

**ITEM 1**  
**COVER PAGE**

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**PART 2A OF FORM ADV: FIRM BROCHURE**

**BIRCH GROVE CAPITAL LP**

March 2023

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*This brochure provides information about the qualifications and business practices of Birch Grove Capital LP (the "Investment Manager"). If you have any questions about the contents of this brochure, please contact us at 212-753-7510. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (the "SEC") or by any state securities authority.*

*This brochure also relates to Birch Grove Advisors LLC; however, to the extent that its qualifications and business practices are identical or substantially similar to those of Birch Grove Capital LP, no specific mention of Birch Grove Advisors LLC is made herein.*

*Additional information about Birch Grove Capital LP also is 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 a certain level of skill or training.*

## **ITEM 2 MATERIAL CHANGES**

The Investment Manager is required to identify and discuss any material changes made to its Brochure since the last annual update of its Brochure in March 2022. We do not consider these updates to be material.

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## **ITEM 4**

### **ADVISORY BUSINESS**

#### **A. General Description of Advisory Firm.**

##### **1. *Birch Grove Capital LP.***

Birch Grove Capital LP is a limited partnership that was formed in December 2012.

The Investment Manager only has one office, which is located in New York City.

In June 2021, the Investment Manager engaged in a business combination with American Securities LLC. Accordingly, the Investment Manager is owned by AS Birch Grove LP, which is owned by Birch Grove Capital Holdings LP and American Securities LLC. Jonathan Berger serves as the Chief Executive Officer and Chief Investment Officer of the Investment Manager and has responsibility for the Investment Manager's day-to-day management, operations and investment decisions. Further information regarding the ownership of the Investment Manager is provided in Schedules A and B of the Investment Manager's Form ADV, Part 1A.

##### **2. *Birch Grove Advisors LLC.***

The Investment Manager's registration on Form ADV also covers Birch Grove Advisors LLC (the "Fund General Partner"), a limited liability company organized under the laws of the state of Delaware. The Fund General Partner is an affiliate of the Investment Manager and it serves or may serve as the general partner of pooled investment vehicles that are partnerships.

Mr. Berger is the principal owner and managing member of, and controls, the Fund General Partner.

#### **B. Description of Advisory Services.**

This Brochure generally includes information about the Investment Manager and its relationships with its clients and affiliates. While much of this Brochure applies to all such clients and affiliates, certain information included herein applies to specific clients or affiliates only. As discussed below, the Investment Manager serves as the investment adviser to several private pooled investment vehicles.

##### **1. *Advisory Services.***

The Investment Manager serves as the investment adviser, with discretionary trading authority, to private pooled investment vehicles, the securities of which are offered to investors on a private placement basis (each, a "Fund" and collectively, the "Funds"). The Funds include:

(1) Birch Grove Credit Strategies Fund LP (the "Domestic Fund");

(2) Birch Grove Credit Strategies Fund Ltd. (the "Offshore Fund");

- (3) Birch Grove Credit Strategies Intermediate Fund LP (the "Intermediate Fund"); and
- (4) Birch Grove Credit Strategies Master Fund LP (the "Master Fund"), which serves as the master fund into which the Domestic Fund and the Offshore Fund, through its investment in the Intermediate Fund, invest substantially all of their assets through a "master-feeder" structure.

The Fund General Partner serves as the general partner of the Domestic Fund, the Intermediate Fund and the Master Fund.

The Investment Manager is sponsoring and manages certain collateralized loan obligations ("CLO") (each a "Birch Grove Managed CLO").

The Investment Manager also serves as an investment adviser with discretionary trading authority over, and provides discretionary advisory services to, securitized asset funds, funds-of-one and separately managed accounts (the "Managed Accounts").

As used herein, the term "client" generally refers to each Fund and Managed Account.

*This Brochure does not constitute an offer to sell or solicitation of an offer to buy any securities. The securities of the Funds are offered and sold on a private placement basis under exemptions promulgated under the Securities Act of 1933 (the "Securities Act") and other applicable state, federal or non-U.S. laws. Significant suitability requirements apply to prospective investors in the Funds, including requirements that they be "accredited investors" as defined in Regulation D, "qualified purchasers" as defined in the Investment Company Act, or non-"U.S. Persons" as defined in Regulation S. Persons reviewing this Brochure should not construe this as an offer to sell or a solicitation of an offer to buy the securities of any of the Funds described herein. Any such offer or solicitation will be made only by means of a confidential private placement memorandum.*

## *2. Investment Strategies and Types of Investments.*

The Investment Manager utilizes a flexible, opportunistic investment strategy to identify (i) assets that are substantially undervalued or overvalued and (ii) situations that are likely to be significantly affected by specific events or trends. By identifying situations early, the Investment Manager believes that it can capitalize on any such investment opportunity before it is recognized by the broader market. An experienced team of investment professionals employed by the Investment Manager or an affiliate thereof will endeavor to accomplish the investment objective by investing in a diversified portfolio of debt and equity investments in companies and structured credit products. The investment strategy is intended to have a low correlation with the broader fixed-income and equity markets. The Investment Manager will also actively seek to hedge, and take advantage of, opportunities in deteriorating credit markets through the use of credit-specific short sales or positions, synthetic derivatives and other debt, equity or synthetic securities. This strategy is described in greater detail in Item 8.

## C. Availability of Customized Services for Individual Clients.

The Investment Manager's investment decisions and advice with respect to each Fund is subject to each Fund's investment objectives and guidelines, as set forth in its respective offering documents. The investment objectives and guidelines of the Managed Accounts are determined in conjunction with the applicable client.

D. Wrap Fee Programs.

The Investment Manager does not participate in any Wrap Fee Programs.

E. Assets Under Management.

As of December 31, 2022, the Investment Manager has discretionary regulatory assets under management of approximately \$4.3 billion. The Investment Manager does not manage any assets on a non-discretionary basis.

## **ITEM 5 FEES AND COMPENSATION**

A. Advisory Fees and Compensation.

The Investment Manager and the Fund General Partner typically receive compensation from the Funds from the following sources: (a) management fees based on a percentage of the net asset value of each Fund; and (b) compensation based on a percentage of the performance of each Fund. The fees applicable to each Fund are set forth in detail in each Fund's offering documents. The Domestic Fund and Offshore Fund generally pay the Investment Manager a fee for investment management service at rates ranging from 1.0% to 2.0% per annum.

The Fund General Partner is generally entitled to an incentive allocation at the end of each fiscal year from the Domestic Fund in an amount equal to between 10% and 20% of the net capital appreciation (including realized and unrealized gains), in certain cases, above a hurdle or preferred amount.

The Investment Manager is entitled to receive compensation for advisory services provided to a Birch Grove Managed CLO. Such compensation consists of a senior collateral management fee, equal to .15% per annum of the total assets of the Birch Grove CLO, and a subordinated collateral management fee, ranging from .5% to .1% per annum of the total assets of the Birch Grove CLO. Furthermore, the Investment Manager is entitled to 20% of the cash flows once the equity interests realize a 12% internal rate of return.

Fees for advisory services provided to the Managed Accounts are negotiated with the clients of each Managed Account and are documented in the terms of each advisory agreement.

B. Payment of Fees.

Fees and compensation paid to the Investment Manager or its affiliates by the Funds will generally be deducted from the assets of such clients. Management Fees are generally deducted on a quarterly basis in advance and the incentive allocation is generally assessed on an annual basis.

