



**Harbert Fund Advisors, Inc.**

**PART 2A OF FORM ADV: FIRM BROCHURE / MARCH 15, 2023**



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This brochure provides information about the qualifications and business practice of Harbert Fund Advisors, Inc. If you have any questions about the contents of this brochure, please contact us 205.987.5500 or [irelations@harbert.net](mailto:irelations@harbert.net). 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 Harbert Fund Advisors, Inc. is also available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). You can search this site by a unique identifying number, known as an SEC file number. Our firm's SEC file number is 801-55926.

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

March 15, 2023

**Item 1 Cover Page**

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Additional information about Harbert Fund Advisors, Inc. also is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

Harbert Fund Advisors, Inc. is an investment adviser registered with the SEC. Our status as a registered investment adviser, however, does not imply that the SEC approves of our ability or expertise in managing client funds or securities. This brochure, along with the additional information available on the website above, provides information that is important to your decision of whether to conduct business with us.

**Item 2 Material Changes**

Form ADV 2 is divided into two parts: Part 2A and Part 2B. Part 2A (the "Disclosure Brochure") provides information about a variety of topics relating to an Advisor's business practices and conflicts of interest. Part 2B (the "Brochure Supplement") provides information about advisory personnel of Harbert Fund Advisors, Inc.

We encourage all current and prospective investors to read this Disclosure Brochure and discuss any questions you may have with us. And of course, we always welcome your feedback.

Consistent with the SEC's ADV rules, we must provide you with a summary of material changes made to this Brochure since its last publication on March 15, 2022.

Item 4: Advisory Business. Item 4 has been amended to include the addition of newly launched funds including the Pioneer Fund. Assets under management have been updated.

**Item 3 Table of Contents**

<b>Item 1</b>	<b>Cover Page</b>	<b>1</b>
<b>Item 2</b>	<b>Material Changes</b>	<b>1</b>
<b>Item 3</b>	<b>Table of Contents</b>	<b>2</b>
<b>Item 4</b>	<b>Advisory Business</b>	<b>4</b>
<b>Item 5</b>	<b>Fees and Compensation</b>	<b>5</b>
	Fund Fees and Expenses	5
	Separate Account Fees and Expenses	6
	Compensation for the Sale of Securities	6
<b>Item 6</b>	<b>Performance-Based Fees and Side-By-Side Management</b>	<b>7</b>
<b>Item 7</b>	<b>Types of Clients</b>	<b>7</b>
<b>Item 8</b>	<b>Methods of Analysis, Investment Strategies and Risk of Loss</b>	<b>7</b>
	Private Capital and Real Estate Funds	8
	Absolute Return Funds	8
	Risk of Loss	8
<b>Item 9</b>	<b>Disciplinary Information</b>	<b>8</b>
<b>Item 10</b>	<b>Other Financial Industry Activities and Affiliations</b>	<b>8</b>
<b>Item 11</b>	<b>Code of Ethics, Participation or Interest in Client Transactions and Personal Trading</b>	<b>9</b>
	Code of Ethics	9
	Personal Trading	9
	Participation or Interest in Client Transactions	9
	“Warehoused” Principal Trades	9
	Cross Trades	10
	Conflicts of Interest	10
<b>Item 12</b>	<b>Brokerage Practices</b>	<b>10</b>
	Best Execution and Broker Selection Process	10
	Allocation of Investment Opportunities and Aggregated Trades	11
	Securities Law Reporting Requirements and Short-Swing Profits	11

<b>Item 13 Review of Accounts</b>	<b>12</b>
Account Review	12
Content and Frequency of Reports	12
<b>Item 14 Client Referrals and Other Compensation</b>	<b>12</b>
<b>Item 15 Custody</b>	<b>13</b>
<b>Item 16 Investment Discretion</b>	<b>13</b>
<b>Item 17 Voting Client Securities</b>	<b>13</b>
<b>Item 18 Financial Information</b>	<b>14</b>

**Item 4 Advisory Business**

Harbert Fund Advisors, Inc. ("HFA", and collectively with our affiliates "we", "our" or "us") was formed in 1993 and registered with the SEC in October 1998. Our parent company Harbert Management Corporation ("HMC") sponsors alternative investment funds and is privately owned by a group of its officers and managers. HMC currently sponsors alternative asset funds ("Fund", or collectively "Funds") in three areas of concentration: Real Assets (United States Real Estate, European Real Estate, Seniors Housing, Power and Infrastructure, South Bay), Private Capital (Credit Solutions, Growth Equity, Discovery), and Absolute Return (Stoneview, Donerail, Pioneer).

