increasing the cost of then outstanding financing or restrict or eliminate the Fund's ability to obtain debt financing on acceptable terms or at all.

The use of leverage to finance investments generally may result in "unrelated business taxable income" for U.S. tax-exempt investors.

## **Item 9 - Disciplinary Information**

The Firm and its supervised persons have not been involved in any legal or disciplinary events in the past 10 years that would be material to a client's evaluation of the company or its personnel.

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

The Firm is affiliated with:

FitzWalter Capital Partners GP Limited, the general partner of the Fund, has been registered as a Jersey private company with the Jersey Financial Services Commission's (the "JFSC") registry division;

FitzWalter Capital Limited, an English limited company, has been appointed to act as alternative investment fund manager to the General Partner in the General Partner's capacity as the general partner in respect of the Fund and any vehicles as may be organized to co-invest alongside the Fund. FitzWalter Capital Limited is authorized by the FCA.

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

### *Code of Ethics*

FitzWalter has adopted a written code of ethics (the "*Code of Ethics*" or the "*Code*") that is applicable to all employees. Among other things, the code requires FitzWalter and its employees to act in clients' best interests, abide by all applicable regulations, avoid even the appearance of insider trading, and pre-clear and report on many types of personal securities and other instrument transactions.

At all times, FitzWalter and its supervised persons must comply with the spirit and the letter of the federal securities laws and the rules governing the capital markets.

All supervised persons will act with competence, dignity, integrity, and in an ethical manner, when dealing with Clients, the public, prospects, third-party service providers and fellow supervised persons. supervised persons must use reasonable care and exercise independent professional judgment when conducting investment analysis, making investment recommendations, trading, promoting FitzWalter's services, and engaging in other professional activities.

FitzWalter expects all supervised persons to adhere to the highest standards with respect to any potential conflicts of interest with Clients.

A copy of FitzWalter's Code of Ethics is available for review upon request by investors or prospective investors of the Fund.

### *Personal Investments in the Same Securities and Investments as Clients*

FitzWalter's restrictions on personal securities trading apply to employees, as well as (in certain instances) employees' family members living in the same household. Employees are generally not permitted to trade



in a Security (or related Securities) or investment loans that might be of relevance to the Fund's distressed credit investment strategy. This restriction covers high yield bonds, leveraged loans and other similar credit assets. However, this may be authorized in rare circumstances, for example selling down a legacy position acquired prior to commencing employment, and only where such transaction does not pose a conflict of interest. This policy is intended to mitigate conflicts that may arise, in particular where a) a supervised person buys or sells securities or other investments that are also recommended to clients; and b) a supervised person recommends securities or investments to clients in which they or any other related person has some other ownership interest.

Our supervised persons may buy and sell securities or investments for their own accounts with the prior approval of our Chief Compliance Officer. However, investments in certain non-reportable securities will not require the prior approval of our Chief Compliance Officer. The pre-clearance requirement described above is intended to mitigate the conflicts that may arise from such personal trading. *Please refer to the Code of Ethics for more details.*

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

FitzWalter staff are not permitted to invest in opportunities recommended to its Fund, except for authorized investments in employee investment vehicles or other co-investment vehicles.

Certain of FitzWalter's staff will invest directly or indirectly into the fund and/or are entitled to participate in the Group's carried interest plan (once offered the opportunity, participation is at the discretion of the staff member). Investment into the fund and/or participation are not considered to create a conflict of interest because this generally results in alignment of interests with investors.

#### *Recommendations Involving Financial Interest*

FitzWalter and any supervised person or other affiliate is prohibited from trading with any Client on a principal basis, unless FitzWalter discloses the capacity in which it is acting to each participating Client in writing before completion of the transaction, and obtains each participating Client's consent to the transaction.

The CCO must be notified of any proposed principal transaction involving a Client and must provide approval before the principal transaction is effected. Prior to the settlement of any principal transaction, the CCO is responsible for obtaining any affected Client's informed written consent to the transaction. Any such consents should be retained by the CCO.

FitzWalter abides by the Group's Compliance Manual which includes the Allocating of Investment Opportunities among Clients and Conflicts of Interest policies. The primary principle is the fiduciary duty to investors. Where conflicts of interests arise, the Board of Directors of the UK Manager will decide how to manage the conflict.

#### *Allocating Investment Opportunities among Clients*

FitzWalter is aware of potential conflicts between the Fund and possible co-investment vehicles or separately managed accounts which may be offered at a later date. *Please see below for a more detailed discussion of management of potential conflicts.*

New investment opportunities are usually given to Clients that are currently active. Each complex of Clients may include various legal entities that reflect Investors' tax statuses, locations and other relevant factors. Exposure to new investments will generally be allocated among Investors in a fund complex based on their respective available capital commitments, in accordance with the relevant fund documents.