### C. Additional Fees and Expenses.

In addition to the advisory fees and compensation described above, clients also bear their own expenses as more fully described in each client's governing documents. The expenses described below are applicable to certain clients, however clients should review their applicable governing documents for a comprehensive list of applicable expenses

Each Fund bears its own expenses and its *pro rata* share of the Intermediate Fund's (if applicable) and the Master Fund's expenses, including, without limitation, the management fee; investment expenses, whether or not such investments are consummated (such as brokerage commissions, expenses relating to short sales, clearing and settlement charges, custodial fees, bank service fees and interest expenses); investment-related travel expenses (which are travel expenses related to the purchase, sale or transmittal of, or due diligence regarding, the Fund's investments, whether or not such investments are consummated, incurred by the Investment Manager); professional fees (including, without limitation, expenses of consultants, investment bankers, attorneys, accountants and other experts) relating to investments; expenses associated with research and brokerage services, including, but not limited to, reports, information and analyses concerning specific securities, companies or sectors and market, financial and economic studies and forecasts; fees and expenses relating to software tools, programs or other technology utilized in managing the Fund (including, without limitation, third-party software licensing, implementation, data management and recovery services and custom development costs); research and market data (including, without limitation, any computer hardware and connectivity hardware (e.g., telephone and fiber optic lines) incorporated into the cost of obtaining such research and market data); administrative expenses (including, without limitation, fees and expenses of the Administrator); the cost of directors and officers and errors and omissions liability insurance for the Offshore Fund's directors, the Investment Manager and the General Partner; legal fees and related expenses; external accounting and valuation expenses (including, without limitation, the cost of accounting software packages); audit and tax preparation and compliance expenses; fees of the members of the Offshore Fund's board of directors who are not associated with the Investment Manager; costs of providing electronic access to Fund reports and information and printing and mailing reports and notices; entity-level taxes; corporate licensing; regulatory expenses (including, without limitation, filing preparation and fees, including for filings required to be made by the Investment Manager); organizational expenses; expenses incurred in connection with the offering and sale of the shares and other similar expenses related to the Fund (other than any fees payable to any placement agent, which are paid by the Investment Manager indirectly by reducing the management fees owed to the Investment Manager); indemnification expenses; and extraordinary expenses.

### D. Prepayment of Fees.

Generally, each client pays the Investment Manager a fee for investment management service generally in advance. Such fees are prorated for any subscription or redemption by an investor that is effective other than as of the first or last day, respectively, of a Fund's quarter.

### E. Additional Compensation and Conflicts of Interest.

Neither the Investment Manager nor any of its supervised persons accepts compensation (*e.g.*, brokerage commissions) for the sale of securities or other investment products.

## **ITEM 6**

### **PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

The Investment Manager and its affiliates accept performance-based compensation from every client (other than clients that are not assessed performance-based compensation because it is assessed through another entity in a single master-feeder or similar structure). As a result, the Investment Manager and its affiliates do not face certain conflicts of interest that may arise when an investment adviser accepts performance-based fees from some clients, but not from other clients.

## **ITEM 7**

### **TYPES OF CLIENTS**

The Investment Manager provides investment advice to the Funds, as described in Item 4 above. As also discussed above, the Investment Manager provides investment advice to Managed Accounts for institutional and other investors.

## **ITEM 8**

### **METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

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

The investment objective of the Master Fund is to generate attractive returns while managing the risk of capital loss through all market cycles. The Master Fund seeks to accomplish this investment objective by capitalizing on the Investment Manager's extensive investment experience and knowledge of industry participants to identify long and short absolute return investment opportunities in the corporate credit, structured credit, and credit-related markets. The Master Fund may target public and private situations and may have long and short positions.

The Master Fund utilizes a flexible, opportunistic investment strategy to identify (i) assets that are substantially undervalued or overvalued and (ii) situations that are likely to be significantly affected by specific events or trends. By identifying situations early, the Investment Manager believes that the Master Fund can capitalize on any such investment opportunity before it is recognized by the broader market. An experienced team of investment professionals employed by the Investment Manager or an affiliate thereof will endeavor to accomplish the investment objective by investing in a diversified portfolio of debt and equity investments in companies and structured credit products. The Master Fund's investment strategy is intended to have a low correlation with the broader fixed-income and equity markets. The Master Fund actively seeks to hedge, and take advantage of, opportunities in deteriorating credit markets through the use of credit-specific short sales or positions, synthetic derivatives and other debt, equity or synthetic securities.

The Investment Manager makes use of a consistent, disciplined investment selection process and both a top-down and bottom-up approach to due diligence and valuation. When

evaluating a prospective investment, the Investment Manager performs an in-depth examination of each asset by analyzing the credit quality, the collateral quality and the structure of the asset and then modeling such asset given certain loss and prepayment assumptions. In determining the value of an asset, the Investment Manager seeks to identify assets that provide attractive current income and/or capital appreciation. The Investment Manager also examines the asset with a view towards assessing its absolute return and its relative value on a risk-return basis. This approach allows the Investment Manager to better understand the dynamics of a particular investment opportunity. The Investment Manager generally gathers data through a detailed due diligence process comprised of financial analysis, cash flow forecasts and a review of information assimilated from a variety of third-party sources.

The Investment Manager actively monitors the assets in the Master Fund through daily portfolio reviews and meetings, in conjunction with ongoing surveillance using the Investment Manager's surveillance system. The Master Fund may decide to dispose of a Fund investment if it is not meeting expectations or if there is a material change to the underlying assets of such Fund investment. In the case of event-driven or special situation investments, the timing of such disposition may also depend on whether the Investment Manager believes that there is any additional value to be realized following the resolution of a particular situation. Through this process and, by determining the value of an asset, the Investment Manager believes that it can identify and acquire interests in credit and credit-related assets that are consistent with the Master Fund's investment objective.

While the Investment Manager generally follows the analytical methodologies and investment strategies discussed above, these methodologies and strategies are not intended to represent an exclusive list but to provide examples. Not all of these methodologies or strategies may be utilized at the same time or in the same proportions, and the Investment Manager may modify and/or implement additional strategies as appropriate for different Fund investments or in response to changing market conditions.

*The descriptions set forth in this Brochure of specific advisory services that the Investment Manager offers to its clients, and investment strategies pursued and investments made by the Investment Manager on behalf of its clients, should not be understood to limit in any way the Investment Manager's investment activities. The Investment Manager may offer any advisory services, engage in any investment strategy and make any investment, including any not described in this Brochure, that it consider appropriate, subject to each client's investment objectives and guidelines. The investment strategies the Investment Manager pursues are speculative and entail substantial risks. Clients should be prepared to bear a substantial loss of capital. There can be no assurance that the investment objectives of any client will be achieved.*

#### **B. Material, Significant or Unusual Risks Relating to 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 Funds. These risk factors include only those risks the Investment Manager believes to be material, significant or unusual and relate to particular significant investment strategies or methods of analysis. Clients or prospective investors should refer to the relevant Fund's offering documents for full disclosure of the potential risks of an investment in any particular Fund, including a full description of each of its respective risk factors. In addition, as



the Funds' respective strategies may develop and evolve over time, an investment in a particular Fund may be subject to additional and different risk factors than those set forth below.

#### Risks Relating to the Fund's Investment Program.

**Risk of Loss.** No guarantee or representation is made that the Master Fund's investment program, including, without limitation, the Master Fund's investment objective, diversification strategies or risk monitoring goals, will be successful. Investment results may vary substantially over time. No assurance can be made that profits will be achieved or that substantial or complete losses will not be incurred. Past investment results of the Investment Manager (or investments otherwise made by the investment professionals of the Investment Manager) are not necessarily indicative of their future performance.

**General Economic and Market Conditions.** The success of the Master Fund's activities will be affected by general economic and market conditions, such as interest rates, availability of credit, credit defaults, inflation rates, economic uncertainty, changes in laws (including laws relating to taxation of the Master Fund's investments), trade barriers, currency exchange controls, and national and international political circumstances (including wars, terrorist acts or security operations). These factors may affect the level and volatility of the prices and the liquidity of the Master Fund's investments. Volatility or illiquidity could impair the Master Fund's profitability or result in losses. The Master Fund may maintain substantial trading positions that can be adversely affected by the level of volatility in the financial markets.