The Funds are organized as limited partnerships, limited liability companies or other business entities and we serve as investment adviser to the Funds. We provide advice and assistance to each Fund regarding the acquisition, management and disposition of Fund investments and provide institutional infrastructure support. We are headquartered in Birmingham, Alabama and have investment teams in Birmingham and in offices in New York, New York; Dallas, Texas; Richmond, Virginia; Charlotte, North Carolina; Nashville, Tennessee; San Francisco, California; London, England; Madrid, Spain; and Paris, France. Legal, accounting, compliance and risk management teams are located in Birmingham. As of January 1, 2023, we, together with our securities related affiliates, have approximately 165 employees.

Certain Funds (i.e., the private capital and real estate asset classes) raise specific capital commitments that are called over a limited investment period. The absolute return funds we advise raise capital as conditions and investment opportunities warrant, and their capital is typically contributed in full at subscription and is subject to "lock-up" provisions. Each Fund, or group of related Funds, has its own dedicated management professionals.

HFA intends to offer co-investment opportunities in its sole discretion to advisory clients (including its pooled investment vehicles), employees and new investors who do not currently have advisory relationships with HFA or its affiliates. In making such allocation decisions, the general partner will be entitled to consider any interests and factors it desires. The allocation of co-investment opportunities will in many or all cases involve a benefit to HFA including, without limitation, the receipt of fees or allocation of carried interest from the co-investment opportunity. HFA, in its sole discretion, may or may not charge management fees and/or carried interest for co-investments. Investing in a pooled investment vehicle sponsored by HFA or one of its affiliates typically does not give investors any rights, entitlements or priority to co-investment opportunities. As a general principle, HFA requires that potential conflicts of interest be addressed by placing client interests before personal or proprietary interests. As a control, the firm has adopted a policy pursuant to which it seeks to allocate investment opportunities among advisory clients, including its funds, in a fair and equitable manner, bearing in mind, among other things, the size, investment objectives, mandate or policies, risk tolerance, return targets, projected hold periods, diversification considerations, permissible and preferred asset classes, and liquidity needs of each advisory client. Final allocation decisions are under the purview of the firm.

We will also, from time to time, provide investment advice to institutional and high net worth investors on a separate account basis. Each separate account client negotiates the fees and scope of services that we will provide. Generally, separate account clients want their capital to be invested and managed with the same focus as a particular Fund. But separate account clients can place investment restrictions on their capital or make other specific requests of us.

As of December 31, 2022, our discretionary AUM was \$ 8,104,824,585.

**Item 5 Fees and Compensation**

We receive a quarterly management fee for our services. The typical range for Fund management fees is 1% to 2.5% per year and management fees for separate accounts are negotiated by each client.

Certain Funds we advise also offer options regarding fee and lock-up structures. For applicable Funds, investors have the option to select share classes that offer lower management fees but increased lock-up periods. These fee and lockup structures are fully detailed in each applicable Fund's offering memorandum.

**Fund Fees and Expenses**

Fund management fees are payable quarterly in advance and are generally based on: 1) total Fund assets; 2) committed capital, during the investment period; or, 3) called capital, following the investment period. Management fees are normally prorated for the number of days in a period, with adjustments typically being made at the end of a quarter as necessary. The amount of each Fund's management fee is set forth in each Fund's advisory agreement as well as in each Fund's governing documents and offering memorandum.

The General Partner, Managing Member or Manager of each Fund (depending on how the Fund is legally organized) is an affiliate of ours and is entitled to receive a performance-based fee. The performance fee generally is 20% of each Fund's yearly net profit or the net appreciation of each investor's capital account, depending on the type of Fund. For some Fund clients the performance fee is not payable until investors receive a preferred return, and this is fully described in the respective Fund's governing documents. Additionally, certain absolute return Funds charge a redemption fee (generally 3%) if an investor withdraws capital prior to the expiration of a lock-up period.

We may waive, reduce, or rebate management or performance fees with respect to certain investors in the Funds. In addition, we may grant rights to certain investors in the Funds including, but not limited to, key man redemption rights, most-favored nation provisions, capacity assurances, in-kind distribution provisions, reduced lock-up periods and additional reports.