FitzWalter may determine that a specific transaction in a security or investment is appropriate for one or more Clients but not all Clients based upon numerous factors, including, among other things, investment objectives, investment strategies or restrictions, while other accounts managed and/or advised by FitzWalter may hold or take the opposite position in the security or investment in accordance with such Clients' investment objectives, strategies and restrictions.

In order to assure a fair and equitable allocation of investment opportunities among investment platforms, including the Fund, FitzWalter may allocate investment opportunities among investment platforms in accordance with allocation policies and procedures that are designed to allocate investments fairly on an investment-by-investment basis. These policies and procedures are based on the applicable investment guidelines of such investment platforms, portfolio diversification requirements and other appropriate factors. The Fund may only be part of an allocation for investment opportunities determined to be within the bounds of the Fund's investment objectives. Due to the allocation process, some investments that may meet the Fund's investment objectives may be allocated to other investment platforms in their entirety or in part on a pro-rated basis.

If FitzWalter determines that it is in the best interests of one or more Clients to deviate from the allocation policies and procedures noted above, the relevant Investment Committee will meet to evaluate the proposed allocation. To the extent that an allocation decision poses a material conflict of interest, or could give the appearance of a material conflict of interest, such matters will be escalated to the Board of Directors of the UK Manager and/or any relevant Limited Partner Advisory Committee.

#### *Use of Subscription Lines*

The Fund may use a general credit facility for working capital, to finance investments, to bridge capital calls, to provide interim bridge financing and capital, and for other similar purposes. Utilizing borrowed funds increases certain risks to the fund and has the potential to create conflicts of interest.

FitzWalter has incentives to engage in fund-level borrowing notwithstanding the expense and risks that accompany it. For example, to the extent that the Fund uses borrowed funds in advance or in lieu of calling capital, investors make correspondingly later or smaller capital contributions. Preferred return and Carried Interest generally depend on the amount and timing of capital contributions and distributions of proceeds. Using borrowing to shorten the period between calling and returning capital limits the amount of time the preferred return will accrue. Fund-level borrowing will therefore reduce the amount of preferred return to which a Fund's investors would otherwise be entitled had the Funds called capital in lieu of borrowing on the general facility, and thus would entitle the Fund's Special Limited Partner to receive a higher rate of Carried Interest or to receive it sooner than it would without borrowing. FitzWalter therefore has an incentive to cause the Fund to borrow money for investments and expenses in larger amounts or over longer periods of time.

#### *Addressing Conflicts of Interest*

FitzWalter's policies and procedures have been designed to identify and properly disclose, mitigate, and/or eliminate applicable conflicts of interest. The following principles govern FitzWalter's approach to addressing conflicts of interest:

- To the extent possible, potential conflicts of interest should be resolved in such a way so as to prevent the potential conflict of interest from becoming an actual or apparent conflict of interest.
- To the extent possible, conflicts of interest that involve FitzWalter and/or its supervised persons on one hand, and Clients and/or investors in the Fund on the other hand, will generally be disclosed and resolved in a way that favors the interests of Clients and/or investors in the Fund over the interests of FitzWalter and its supervised persons.
- In some instances, conflicts of interest may arise between Clients and/or investors in the Fund. FitzWalter will seek to resolve these conflicts in a way that is as fair and reasonable for all affected parties, even if the ultimate resolution could nevertheless disadvantage or appear to disadvantage one or more of the parties to some extent. If possible, FitzWalter will seek to obtain informed consent to its proposed resolution from the affected parties or their representatives.

## **Item 12 - Brokerage Practices**

### *Trading and Execution*

The General Partner has complete discretion in deciding which securities are bought and sold, the amount, and price of those securities.

Portfolio transactions for the Fund will be allocated to brokers and dealers on the basis of numerous factors and not necessarily lowest pricing. Brokers and dealers may provide other services that are beneficial to the Group and/or certain clients, but not beneficial to all clients. Subject to best execution, in selecting brokers and dealers to execute transactions, it may be deemed appropriate to consider further factors under the circumstances, for example: the ability of the brokers and dealers to effect the transaction; the brokers' or dealers' facilities, reliability and financial responsibility; and the provision by the brokers of access to company managements and access to deal flow.

Accordingly, the prices and commission rates (or dealer markups and markdowns arising in connection with riskless principal transactions) charged to the Fund by brokers or dealers in the foregoing circumstances may be higher than those charged by other brokers or dealers that may not offer such services.

### *Research and Other Soft Dollars Benefits*

FitzWalter currently does not use or intend to use formal commission sharing arrangements with broker-dealers. However, FitzWalter may receive research or services other than execution from a broker-dealer or a third party ("soft dollar benefits") in connection with client securities transactions. However, FitzWalter does not pay increased commissions in order to obtain such research or services. Any such arrangement used by FitzWalter will be under Section 28(e) of the Exchange Act, which provides a safe harbor that allows an investment adviser to pay more than the lowest available commission.