**Governmental Interventions.** Extreme volatility and illiquidity in markets has in the past led to, and may in the future lead to, extensive governmental interventions in equity, credit and currency markets. Generally, such interventions are intended to reduce volatility and precipitous drops in value. In certain cases, governments have intervened on an "emergency" basis, suddenly and substantially eliminating market participants' ability to continue to implement certain strategies or manage the risk of their outstanding positions. In addition, these interventions have typically been unclear in scope and application, resulting in uncertainty. It is impossible to predict when these restrictions will be imposed, what the interim or permanent restrictions will be and/or the effect of such restrictions on the Master Fund's strategies.

**Potential Interest Rate Increases.** The United States has experienced a sustained period of historically low interest rate levels. In recent years, however, short-term and long-term interest rates have risen. The uncertainty of the U.S. and global economy, changes in U.S. government policy, and changes in the federal funds rate, increase the risk that interest rates will remain volatile in the future. Sustained future interest rate volatility may cause the value of the fixed income securities held by the Master Fund to decrease, which may result in substantial withdrawals from the Fund that, in turn, force the Master Fund to liquidate such securities at disadvantageous prices negatively impacting the performance of the Master Fund..

**Discontinuation of LIBOR.** It is expected that the London Interbank Offered Rate ("LIBOR"), which is commonly used as a reference rate within various financial contracts (any such rate, a "Reference Rate"), will not be published after June 30, 2023 (other than the one-week and two-month tenors, which ceased to be published after December 31, 2021). In anticipation of the end of LIBOR, the United States and other countries are currently working to replace LIBOR

with alternative Reference Rates. The Secured Overnight Financing Rate ("SOFR") is the Reference Rate recommended by the Alternative Reference Rates Committee (the "ARRC"). The ARRC and regulators have stated that any party choosing another Reference Rate should do so carefully. As a general matter, the expected discontinuation of LIBOR may significantly impact financial markets; specifically, discontinuation may impact financial contracts to which the Master Fund is a party. Generally, the transition to alternative Reference Rates may (i) cause the value of a Reference Rate to be uncertain or to be lower or more volatile than it would otherwise be; (ii) result in uncertainty as to the functioning, liquidity or value of certain financial contracts; (iii) involve actions of regulators or rate administrators that adversely affect certain markets or specific financial contracts; and (iv) impact the strategy, products, processes, legal positions and information systems of market participants, including clients and their counterparties. With respect to financial contracts to which clients are a party, including corporate loans and certain asset-backed securities, any such contract that has a maturity that extends beyond June 2023 and uses LIBOR as a Reference Rate (other than contracts that include curative fallback language or other curative mechanisms available, such as safe harbor legislation adopted in the State of New York to permit the replacement of LIBOR with the rates recommended by the ARRC in contracts governed by New York law) may need to be renegotiated, the process of which will consume resources of clients and may result in disputes among counterparties, the result of which may be adverse to clients. . Regulators encouraged market participants to cease entering new contracts that use U.S. Dollar LIBOR as a reference rate by December 31, 2021. As a result, U.S. Dollar LIBOR's liquidity and usefulness will likely diminish. Investors should expect that clients will be a party to SOFR-based contracts, or contracts utilizing other alternative reference rates, in the near-future. Considered in their entirety, the impacts of the discontinuation of LIBOR on financial markets generally and on the specific financial contracts to which clients are a party may adversely affect the performance of the client portfolios.

**Capital Structure Arbitrage.** The success of the Master Fund's capital structure arbitrage strategy depends upon the Investment Manager's ability to identify and exploit the relationships between movements in different securities within an issuer's capital structure (including, bank debt, convertible and non-convertible senior and subordinated debt and preferred and common stock). Identification and exploitation of these opportunities involve uncertainty. There can be no assurance that the Investment Manager will be able to locate investment opportunities or to correctly exploit price discrepancies. A reduction in the pricing inefficiency of the markets in which the Master Fund will seek to invest will reduce the scope for the Master Fund's investment strategies. In the event that the perceived mispricings underlying the Master Fund's positions fail to materialize, these investment strategies could be unsuccessful or result in losses.

**Convertible Arbitrage.** The success of the Master Fund's convertible arbitrage strategy depends upon the Investment Manager's ability to identify convertible securities that appear incorrectly valued relative to their theoretical value, purchase (or sell short) such a convertible security and sell short (or purchase) the underlying security for which the convertible security can be exchanged to exploit price differentials. There can be no assurance that the Investment Manager will be able to identify convertible arbitrage opportunities or that changes in price differentials will not cause losses. Borrowing and lending against such investments involves substantial risks. The prices of these investments can be volatile, market movements are difficult to predict, and financing sources and related interest and exchange rates are subject to rapid change. Certain

corporate securities may be subordinated (and thus exposed to the first level of default risk) or otherwise subject to substantial credit risks.

**Event-Driven.** The success of the Master Fund's event-driven investment strategy depends upon the Investment Manager's ability to make predictions about (i) the likelihood that an event will occur and (ii) the impact such event will have on the value of a company's securities. If the event fails to occur or it does not have the effect foreseen, losses can result. For example, the adoption of new business strategies or completion of asset dispositions or debt reduction programs by a company may not be valued as highly by the market as the Investment Manager had anticipated, resulting in losses. In addition, a company may announce a plan of restructuring which promises to enhance value, but fail to implement it, which can result in losses to investors. In liquidations and other forms of corporate reorganization, the risk exists that the reorganization either will be unsuccessful, will be delayed or will result in a distribution of cash or a new security, the value of which will be less than the purchase price to the Master Fund of the security in respect of which such distribution was made. The consummation of mergers and tender and exchange offers can be prevented or delayed by a variety of factors, including: (i) opposition of the management or stockholders of the target company, which will often result in litigation to enjoin the proposed transaction; (ii) intervention of a federal or state regulatory agency; (iii) efforts by the target company to pursue a "defensive" strategy, including a merger with, or a friendly tender offer by, a company other than the offeror; (iv) in the case of a merger, failure to obtain the necessary stockholder approvals; (v) market conditions resulting in material changes in securities prices; (vi) compliance with any applicable federal or state securities laws; and (vii) inability to obtain adequate financing. Because of the inherently speculative nature of event-driven investing, the results of the Master Fund's operations may be expected to fluctuate from period to period. Accordingly, Shareholders should understand that the results of a particular period will not necessarily be indicative of results that may be expected in future periods.

**Short Selling.** The success of the Master Fund's short selling investment strategy depends upon the Investment Manager's ability to identify and sell short securities that are overvalued. A short sale creates the risk of a theoretically unlimited loss, in that the price of the underlying security could theoretically increase without limit, thus increasing the cost to the Master Fund of buying those securities to cover the short position. There can be no assurance that the Master Fund will be able to maintain the ability to borrow securities sold short. In such cases, the Master Fund can be "bought in" (*i.e.*, forced to repurchase securities in the open market to return to the lender). There also can be no assurance that the securities necessary to cover a short position will be available for purchase at or near prices quoted in the market. Purchasing securities to close out a short position can itself cause the price of the securities to rise further, thereby exacerbating the loss. Short strategies can also be implemented synthetically through various instruments and be used with respect to indices or in the over-the-counter market and with respect to futures and other instruments. In some cases of synthetic short sales, there is no floating supply of an underlying instrument with which to cover or close out a short position and the Master Fund may be entirely dependent on the willingness of over-the-counter market makers to quote prices at which the synthetic short position may be unwound. There can be no assurance that such market makers will be willing to make such quotes. Short strategies can also be implemented on a leveraged basis. Lastly, even though the Master Fund secures a "good borrow" of the security sold short at the time of execution, the lending institution may recall the lent security at any time, thereby forcing the

Master Fund to purchase the security at the then-prevailing market price, which may be higher than the price at which such security was originally sold short by the Master Fund.