Each Fund's offering memorandum details which expenses will be the responsibility of the Investment Manager. Normal and recurring expenses incurred by the Investment Manager or its personnel in support of carrying out each Fund's activities will be the responsibility of the Investment Manager and include the following: office rent and utilities; furniture and fixtures; computer equipment and services; salaries plus employee insurance, benefits, and payroll taxes; secretarial/administrative services; and non-investment/research related travel and entertainment expenses.

All other expenses are generally paid by the Fund and include: third party legal, audit, tax and accounting (including outsourced accounting) fees and expenses; third party administrator fees and expenses; Fund-related insurance expenses (including the portion, if any, of the expense of insurance coverage purchased jointly for a Fund and affiliates that is fairly allocable to a Fund); expenses related to any alternative investment vehicles in which a Fund may invest as part of its investment strategy; organizational expenses (may allow expenses of certain outside professionals or investment personnel related to the offer and sale of Fund interests); investment expenses such as commissions, research fees and expenses including research related travel (see also Item 12 below discussing HFA's brokerage practices); other travel costs and out-of-

pocket expenses related to the investment activities of certain Funds; interest on margin accounts and other indebtedness, if any; borrowing charges on securities sold short; custodial fees; and any other expenses reasonably related to the purchase, sale or transmittal of Fund assets.

Additionally, private fund investments will frequently incur sourcing and diligence expenses. These expenses generally include fees, costs, and expenses of identifying, investigating (including conducting due diligence with respect to), evaluating, structuring and negotiating potential investments. Sourcing and diligence expenses incurred with respect to the pursuit of investments that are never actually consummated are referred to as “broken-deal” expenses. Examples of such “broken-deal” expenses include fees and expenses of any legal, investigative, financial, accounting, consulting or other advisors or lenders, investment banks and other financing sources in connection with arranging financing for transactions that are not consummated; any travel and accommodation expenses; and any deposits or down payments that are forfeited in connection with, or amounts paid as a penalty for, unconsummated transactions. These types of broken-deal expenses will be borne by the Fund, as well as any affiliated funds and other co-investment vehicles that have committed to participate in the investment and to bear a proportionate share of any broken-deal expenses in the event the proposed investment is not consummated. If such affiliated funds and/or co-investment vehicles are managed by our affiliates, but investment discretion is reserved to the investor, such commitment must be evidenced by an approval of the investor to incur deal related expenses related to the particular investment and to bear a proportionate share of any broken-deal expenses in the event the proposed investment is not consummated. Absent such commitments, broken-deal expenses will generally be borne entirely by the fund pursuing the investment. The proportions of such expenses are generally allocated pro-rata, but the selection of the allocation methodology is determined by the Fund Controller in consultation with the Fund Manager and/or other senior management, as appropriate. Predetermined allocation methodology is not feasible as a case-by-case assessment is often warranted and, as disclosed in Fund’s(s’) organizational and offering documents. The above examples of expenses related to Private Funds are not exhaustive and should not be taken to be inclusive of all costs, fees, and expenses associated with the Private Funds. For more details on the fees and expenses for each Private Fund, please refer to the respective Private Fund’s offering documents.

### **Separate Account Fees and Expenses**

As mentioned in Item 4 above, we also occasionally provide investment advice to institutional and high net worth investors on a separate account basis. Included in our negotiation of the scope of services to be provided is a negotiation of the account’s expenses including brokerage and general securities transaction costs, prime broker and administrator services, custody arrangements and margin interest expenses.

Management fees for separate accounts are typically deducted quarterly in arrears and normally will be prorated for the number of days in a period, with adjustments typically being made at the end of a quarter as necessary.

### **Compensation for the Sale of Securities**

Compensation for investment professionals includes a base salary and an annual discretionary cash bonus (driven by investment, company, and individual performance). We and our supervised persons do not

receive compensation attributable to the sale of a security or other investment product such as a brokerage commission or other transaction-related fee.

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

Funds and separate accounts that we advise are generally subject to a performance fee of 20% of each Fund's or separate account's yearly net profit or net appreciation. Fund performance fees are typically payable to an affiliate of ours (i.e.: general partner, managing member or manager) and separate account performance fees are typically payable to us.

Performance fees may create an incentive to make investments that are riskier or more speculative than would be the case if a performance fee was not charged. An investment adviser, therefore, may be incentivized to favor accounts subject to a performance fee over accounts that pay hourly or flat fees. We do not currently advise accounts that are charged hourly or flat fees, however, and as previously stated, separate account clients generally want their account to be invested and managed with the same focus as a particular Fund. We have, therefore, developed policies and procedures designed to ensure that separate accounts managed similarly to a Fund receive investment allocations on a pro-rata basis, subject to any client-mandated investment restrictions.