### *Brokerage for Client Referrals*

FitzWalter does not receive client (or investor) referrals from broker-dealers or third parties in return for selecting broker-dealers to execute Fund transactions. However, from time to time, brokers may assist the FitzWalter Group through the provision of advice, access, event attendance or other services that benefit FitzWalter's potential profile or fundraising capabilities. Brokers may also provide other services, including, without limitation, consulting services relating to technology and office space. Although neither FitzWalter nor the Fund compensates brokers for such assistance, events or services, or for any investments ultimately made by prospective investors, such activities may influence FitzWalter in deciding whether to use such broker in connection with brokerage, financing and other activities of the Fund. Subject to its obligation to seek best execution, FitzWalter may consider referrals of investors to the Fund in determining its selection of brokers. However, FitzWalter will not commit to an investor or a broker to allocate a particular amount of brokerage in any such situation.

#### *Order Aggregation and Average Pricing*

If FitzWalter determines that the purchase or sale of a security is appropriate with regard to the participating clients, it may, but is not obligated to, purchase or sell such a security on behalf of such clients with an aggregated order, for the purpose of reducing transaction costs, to the extent permitted by applicable law. When an aggregated order is filled through multiple trades at different prices on the same day, each participating client will receive the average price, with transaction costs generally allocated pro rata based on the size of each client's participation in the order (or allocation in the event of a partial fill) as determined by FitzWalter. In the event of a partial fill, allocations may be modified on a basis that FitzWalter deems to be appropriate, including, for example, in order to avoid odd lots or de minimis allocations. When orders are not aggregated, trades generally will be processed in the order that they are placed with the broker or counterparty selected by FitzWalter. As a result, certain trades in the same security or investment for one client (including a client in which FitzWalter and its personnel may have a direct or indirect interest) may receive more or less favorable prices or terms than another client, and orders placed later may not be filled entirely or at all, based upon the prevailing market prices at the time of the order or trade. In addition, some opportunities for reduced transaction costs and economies of scale may not be achieved.

### **Item 13 - Review of Accounts**

The Fund's portfolio is reviewed regularly, and its performance analyzed, by the Investment Committee of the UK Manager. The Chief Compliance Officer will review a sample of the Fund's portfolio at least semi-annually to ensure compliance with Clients' investment objectives and any investment restrictions.

The Fund will provide its investors with the following types of written communications: (i) unaudited quarterly investor reports; (ii) unaudited quarterly capital account statements; and (iii) annual audited financial statements with respect to the previous fiscal year within 120 days of fiscal year-end.

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

The Firm's affiliates, the General Partner or the UK Manager, may enter into solicitor arrangements to compensate organizations that refer investors to the Fund. Details regarding the fees payable to a placement agent or other third-party solicitor under any such solicitor arrangement will be set forth in a written agreement with such solicitor. Clients and investors in the Fund should be aware that the receipt of compensation by a placement agent or third-party solicitor may create a conflict of interest, and may affect

the judgment of the placement agent or solicitor when making a recommendation for an investment in the Fund.

## **Item 15 - Custody**

FitzWalter expects to have “Custody” (as defined in Rule 206(4)-2 of the Advisers Act) of the Fund assets because of the affiliation with the General Partner. All Client assets will be held in custody by unaffiliated broker/dealers or banks to the extent required by Rule 206(4)-2. The Fund will be subject to an annual audit and the audited financial statements are distributed within 120 days of fiscal year end to each limited partner (or member or owner).

## **Item 16 - Investment Discretion**

The Firm does not have discretion to manage securities accounts on behalf of Clients. The Firm may assist in arranging investment transactions where the Investment Committee of the UK Manager has approved an investment recommendation.

## **Item 17 - Voting Client Securities**

The Investment Committee of the UK Manager is responsible for voting client proxies. In general, proxies should be voted in the best interest of the Fund. To that end, the UK Manager will generally seek to vote proxies in a way that maximizes the value of clients’ assets. Under certain circumstances, the UK Manager may abstain from voting specific proxies if it is believed that doing so is in the best interests of the clients. In addition, FitzWalter maintains a record of all proxy votes cast on behalf of clients. If a material conflict of interest is identified it will be reviewed by the Chief Compliance Officer, and may require escalation to the Board of Directors of the UK Manager. Investors in the Fund do not and may not direct us to vote proxies in a particular way for proxy solicitations.

A Client may request a copy of FitzWalter’s proxy voting policies and procedures and information on how FitzWalter voted client securities by addressing a written request for such policy or information to FitzWalter’s Chief Compliance Officer.

FitzWalter will evaluate the necessity to participate in shareholder class action litigation and similar matters as they arise but will not participate in class action litigation unless it is determined it would be in the best interest of the Clients.

## **Item 18 - Financial Information**

The Firm is not required to include a balance sheet for its most recent fiscal year, is not aware of any financial condition reasonably likely to impair its ability to meet contractual commitments to clients, and has not been the subject of a bankruptcy petition at any time during the past ten years.