**Relative Value and Market Neutral.** The success of the Master Fund's relative value investment strategy (including its market neutral strategy) depends upon the Investment Manager's ability to identify and exploit perceived inefficiencies in the pricing of securities, financial products, or markets. Identification and exploitation of such inefficiencies involve uncertainty. There can be no assurance that the Investment Manager will be able to locate investment opportunities or to exploit pricing inefficiencies in the securities markets. Mispricings, even if correctly identified, may not be corrected by the market, at least within a timeframe over which it is feasible for the Investment Manager to maintain a position. Even pure arbitrage positions can result in significant losses if the Investment Manager is not able to maintain both sides of the position until expiration/maturity. A reduction in the pricing inefficiency of the markets in which the Investment Manager seeks to invest will reduce the scope for the Master Fund's investment strategies. In the event that the perceived mispricings underlying the Master Fund's positions were to fail to converge toward, or were to diverge further from, relationships expected by the Investment Manager, the Master Fund may incur losses. Even if the Master Fund's relative value investment strategy is successful, it may result in high portfolio turnover and, consequently, high transaction costs.

**Short-Term Market Considerations.** The Investment Manager's trading decisions may be made on the basis of short-term market considerations, and the portfolio turnover rate could result in significant trading-related expenses.

**Structured Product Arbitrage.** The success of the Master Fund's structured product arbitrage strategy depends upon the Investment Manager's ability to identify and exploit the inefficient pricing of portfolio risk and the implicit correlations of time to default with respect to various categories of structured products and derivatives. In the event that the perceived mispricings underlying the Master Fund's positions were incorrect, the Master Fund could incur losses. In addition, the lack of an established, liquid secondary market for some structured products (including CDOs) may make it difficult to realize the perceived value of such securities.

### **Leverage and Borrowing.**

*Leverage for Investment Purposes.* The use of leverage allows the Master Fund to make additional investments, thereby increasing its exposure to assets, such that its total assets may be greater than its capital. However, leverage also magnifies the volatility of changes in the value of the Master Fund's portfolio. The effect of the use of leverage by the Master Fund in a market that moves adversely to its investments could result in substantial losses to the Master Fund, which would be greater than if the Master Fund were not leveraged.

*Borrowing for Cash Management Purposes.* The Master Fund has the authority to borrow for cash management purposes, such as to satisfy redemption requests. The rates at and terms on which the Master Fund can borrow will affect the operating results of the Master Fund.

*Collateral.* The instruments and borrowings utilized by the Master Fund to leverage investments may be collateralized by all or a portion of the Master Fund's portfolio. Accordingly, the Master Fund may pledge its securities in order to borrow or otherwise obtain leverage for investment or other purposes. Should the securities pledged to brokers to secure the Master Fund's margin accounts decline in value, the Master Fund could be subject to a "margin call", pursuant to which the Master Fund must either deposit additional funds or securities with the broker or suffer mandatory liquidation of the pledged securities to compensate for the decline in value. The banks and dealers that provide financing to the Master Fund can apply essentially discretionary margin, "haircut", financing and collateral valuation policies. Changes by counterparties in any of the foregoing may result in large margin calls, loss of financing and forced liquidations of positions at disadvantageous prices. Lenders that provide other types of asset-based or secured financing to the Master Fund may have similar rights. There can be no assurance that the Master Fund will be able to secure or maintain adequate financing.

*Costs.* Borrowings are subject to interest, transaction and other costs, and other types of leverage also involve transaction and other costs. Any such costs may or may not be recovered by the return on the Master Fund's portfolio.

**Lending of Portfolio Securities.** The Master Fund may lend securities on a collateralized and an uncollateralized basis from its portfolio to creditworthy securities firms and financial institutions. While a securities loan is outstanding, the Master Fund will continue to receive the equivalent of the interest or dividends paid by the issuer on the securities, as well as interest on the investment of the collateral or a fee from the borrower. The risks in lending securities, as with other extensions of secured credit, if any, consist of possible delay in receiving additional collateral, if any, or in recovery of the securities or possible loss of rights in the collateral, if any, should the borrower fail financially.

**Diversification and Concentration.** The Investment Manager may select investments that are concentrated in a limited number or types of securities. In addition, the Master Fund's portfolio may become significantly concentrated in securities related to a single or a limited number of issuers, industries, sectors, strategies, countries or geographic regions. This limited diversification may result in the concentration of risk, which, in turn, could expose the Master Fund to losses disproportionate to market movements in general if there are disproportionately greater adverse price movements in such securities.

**Lack of Control.** The Master Fund may invest in debt instruments and equity securities of companies that it does not control, which the Master Fund may acquire through market transactions or through purchases of securities directly from the issuer or other shareholders. Such securities will be subject to the risk that the issuer may make business, financial or management decisions with which the Master Fund does not agree or that the majority stakeholders or the management of the issuer may take risks or otherwise act in a manner that does not serve the Master Fund's interests. In addition, the Master Fund may share control over certain investments with co-investors, which may make it more difficult for the Master Fund to implement its investment approach or exit the investment when it otherwise would. The occurrence of any of

the foregoing could have a material adverse effect on the Master Fund and the Shareholders' investments therein.

**Hedging Transactions.** The Master Fund may utilize securities for risk management purposes in order to: (i) protect against possible changes in the market value of the Master Fund's investment portfolio resulting from fluctuations in the markets and changes in interest rates; (ii) protect the Master Fund's unrealized gains in the value of its investment portfolio; (iii) facilitate the sale of any securities; (iv) enhance or preserve returns, spreads or gains on any security in the Master Fund's portfolio; (v) hedge against a directional trade; (vi) hedge the interest rate, credit or currency exchange rate on any of the Master Fund's securities; (vii) protect against any increase in the price of any securities the Master Fund anticipates purchasing at a later date; or (viii) act for any other reason that the Investment Manager deems appropriate. The Master Fund will not be required to hedge any particular risk in connection with a particular transaction or its portfolio generally. The Investment Manager may be unable to anticipate the occurrence of a particular risk and, therefore, may be unable to attempt to hedge against it. While the Master Fund may enter into hedging transactions to seek to reduce risk, such transactions may result in a poorer overall performance for the Master Fund than if it had not engaged in any such hedging transaction. Moreover, the portfolio will always be exposed to certain risks that cannot be hedged.

**Discretion of the Investment Manager; New Strategies and Techniques.** While the Investment Manager generally seeks to employ the representative investment strategies and techniques discussed herein, the Investment Manager (subject to the policies and control of the General Partner and the Offshore Fund's board of directors) has considerable discretion in the types of securities the Master Fund may trade and has the right to modify the investment strategies and techniques of the Master Fund without the consent of the investors. New investment strategies and techniques may not be thoroughly tested in the market before being employed and may have operational or theoretical shortcomings which could result in unsuccessful trades and, ultimately, losses to the Master Fund. In addition, any new investment strategy or technique developed by the Master Fund may be more speculative than earlier investment strategies and techniques and may involve material and as-yet-unanticipated risks that could increase the risk of an investment in the Master Fund.

#### Risks Related to Methods of Analysis.

**Fundamental Analysis.** Certain trading decisions made by the Investment Manager may be based on fundamental analysis. Data on which fundamental analysis relies may be inaccurate or may be generally available to other market participants. To the extent that any such data are inaccurate or that other market participants have developed, based on such data, trading strategies similar to the Master Fund's trading strategies, the Master Fund may not be able to realize its investment goals. In addition, fundamental market information is subject to interpretation. To the extent that the Investment Manager misinterprets the meaning of certain data, the Master Fund may incur losses.

**Trend Following.** Certain trading decisions made by the Investment Manager may be based on trend following. Any factor that would lessen the prospect of major trends occurring in the future (such as increased governmental control of, or participation in, the financial markets) may reduce the prospect that a particular trading method or strategy will be profitable in the future.

In the past, there have been periods without discernible trends and, presumably, such periods will continue to occur in the future. Moreover, any factor that would make it more difficult to execute trades at desired prices in accordance with the signals of the trading method or strategy (such as a significant lessening of liquidity in a particular market) would also be detrimental to profitability. Further, many managers' trading methods utilize similar analyses in making trading decisions. Therefore, bunching of buy and sell orders can occur, which makes it more difficult for a position to be taken or liquidated.