Other risks of performance fees include an investment adviser overstating the value of illiquid or hard-to-value investments as well as the fact that performance fees are calculated on a basis that includes unrealized appreciation of assets as well as realized gains. We monitor these potential conflicts through Risk Management and Compliance procedures and have adopted valuation policies specific to each fund. It is also worth noting that our direct and indirect owners, and many of our supervised persons, invest in the Funds on the same terms and conditions as outside investors.

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

We provide investment advice to private funds that are organized as limited partnerships, limited liability companies or other business entities, as well as institutional and high net worth investors.

Each of the pooled vehicles described above is subject to investment mandates, restrictions, investment minimums and regulatory requirements that differ by strategy and are detailed in each Fund's offering documents.

As mentioned above, we also occasionally provide investment advice to institutional and high net worth investors on a separate account basis

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

Fund assets include common and preferred equities, corporate or government debt, high-yield fixed income securities, distressed debt and equities, convertible securities, currencies, interest rate positions, options, futures, swaps, derivatives, synthetic instruments, repurchase agreements, loan participations, over-the-counter transactions, restricted securities, and securities issued by privately held companies or other entities. We also provide advice in three areas of concentration: Real Assets (United States Real Estate, European Real Estate, Seniors Housing, Power and Infrastructure, South Bay), Private Capital (Credit Solutions, Growth Equity, Discovery), and Absolute Return (Stoneview, Donerail, Pioneer).



Each Fund is uniquely managed by the Fund's investment team and each Fund's investment strategy and methodology is detailed in the Fund's offering memorandum. Generally, an investment team relies on certain information derived from the team's operational and investment experience in specific industries, the team's own independent research and other third-party sources.

### **Private Capital and Real Estate Funds**

Although each private capital and real estate fund has its own evaluation methodology for Fund investments, the process generally includes an examination of the market for specific assets to determine the feasibility of selling an asset at a profit and the holding period required before the asset would become profitable.

### **Absolute Return Funds**

Investment strategies for the absolute return funds include, but are not limited to control positions, small and microcap equities, swaps and derivatives, options, shorting stock, utilizing leverage. Certain Funds have the ability to utilize side pockets, which subjects applicable investments to additional withdrawal restrictions. Each investment strategy is typically implemented through a stand-alone entity, such as a limited partnership, side-by-side investment vehicles, or a master-feeder structure.

### **Risk of Loss**

Funds we advise are often viewed as highly speculative investments and are not intended to be a complete investment program. The Funds are designed only for sophisticated investors who can bear the economic risk of loss of all or a portion of their investment and who have limited need for liquidity. The risks of investing in a Fund should be carefully evaluated before making an investment and all investors should carefully review the "Risk Factors" and "Potential Conflicts of Interest" sections of a Fund's offering memorandum before investing, including the transfer and/or redemption restrictions applicable to interests in the Fund.

There can be no assurance that the Funds will achieve their investment objectives and performance may be volatile. Each Fund's performance depends to a great extent upon correctly assessing the future course of price movements of specific securities or the future value of an investment. All Fund investments and strategies are subject to market risk that cannot be predicted with certainty. Funds may be subject to increased volatility if they are concentrated in a limited number of investments. The Funds may invest in swaps and derivatives that involve considerable risk, including credit default swaps, and the Funds may use leverage. Both the use of leverage and investments in derivatives may cause volatility in Fund performance. Please review the discussion of these and other risks in the applicable Fund's offering memorandum.

### **Item 9 Disciplinary Information**

None.

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

In addition to our relationship with HMC, as detailed in Item 4 above, we have material business relationships with the following entities under common control of HMC.

- HMC Investments, Inc. (“HMCI”) – Birmingham, Alabama. HMCI is a limited scope broker-dealer registered with the Financial Industry Regulatory Authority and the Securities and Exchange Commission. The sole function of HMCI is to serve as the placement agent for HMC sponsored Funds. HMCI does not hold customer funds or securities, nor does it engage in the execution of securities transactions.
- Harbert European Fund Advisors, Ltd. (“HEFA”) – London, United Kingdom (UK FCA registered entity). HEFA serves as the sub-advisor to HMC’s European real estate and growth capital funds and has been granted certain permissions including marketing and managing/arranging deals in investments.

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

### **Code of Ethics**

Our Code of Ethics sets forth certain standards of business conduct expected of our employees and covers a number of business-related areas including, but not limited to: 1) employee personal trading, including pre-clearance requirements, a restricted trading list, black-out periods and employee reporting requirements; 2) the giving and receiving of gifts and gratuities; and 3) a prohibition on insider trading. A copy of HFA’s Code of Ethics is available upon request.

### **Personal Trading**

Our Code of Ethics permits employees and “employee associated accounts” to trade for their own accounts but strongly discourages trading in any securities traded or held by an HMC sponsored fund or managed account. We also employ a “restricted list” precluding personal trading in certain designated securities unless approved by Compliance. The Compliance Department utilizes an automated electronic solution to monitor personal securities trading and requires Employees to validate quarterly and annual transaction history for all Associated Accounts.

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

Our supervised persons provide marketing services to the Funds, where other supervised persons serve in management or other leadership roles. Many of our supervised persons, however, also invest in the Funds on the same terms and conditions as non-affiliated Fund investors, both to align our interests with Fund investors and as an expression of confidence in our portfolio management efforts.

### **“Warehoused” Principal Trades**

On occasion, an investment team will identify what it believes will be an attractive investment for a private capital or real estate Fund before the Fund’s initial closing or before the investment could be acquired by the Fund. Under these circumstances, an affiliate of ours – typically a company established specifically to hold such an investment – will acquire the investment and “inventory” or “warehouse” it until the Fund’s initial closing is complete or until the Fund acquires the investment in accordance with ERISA or other regulatory requirements. Following the closing, the related holding company will transfer the investment to the Fund at cost plus transaction expenses, plus interest. All warehoused investments are disclosed to potential investors before the Fund’s closing in the Fund’s offering memoranda or supplements to its

offering memoranda. Any warehoused transaction not disclosed to investors prior to investment would require consent by unaffiliated investors or by a representative advisory board.

We do not anticipate making any principal trades between and among the absolute return funds or separate accounts. If such a situation arises, we will provide all necessary disclosures.

### **Cross Trades**

A “cross transaction,” although not a defined term, generally refers to a transaction in which an adviser causes the purchase and sale of a particular security between two or more advisory client accounts. We may engage in a cross transaction when we determine that the transaction would comply with our policy and client-specific guidelines and be fair and equitable to both accounts. However, if an investment adviser has discretion on each side of a transaction, a cross transaction presents a potential fiduciary conflict of interest. To address these potential conflicts, HFA has adopted policies and procedures which require that cross transactions be executed at the “current market price” of the security as determined by independent third-party sources, giving careful consideration to our ‘best execution’ obligations. In certain instances, HFA will identify cross transaction opportunities for HFA advised accounts where HMC’s affiliated ownership interest exceeds 25%. This would represent a “principal trade” and subject the trade to the disclosure and consent requirements of Section 206(3) of the Advisers Act. If consent is required, HFA will seek approval from a Fund’s advisory committee or similar body if permitted by the Fund’s governing documents.

### **Conflicts of Interest**

Potential conflicts of interest are managed and mitigated through a variety of methods. In addition to the Code of Ethics discussed above, our compliance program includes regular audits by compliance personnel, internal auditors, and third-party consultants. Our policies and procedures also detail employee training sessions, periodic certifications, and various committee meetings to review performance and processes, etc. Additionally, our President & COO and Board also oversee and monitor, in a Board of Directors capacity, our compliance programs and processes.

We in certain circumstances will enter into side letter agreements with certain prospective or existing investors whereby such investors may be subject to terms and conditions that are more favorable than those applicable to other investors. For example, such terms and conditions may provide for a reduction or rebate in fees to be paid by the investor; rights to receive reports on a more frequent basis or that include information not provided to other investors and other rights that may be negotiated with such investors. Side letter agreements are solely at our discretion and are based on, among other things, the size of the investment, an agreement by the investor to maintain such investment for a significant period of time, or other similar obligations of the investor.

## **Item 12 Brokerage Practices**

### **Best Execution and Broker Selection Process**

We or an affiliate are typically authorized to determine the brokers or dealers that Funds and accounts use to execute securities transactions. We strive for total execution costs and proceeds that are the most favorable under the circumstances (“best execution”). In seeking best execution, consideration will be

given to a broker's full range of services, including execution quality, commission rate, responsiveness, the value of any research provided, and financial responsibility. While competitive spreads or commissions will be sought, the lowest spread or commission available will not necessarily be obtained.