#### Risks Related to Specific Sectors and Types of Companies.

**Micro-, Small- and Medium- Capitalization Companies.** Investments in securities of micro and smaller-capitalization companies involve higher risks in some respects than do investments in securities of larger "blue-chip" companies. For example, prices of securities of micro- and small-capitalization and even medium-capitalization companies are often more volatile than prices of securities of large-capitalization companies and may not be based on standard pricing models that are applicable to securities of large-capitalization companies. Furthermore, the risk of bankruptcy or insolvency of many smaller companies (with the attendant losses to investors) may be higher than for larger, "blue-chip" companies. Finally, due to thin trading in the securities of some micro- and small-capitalization companies, an investment in those companies may be illiquid.

**Investment and Trading Out of Sector.** The Master Fund may trade in regions other than the United States and Europe, including for hedging purposes and/or on an opportunistic basis. Although out-of-sector positions are not expected to represent core positions, the profit or loss from those positions could have a material impact on the Master Fund's performance.

#### Risks Related to Specific Investments.

**Debt Securities Generally.** Debt securities of all types of issuers may have speculative characteristics, regardless of whether they are rated. The issuers of such instruments (including sovereign issuers) may face significant ongoing uncertainties and exposure to adverse conditions that may undermine the issuer's ability to make timely payment of interest and principal in accordance with the terms of the obligations.

*Interest Rate Risk.* Changes in interest rates can affect the value of the Master Fund's investments in fixed-income instruments. Increases in interest rates may cause the value of the Master Fund's debt investments to decline. The Master Fund may experience increased interest rate risk to the extent it invests, if at all, in lower-rated instruments, debt instruments with longer maturities, debt instruments paying no interest (such as zero-coupon debt instruments) or debt instruments paying non-cash interest in the form of other debt instruments.

*Prepayment Risk.* The frequency at which prepayments (including voluntary prepayments by the obligors and accelerations due to defaults) occur on debt instruments will be affected by a variety of factors including the prevailing level of interest rates and spreads as well as economic, demographic, tax, social, legal and other factors. Generally, obligors tend to prepay their fixed rate obligations when prevailing interest rates fall below

the coupon rates on their obligations. Similarly, floating rate issuers and borrowers tend to prepay their obligations when spreads narrow.

In general, "premium" securities (securities whose market values exceed their principal or par amounts) are adversely affected by faster than anticipated prepayments, and "discount" securities (securities whose principal or par amounts exceed their market values) are adversely affected by slower than anticipated prepayments. Since many fixed rate obligations will be discount instruments when interest rates and/or spreads are high, and will be premium instruments when interest rates and/or spreads are low, such debt instruments may be adversely affected by changes in prepayments in any interest rate environment.

The adverse effects of prepayments may impact the Master Fund's portfolio in two ways. First, particular investments may experience outright losses, as in the case of an interest-only instrument in an environment of faster actual or anticipated prepayments. Second, particular investments may underperform relative to hedges that the Investment Manager may have constructed for these investments, resulting in a loss to the Master Fund's overall portfolio. In particular, prepayments (at par) may limit the potential upside of many instruments to their principal or par amounts, whereas their corresponding hedges often have the potential for unlimited loss.

*Zero-Coupon and Deferred Interest Bonds.* Zero-coupon bonds and deferred interest bonds are debt obligations issued at a significant discount from face value. The original discount approximates the total amount of interest the bonds will accrue and compound over the period until maturity or the first interest accrual date at a rate of interest reflecting the market rate of the security at the time of issuance. While zero-coupon bonds do not require the periodic payment of interest, deferred interest bonds generally provide for a period of delay before the regular payment of interest begins. Such investments experience greater volatility in market value due to changes in interest rates than debt obligations that provide for regular payments of interest.

*High-Yield.* Bonds or other fixed-income securities that are "higher yielding" (including non-investment grade) debt securities are generally not exchange traded and, as a result, these securities trade in the over-the-counter marketplace, which is less transparent and has wider bid/ask spreads than the exchange-traded marketplace. High-yield securities face ongoing uncertainties and exposure to adverse business, financial or economic conditions, which could lead to the issuer's inability to meet timely interest and principal payments. High-yield securities are generally more volatile and may or may not be subordinated to certain other outstanding securities and obligations of the issuer, which may be secured by substantially all of the issuer's assets. High-yield securities may also not be protected by financial covenants or limitations on additional indebtedness. The market values of certain of these lower-rated and unrated debt securities tend to reflect individual corporate developments to a greater extent than do higher-rated securities, which react primarily to fluctuations in the general level of interest rates, and tend to be more sensitive to economic conditions than are higher-rated securities. Companies that issue such securities may be highly leveraged and may not have available to them more



traditional methods of financing. In addition, the Master Fund may invest in bonds of issuers that do not have publicly traded equity securities, making it more difficult to hedge the risks associated with such investments.

The Master Fund may invest in obligations of issuers that are generally trading at significantly higher yields than had been historically typical of the applicable issuer's obligations. Such investments may include debt obligations that have a heightened probability of being in covenant or payment default in the future or that are currently in default and are generally considered speculative. The repayment of defaulted obligations is subject to significant uncertainties. Defaulted obligations might be repaid only after lengthy workout or bankruptcy proceedings, during which the issuer might not make any interest or other payments. Typically such workout or bankruptcy proceedings result only in partial recovery of cash payments or an exchange of the defaulted security for other debt or equity securities of the issuer or its affiliates, which may in turn be illiquid or speculative.

*Corporate Debt.* Bonds, notes and debentures issued by corporations may pay fixed, variable or floating rates of interest, and may include zero-coupon obligations. Corporate debt instruments may be subject to credit ratings downgrades. Other instruments may have the lowest quality ratings or may be unrated. In addition, the Master Fund may be paid interest in kind in connection with its investments in corporate debt and related financial instruments (*e.g.*, the principal owed to the Master Fund in connection with a debt investment may be increased by the amount of interest due on such debt investment). Such investments may experience greater market value volatility than debt obligations that provide for regular payments of interest in cash and, in the event of a default, the Master Fund may experience substantial losses.

*Mezzanine Debt.* Mezzanine debt is typically junior to the obligations of a company to senior creditors, trade creditors and employees. The ability of the Master Fund to influence a company's affairs, especially during periods of financial distress or following an insolvency, will be substantially less than that of senior creditors. Mezzanine debt instruments are often issued in connection with leveraged acquisitions or recapitalizations in which the issuers incur a substantially higher amount of indebtedness than the level at which they had previously operated. Default rates for mezzanine debt instruments have historically been higher than for investment-grade instruments. In the event of the insolvency of a portfolio company of the Master Fund or similar event, the Master Fund's debt investment therein will be subject to fraudulent conveyance, subordination and preference laws.

*Stressed Debt.* Stressed issuers are issuers that are not yet deemed distressed or bankrupt and whose debt securities are trading at a discount to par, but not yet at distressed levels. An example would be an issuer that is in technical default of its credit agreement, or undergoing strategic or operational changes, which results in market pricing uncertainty. The market prices of stressed and distressed instruments are highly volatile, and the spread between the bid and the ask prices of such instruments is often unusually wide.

*Non-Performing Nature of Debt.* Certain debt instruments may be non-performing or in default. Furthermore, the obligor or relevant guarantor may also be in bankruptcy or

liquidation. There can be no assurance as to the amount and timing of payments, if any, with respect to such debt instruments.

*Troubled Origination.* When financial institutions or other entities that are insolvent or in serious financial difficulty originate debt, the standards by which such instruments were originated, the recourse to the selling institution, or the standards by which such instruments are being serviced or operated may be adversely affected.

*Sovereign Debt.* Several factors may affect (i) the ability of a government, its agencies, instrumentalities or its central bank to make payments on the debt it has issued ("Sovereign Debt"), including securities that the Investment Manager believes are likely to be included in restructurings of the external debt obligations of the issuer in question, (ii) the market value of such debt and (iii) the inclusion of Sovereign Debt in future restructurings, including such issuer's (x) balance of trade and access to international financing, (y) cost of servicing such obligations, which may be affected by changes in international interest rates, and (z) level of international currency reserves, which may affect the amount of non-U.S. exchange available for external debt payments. Significant ongoing uncertainties and exposure to adverse conditions may undermine the issuer's ability to make timely payment of interest and principal, and issuers may default on their Sovereign Debt.

*Equitable Subordination.* Under common law principles that in some cases form the basis for lender liability claims, if a lender (i) intentionally takes an action that results in the undercapitalization of a borrower or issuer to the detriment of other creditors of such borrower or issuer, (ii) engages in other inequitable conduct to the detriment of such other creditors, (iii) engages in fraud with respect to, or makes misrepresentations to, such other creditors or (iv) uses its influence as a stockholder to dominate or control a borrower or issuer to the detriment of other creditors of such borrower or issuer, a court may elect to subordinate the claim of the offending lender or bondholder to the claims of the disadvantaged creditor or creditors (a remedy called "equitable subordination"). If the Master Fund engages in such conduct, the Master Fund may be subject to claims from creditors of an obligor that debt held by the Master Fund should be equitably subordinated.

**Repurchase and Reverse Repurchase Agreements.** In a reverse repurchase transaction, the Master Fund "buys" securities issued from a broker-dealer or financial institution, subject to the obligation of the broker-dealer or financial institution to repurchase such securities at the price paid by the Master Fund, plus interest at a negotiated rate. The use of repurchase and reverse repurchase agreements by the Master Fund involves certain risks. For example, if the seller of securities to the Master Fund under a reverse repurchase agreement defaults on its obligation to repurchase the underlying securities, as a result of its bankruptcy or otherwise, the Master Fund will seek to dispose of such securities, which action could involve costs or delays. If the seller becomes insolvent and subject to liquidation or reorganization under applicable bankruptcy or other laws, the Master Fund's ability to dispose of the underlying securities may be restricted. It is possible, in a bankruptcy or liquidation scenario, that the Master Fund may not be able to substantiate its interest in the underlying securities. Finally, if a seller defaults on its obligation to repurchase securities under a reverse repurchase agreement, the Master Fund may

suffer a loss to the extent that it is forced to liquidate its position in the market, and proceeds from the sale of the underlying securities are less than the repurchase price agreed to by the defaulting seller. Similar elements of risk arise in the event of the bankruptcy or insolvency of the buyer.

**Derivative Instruments Generally.** Certain swaps, options and other derivative instruments may be subject to various types of risks, including market risk, liquidity risk, the risk of non-performance by the counterparty, including risks relating to the financial soundness and creditworthiness of the counterparty, legal risk and operations risk. Derivatives traded over-the-counter may not have an authoritative source of valuation and the models used to value such derivatives is subject to change. Special risks may apply in the future that cannot be determined at this time with respect to certain other derivative instruments that are not presently contemplated for use or that are currently not available. The regulatory and tax environment for derivative instruments in which the Master Fund may participate is evolving, and changes in the regulation or taxation of such securities may have a material adverse effect on the Master Fund.

*Call Options.* The seller (writer) of a call option which is covered (*i.e.*, the writer holds the underlying security) assumes the risk of a decline in the market price of the underlying security below the purchase price of the underlying security less the premium received, and gives up the opportunity for gain on the underlying security above the exercise price of the option. The seller of an uncovered call option assumes the risk of a theoretically unlimited increase in the market price of the underlying security above the exercise price of the option. The securities necessary to satisfy the exercise of an uncovered call option may be unavailable for purchase, except at much higher prices, thereby reducing or eliminating the value of the premium. Purchasing securities to cover the exercise of an uncovered call option can cause the price of the securities to increase, thereby exacerbating the loss. The buyer of a call option assumes the risk of losing its entire premium investment in the call option.

*Put Options.* The seller (writer) of a put option which is covered (*i.e.*, the writer has a short position in the underlying security) assumes the risk of an increase in the market price of the underlying security above the sales price (in establishing the short position) of the underlying security plus the premium received, and gives up the opportunity for gain on the underlying security if the market price falls below the exercise price of the option. The seller of an uncovered put option assumes the risk of a decline in the market price of the underlying security below the exercise price of the option. The buyer of a put option assumes the risk of losing its entire investment in the put option.

*Index or Index Options.* The value of an index or index option fluctuates with changes in the market values of the securities included in the index. Because the value of an index or index option depends upon movements in the level of the index rather than the price of a particular security, whether the Master Fund will realize appreciation or depreciation from the purchase or writing of options on indices depends upon movements in the level of instrument prices in the security market generally or, in the case of certain indices, in an industry or market segment, rather than movements in the price of particular securities.

*Index Futures.* The price of index futures contracts may not correlate perfectly with the movement in the underlying index because of certain market distortions. First, all participants in the futures market are subject to margin deposit and maintenance requirements. Rather than meeting additional margin deposit requirements, shareholders may close futures contracts through offsetting transactions that would distort the normal relationship between the index and futures markets. Second, from the point of view of speculators, the deposit requirements in the futures market are less onerous than margin requirements in the securities market. Therefore, increased participation by speculators in the futures market also may cause price distortions. Successful use of index futures contracts by the Master Fund also is subject to the Investment Manager's ability to correctly predict movements in the direction of the market.

*Swaps.* Whether the Master Fund's use of swap agreements or swaptions will be successful will depend on the Investment Manager's ability to select appropriate transactions for the Master Fund. Swap agreements and options on swap agreements ("swaptions") can be individually negotiated and structured to include exposure to a variety of different types of investments, asset classes or market factors. Depending on their structure, swap agreements may increase or decrease the holder's exposure to, for example, equity securities, long-term or short-term interest rates, non-U.S. currency values, credit spreads or other factors. Swap agreements can take many different forms and are known by a variety of names. Swap transactions may be highly illiquid and may increase or decrease the volatility of the Master Fund's portfolio. Moreover, the Master Fund bears the risk of loss of the amount expected to be received under a swap agreement in the event of the default or insolvency of its counterparty. The Master Fund will also bear the risk of loss related to swap agreements, for example, for breaches of such agreements or the failure of the Master Fund to post or maintain required collateral. It is possible that developments in the swap markets, including potential government regulation, could adversely affect the Master Fund's ability to terminate swap transactions or to realize amounts to be received under such transactions.

*Credit Default Swaps.* Credit default swaps can be used to implement the Investment Manager's view that a particular credit, or group of credits, will experience credit improvement or deterioration. In the case of expected credit improvement, the Master Fund may sell credit default protection in which it receives a premium to take on the risk. In such an instance, the obligation of the Master Fund to make payments upon the occurrence of a credit event creates leveraged exposure to the credit risk of the referenced entity. The Master Fund may also buy credit default protection with respect to a referenced entity if, in the Investment Manager's judgment, there is a high likelihood of credit deterioration. In such instance, the Master Fund will pay a premium regardless of whether there is a credit event. The credit default swap market in high-yield securities is comparatively new and rapidly evolving compared to the credit default swap market for more seasoned and liquid investment-grade securities, creating the risk that the newer markets will be less liquid, and making it potentially more difficult to exit or enter into a particular transaction.