Funds or accounts we advise currently do not utilize any formal soft-dollar arrangements or maintain commitments with any broker-dealers to obtain any research or research-related services or products on a soft-dollar basis. However, Funds or accounts will, from time to time, receive research or brokerage services that are incidental to their trading activities.

We have adopted policies and procedures designed to ensure that our clients achieve best execution and that brokers utilized have been selected based on the client's best interest. Our Pricing & Brokerage Committee monitors compliance with these policies and procedures and the Committee's responsibilities include: reviewing brokers utilized and evaluating for conflicts of interest; evaluating the quality of execution services; and reviewing any proposed soft-dollar arrangements. The Committee meets at least quarterly, and its members include the Director of Risk Management, Director of Hedge Fund Accounting, Chief Financial Officer, and General Counsel. The Chief Compliance Officer also attends the Committee's meetings.

#### **Allocation of Investment Opportunities and Aggregated Trades**

Because the Funds and accounts we advise vary in size, investment objectives, acceptable risk levels, asset mix, preferred asset classes and liquidity requirements, the Funds and those accounts do not normally invest together or aggregate their investment transactions. In some cases, however, certain investment opportunities are appropriate for more than one Fund or account. When the amount of the investment available to the Funds or accounts is less than the aggregate amount that is desired to be purchased, investment opportunities will be allocated among eligible Funds or accounts in a manner that is fair and equitable. Generally, aggregated trades will be allocated pro rata among the Funds and accounts, unless the Funds and accounts have differing investment strategies that require a different allocation, or we determine in good faith that a different allocation is appropriate.

Additionally, the private capital funds (call funds) typically have predecessor Funds as well (e.g.: U.S. Real Estate III, U.S. Real Estate IV . . .). Even though successor Funds typically do not begin investing until the predecessor Fund has substantially completed its investment activities, opportunities for co-investments by two Funds sometimes exist. The process for determining whether a predecessor or successor Fund will be granted co-investment opportunities will be detailed in the Funds' organizational documents or if not addressed in the organizational documents, other appropriate steps will be taken, such as seeking consent from the predecessor Fund's Advisory Board.

#### **Securities Law Reporting Requirements and Short-Swing Profits**

Applicable securities law, in certain circumstances, require us to aggregate the securities held by all Funds and accounts we advise for purposes of determining whether certain securities laws and regulations apply, including without limitation, certain reporting requirements and regulations applicable to the disgorgement of short-swing profits. As a result of such required aggregation, a Fund or account may be subject to reporting requirements or requirements for the disgorgement of certain profits, even though that Fund or account standing alone holds less than the applicable percentage of the issuer's securities.

We have adopted certain procedures for the allocation of responsibility of disgorgement of short-swing profits. These procedures, in some cases, allocate disgorgement responsibility differently than the allocation that would result from an allocation under applicable securities laws in the absence of such procedure. The aggregation mentioned above, if required, and the procedures we adopted may, in certain circumstances, preclude a Fund or account from trading in an issuer's securities when it otherwise would be able to do so.

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

#### **Account Review**

Each Fund invests in accordance with the investment objectives and strategies described in the Fund's offering memorandum. But each Fund has flexibility with regard to its investment strategies and approaches to investments. Teams of investment professionals are responsible for daily portfolio management of the Funds and each team is composed of professionals with varying levels of experience in the specific asset class in which each Fund invests. The team members supervise and monitor the Fund's portfolio and trades for which they are responsible. Separate accounts we advise are reviewed with the same frequency as the Funds that invest in the same asset class. Our Risk Management group also monitors the portfolio positions of Funds that primarily invest in publicly traded securities for compliance with each Fund's investment objectives, as stated in the particular Fund's offering memorandum, as well as applicable regulatory thresholds. Each Fund that primarily invests in private market securities is overseen by an investment committee. Each Fund's investment committee includes senior officers and members of the Fund's investment management team. These investment committees meet regularly to review the Fund's investment strategies and portfolio and approve all investments and dispositions for which we control.

#### **Content and Frequency of Reports**

Investors in each of the Funds receive periodic reports, as more fully described in each Fund's offering memorandum. Generally, investors receive quarterly unaudited financial performance reports, the Fund's annually audited financial statements and information necessary for each investor to complete annual federal and state income tax returns. Clients maintaining separate accounts receive similar reports.