*Futures Contracts.* The value of futures contracts depends upon the price of the securities, such as commodities, underlying them. The prices of futures contracts are highly volatile, and price movements of futures contracts can be influenced by, among other things, interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, as well as national and international political and economic events and policies. In addition, investments in futures contracts are also subject to the risk of the failure of any of the exchanges on which the Master Fund's positions trade or of its clearing houses or counterparties. Futures positions may be illiquid because certain commodity exchanges limit fluctuations in certain futures contract prices during a single day by regulations referred to as "daily price fluctuation limits" or "daily limits". Under such daily limits, during a single trading day no trades may be executed at prices beyond the daily limits. Once the price of a particular futures contract has increased or decreased by an amount equal to the daily limit, positions in that contract can neither be taken nor liquidated unless traders are willing to effect trades at or within the limit. This could prevent the Master Fund from promptly liquidating unfavorable positions and subject the Master Fund to substantial losses or prevent it from entering into desired trades. Also, low margin or premiums normally required in such trading may provide a large amount of leverage, and a relatively small change in the price of a security or contract can produce a disproportionately larger profit or loss. In extraordinary circumstances, a futures exchange or the CFTC could suspend trading in a particular futures contract, or order liquidation or settlement of all open positions in such contract.

*Forward Contracts.* Banking authorities generally do not regulate trading in forward contracts. The principals who deal in the forward contract market are not required to continue to make markets in such contracts. There have been periods during which certain participants in forward markets have refused to quote prices for forward contracts or have quoted prices with an unusually wide spread between the price at which they were prepared to buy and that at which they were prepared to sell. The imposition of credit controls or price risk limitations by governmental authorities may limit such forward trading to less than that which the Investment Manager would otherwise recommend, to the possible detriment of the Master Fund. In its forward trading, the Master Fund is subject to the risk of the failure of, or the inability or refusal to perform with respect to its forward contracts by, the principals with which the Master Fund trades. Fund assets on deposit with such principals will also generally not be protected by the same segregation requirements imposed on certain regulated brokers in respect of customer funds on deposit with them. The Investment Manager may order trades for the Master Fund in such markets through agents. Accordingly, the insolvency or bankruptcy of such parties could also subject the Master Fund to the risk of loss.

*Contracts for Differences.* Contracts for differences ("CFDs") are privately negotiated contracts between two parties, buyer and seller, stipulating that the seller will pay to or receive from the buyer the difference between the nominal value of the underlying instrument at the opening of the contract and that instrument's value at the end of the contract. The underlying instrument may be a single security, stock basket or index. A CFD can be set up to take either a short or long position on the underlying instrument. The

buyer and seller are both required to post margin, which is adjusted daily. The buyer will also pay to the seller a financing rate on the notional amount of the capital employed by the seller less the margin deposit. A CFD is usually terminated at the buyer's initiative. As is the case with owning any financial instrument, there is the risk of loss associated with buying a CFD. There may be liquidity risk if the underlying instrument is illiquid because the liquidity of a CFD is based on the liquidity of the underlying instrument. A further risk is that adverse movements in the underlying security will require the buyer to post additional margin. CFDs also carry counterparty risk, *i.e.*, the risk that the counterparty to the CFD transaction may be unable or unwilling to make payments or to otherwise honor its financial obligations under the terms of the contract. If the counterparty were to do so, the value of the contract may be reduced. Entry into a CFD transaction may, in certain circumstances, require the payment of an initial margin and adverse market movements against the underlying stock may require the buyer to make additional margin payments. CFDs may be considered illiquid. To the extent that there is an imperfect correlation between the return on the Master Fund's obligation to its counterparty under the CFDs and the return on related assets in its portfolio, the CFD transaction may increase the Master Fund's financial risk.

*Failure to Enter into Offsetting Trade.* To the extent the Master Fund invests in a futures contract or option long, unless an offsetting trade is made, the Master Fund would be required to take physical delivery of the commodity underlying the future or option. To the extent the Investment Manager fails to enter into such offsetting trade prior to the expiration of the contract, the Master Fund may suffer a loss since neither the Master Fund nor the Investment Manager has the operational capacity to accept physical delivery of commodities.

**Currencies.** A principal risk in trading currencies is the rapid fluctuation in the market prices of currency contracts. Prices of currency contracts traded by the Master Fund are affected generally by relative interest rates, which in turn are influenced by a wide variety of complex and difficult to predict factors such as money supply and demand, balance of payments, inflation levels, fiscal policy, and political and economic events. In addition, governments from time to time intervene, directly and by regulation, in these markets, with the specific effect, or intention, of influencing prices which may, together with other factors, cause all of such markets to move rapidly in the same direction because of, among other things, interest rate fluctuations.

**Loan Investments.** The Master Fund's success in the area of loan investing will depend, in part, on its ability to obtain loans on advantageous terms. In purchasing loans, the Master Fund will compete with a broad spectrum of investors and institutions. Increased competition for, or a diminution in the available supply of, qualifying loans could result in lower yields on such loans, which could reduce returns to investors.

*Leveraged Loans.* "Leveraged loans" are loans made to companies with a below investment-grade rating from any nationally recognized rating agency. Such loans may be performing poorly when the Master Fund acquires them. There is no assurance that the Investment Manager will correctly evaluate the value of the assets collateralizing such loans or the prospects for distribution on or repayment of such loans. The Master

Fund may lose its entire investment or may be required to accept cash, property or securities with a value less than the Master Fund's original investment and/or may be required to accept payment over an extended period of time.

*Hung Loans.* The term "hung loan" commonly refers to a loan that has been made (or has been committed to be made), and the lender is not able to syndicate the loan on the originally anticipated terms. Hung loans are illiquid and lack readily ascertainable market values; there is no assurance that the price to be paid for hung loans by the Master Fund will reflect a discounted price that should allow the Master Fund to achieve a positive return on such loans or avoid losses. Since the price of the loans to be purchased is expected to continue to be significantly impacted by, in addition to the specific circumstances relating to each loan (*e.g.*, in the case of a loan relating to a leveraged buyout ("LBO"), the financial condition of the target), global and macro-economic conditions (*e.g.*, monetary policy, changes to currency exchange rates, governmental intervention or changes to existing laws, international geo-political events, *etc.*) as well as other systemic factors, it is possible that loans purchased by the Master Fund will suffer significant impairments in value as a result of events not predicted by the Master Fund. The Master Fund may also face difficulties in disposing or leveraging such loans, or in doing so without incurring losses. The markets in which hung loans are purchased and sold have been volatile and are likely to continue to be volatile in the future.

*Bank Loans.* Bank loans are subject to unique risks, including: (i) the possible invalidation of an investment transaction as a fraudulent conveyance under relevant creditors' rights laws; (ii) so-called lender-liability claims by the issuer of the obligations; (iii) environmental liabilities that may arise with respect to collateral securing the obligations; and (iv) limitations on the ability of the Master Fund to directly enforce its rights with respect to participations. Successful claims by third parties arising from these and other risks will be borne by the Master Fund.

As secondary market trading volumes increase, new loans are frequently adopting standardized documentation to facilitate loan trading, which may improve market liquidity. There can be no assurance, however, that future levels of supply and demand in loan trading will provide an adequate degree of liquidity or that the current level of liquidity will continue. Because of the provision to holders of such loans of confidential information relating to the borrower, the unique and customized nature of the loan agreement, and the private syndication of the loan, loans are not as easily purchased or sold as a publicly traded security, and historically the trading volume in the loan market has been small relative to the high-yield debt market.

*Second Lien Loans.* The Master Fund may invest in loans that are secured by a second lien on assets. Second lien loans have been a developed market for a relatively short period of time, and there is limited historical data on the performance of second lien loans in adverse economic circumstances. In addition, second lien loan products are subject to intercreditor arrangements with the holders of first lien indebtedness, pursuant to which the second lien holders have waived many of the rights of a secured creditor, and some rights of unsecured creditors, including rights in bankruptcy that can materially affect recoveries.