Clients have the ability to access their statements as well as other communication deliverables via our client web portal, Investran, which is administered by FIS Global. Whenever possible, Investran is used to transmit sensitive documents, financial statements or other information pertaining to an investor's relationship with HMC.

More frequent and/or customized reporting is provided from time to time if required by investors with particular reporting requirements, but such customized reporting is generally in response to particular format or presentation parameters and not intended to provide an informational advantage over our other investors.

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

We have several referral arrangements with various individuals or entities (*i.e.*, solicitors) pursuant to which investors are referred to us for purposes of investing in one or more Funds. Any payments made to solicitors under these arrangements are paid by us, not from Fund assets.

From time to time our representatives speak at conferences and programs that are sponsored by one or more of the Funds' prime brokers for investors interested in investing in hedge funds. These conferences and programs often provide opportunities for us to be introduced to potential investors for Funds or accounts we advise. Generally, the prime brokers are not compensated by us, the Funds, or potential investors for providing such "capital introduction" opportunities. Prime brokers may, however, provide financing and other services to us or the Funds, and such additional services provided by a prime broker, including the opportunity to attend capital introduction events, may influence the decision on whether to use the services of a prime broker in connection with Fund activities.

### **Item 15 Custody**

In most cases, we will be deemed to have custody of Fund or account assets because: (a) in the case of a Fund, we (or an affiliate) is a general partner of the limited partnership, or the managing member of the limited liability company, which is the Fund, and (b) we typically have the authority to withdraw Client funds or deduct Client fees from an account.

We maintain all securities in compliance with the custody rule, unless an exemption is available, particularly the "privately offered securities" exemption. Given the investment strategies of many of our Funds (particularly "private market" funds that do not invest in publicly traded securities), we believe many securities held by these Funds qualify for available exemptions. Where we are deemed to have custody of client funds and securities (for example, publicly traded securities, or privately held securities that fail to meet the technical criteria necessary to establish an available exemption), we use unaffiliated, qualified, third-party custodians to hold such assets in a manner that seeks to comply with SEC custody standards and guidance.

We also rely on an exception available to "pooled investment vehicles" from the reporting and surprise audit obligations imposed by the custody rule because each of our Funds are audited annually by an independent public accountant in accordance with GAAP, and the financial statements are distributed within 120 days of fiscal year end.

### **Item 16 Investment Discretion**

See Item 4 Advisory Business for more detailed information. We manage assets on a discretionary basis in accordance with each Fund's investment objectives, strategies, and restrictions, and not the individualized needs of any individual investor in a Fund. Furthermore, each separate account client typically grants us investment discretion to manage its account with the same focus as a particular Fund.

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

We seek to vote client proxies in a manner that, in our judgment, is most likely to maximize total return to the client. We have established written proxy voting policies and procedures and have also established a Proxy Voting Committee to oversee the process by which we vote client proxies.

We retain independent proxy voting services (“voting agents”) to assist in analyzing proxies received, make proxy voting recommendations, and handle the mechanical aspects of casting votes and to maintain our voting record.

In general, we expect to rely on the analysis and recommendations of our voting agents in voting client securities. However, voting matters might arise in which our voting agent will not offer recommendations, and at other times, we might vote contrary to a recommendation of our voting agent. In these instances, we will conduct a conflict-of-interest review prior to voting client securities. The conflict-of-interest review process is fully described in our Proxy Voting Policies and Procedures. Also, we may refrain from voting client securities in certain situations (such as when a client holds a de minimis amount of an issuer’s securities).

Client and investor requests for information as to how we voted securities, as well as a copy of our Proxy Voting Policies and Procedures including our Voting Guidelines, is available by contacting our Compliance Department via mail at 2100 Third Avenue North, Suite 600 Birmingham, AL, 35203, or by phone at (205) 987-5500.

#### **Item 18 Financial Information**

SEC instructions to the ADV Part 2A require advisers with investment discretion or custody of client assets to disclose any financial condition that is reasonably likely to impair the adviser’s ability to meet contractual commitments to clients and to disclose if the adviser has been the subject of a bankruptcy petition at any time during the past ten years and if so, to disclose the date of the petition and its current status.

At this time, we are not aware of any financial condition that would impair our ability to meet our contractual obligations with clients and we have never been the subject of a bankruptcy petition.