While there is broad market acceptance of some second lien intercreditor terms, no clear market standard has developed for certain other material intercreditor terms for second lien loan products. This variation in key intercreditor terms may result in dissimilar recoveries across otherwise similarly situated second lien loans in insolvency or distressed situations. While uncertainty of recovery in an insolvency or distressed situation is inherent in all debt instruments, second lien loan products carry more risks than certain other debt products. Beginning in August 2007, the market for many loan products, including second lien loans, contracted significantly which made virtually all leveraged loan products, particularly second lien loan products, less liquid or illiquid. Many participants ceased underwriting and purchasing certain second lien loan products. There can be no assurance that the market for second lien loans will not contract further.

*Bridge Loans.* It is a common practice for financial institutions to commit to providing bridge loans to facilitate acquisitions, including LBOs, where they serve as advisers to the purchaser. Bridge loans are frequently made because, for timing or market reasons, longer term financing is not available at the time the funds are needed, which is often at the time of the closing of an acquisition. In the past, these commitments were not frequently drawn upon due to the availability of other sources of financing; however, due to market conditions affecting the availability of these other sources of financing (principally high-yield bond transactions), bridge loan commitments have been and may be drawn upon more regularly. Since these commitments were not regularly drawn upon in the past, there is little history for investors to rely upon in evaluating investments in bridge loans. Bridge loans often have shorter maturities. Borrower and lenders typically agree to shorter maturities based on the anticipation that the bridge loans will be replaced with other forms of financing within such shorter time period. However, the source and timing of such replacement financing may be uncertain and can be affected by, among other things, market conditions and the financial condition of the borrower at the maturity date of the bridge. If the borrower is unable to obtain replacement financing and repay the bridge loan at maturity, the terms of the bridge loan may provide for the bridge loan to be converted to a longer term loan. If bridge loans are not repaid (or cannot be disposed of on favorable terms) on the dates projected by the Investment Manager, there may be an adverse effect upon the ability of the Investment Manager to manage the assets of the Master Fund in accordance with its models and projections or an adverse effect upon the Master Fund's performance and ability to make distributions.

*Debtor-in-Possession ("DIP") Loans.* Loans to companies that have filed for protection under Chapter 11 of the U.S. Bankruptcy Code, as amended, are most often asset-based, revolving working-capital facilities put into place at the outset of a Chapter 11 case to provide the debtor with both immediate cash and the ongoing working capital that will be required during the reorganization process. While such loans are generally less risky than many other types of loans as a result of their seniority in the debtor's capital structure and because their terms have been approved by a federal bankruptcy court order, it is possible that the debtor's reorganization efforts may fail and the proceeds of the ensuing liquidation of the DIP lender's collateral might be insufficient to repay in full the DIP loan.



*Fraud.* Of paramount concern in loan investments is the possibility of material misrepresentation or omission on the part of the borrower or loan seller. Such inaccuracy or incompleteness may adversely affect the valuation of the collateral underlying the loans or may adversely affect the ability of the Master Fund to perfect or effectuate a lien on the collateral securing the loan. The Master Fund will rely upon the accuracy and completeness of representations made by borrowers to the extent reasonable, but cannot guarantee such accuracy or completeness. Under certain circumstances, payments to the Master Fund may be reclaimed if any such payment or distribution is later determined to have been a fraudulent conveyance or a preferential payment.

**Bankruptcy Claims.** Bankruptcy claims, which are amounts owed to creditors of companies that are debtors in pending bankruptcy cases, typically are illiquid and generally do not pay interest. The markets in U.S. bankruptcy claims are generally not regulated by U.S. federal securities laws or the SEC. Because bankruptcy claims are frequently unsecured, holders of such claims may have a lower priority in terms of payment than certain other creditors in a bankruptcy proceeding. In addition, the debt of companies in financial reorganization may be adversely affected by an erosion of the issuer's fundamental values. Accordingly, there can be no guarantee that the debtor will ever be able to satisfy the obligation on a bankruptcy claim.

Many of the events within a bankruptcy case are adversarial and often beyond the control of the creditors. While creditors generally are afforded an opportunity to appear and be heard, there can be no assurance that a bankruptcy court would not approve actions that may be contrary to the interests of the Master Fund. Furthermore, there are instances where creditors lose their priority or are recharacterized as equity if, for example, they have exercised excessive control management or engaged in misconduct that harms other creditors. In those cases where the Master Fund, by virtue of such action, is found to exercise "domination and control" of a debtor, the Master Fund may lose its priority if the debtor can demonstrate that its business was adversely impacted or other creditors and equity holders were harmed by the Master Fund.

Generally, the duration of a bankruptcy case can only be roughly estimated. The reorganization of a company usually involves the development and negotiation of a plan of reorganization, plan approval by creditors and confirmation by the bankruptcy court. This process can involve substantial legal, professional and administrative costs to the company and the Master Fund; it is subject to unpredictable and lengthy delays; and during the process the company's competitive position may erode, key management may depart and the company may not be able to invest adequately. In some cases, the company may not be able to reorganize and may be required to liquidate assets.

U.S. bankruptcy law permits the classification of "substantially similar" claims in determining the classification of claims in a reorganization for the purpose of voting on a plan of reorganization. Because the standard for classification is vague, there exists a significant risk that the Master Fund's influence with respect to a class of securities can be lost by the inflation of the number and the amount of claims in, or other gerrymandering of, the class. In addition, certain administrative costs and claims that have priority by law over the claims of certain creditors (for example, claims for taxes) may be quite high.

The Master Fund intends to invest some of its assets in securities of issuers domiciled, or assets located, globally. Investment in the debt of financially distressed companies domiciled outside the United States involves additional risks. Bankruptcy law and process may differ substantially from that in the United States, resulting in greater uncertainty as to the rights of creditors, the enforceability of such rights, reorganization timing and the classification, seniority and treatment of claims. In certain developing countries, although bankruptcy laws have been enacted, the process for reorganization remains highly uncertain.

The Investment Manager, on behalf of the Master Fund, may elect to serve on creditors' committees, equityholders' committees or other groups to ensure preservation or enhancement of the Master Fund's positions as a creditor or equityholder. A member of any such committee or group may owe certain obligations generally to all parties similarly situated that the committee represents. The Investment Manager may resign from that committee or group for any reason, including, for example, if the Investment Manager concludes that its obligations owed to the other parties as a committee or group member conflict with its duties owed to the Master Fund. In such case, the Master Fund may not realize the benefits, if any, of participation on the committee or group. In addition, if the Master Fund is represented on a committee or group, it may be restricted or prohibited under applicable law from disposing of or increasing its investments in such company while it continues to be represented on such committee or group.

The Master Fund may purchase creditor claims subsequent to the commencement of a bankruptcy case. Under judicial decisions, it is possible that such purchase may be disallowed by the bankruptcy court if the court determines that the purchaser has taken unfair advantage of an unsophisticated seller, which may result in the rescission of the transaction (presumably at the original purchase price) or forfeiture by the purchaser. Additionally, the claim may be disallowed or subordinated if the bankruptcy court determines that the seller engaged in inequitable conduct that harmed other creditors.

Reorganizations can be contentious and adversarial, and it is by no means unusual for participants to use the threat of, as well as actual, litigation as a negotiating technique. The expense of defending against claims by third parties and paying any amounts pursuant to settlements or judgments would generally be borne by the Master Fund.

**ABS and MBS Generally.** The investment characteristics of ABS and MBS differ from traditional debt securities. Among the major differences are that interest and principal payments are made more frequently, usually monthly, and that the principal may be prepaid at any time because the underlying loans or other assets generally may be prepaid at any time.

*ABS and MBS Subordinated Securities.* Investments in subordinated MBS and ABS involve greater credit risk of default than the senior classes of the issue or series. Default risks may be further pronounced in the case of MBS and ABS secured by, or evidencing an interest in, a relatively small or less diverse pool of underlying loans. Certain subordinated securities absorb all losses from default before any other class of securities is at risk, particularly if such securities have been issued with little or no credit enhancement or equity. Such securities, therefore, possess some of the attributes typically associated with equity investments.

*Commercial MBS.* Mortgage loans on commercial properties often are structured so that a substantial portion of the loan principal is not amortized over the loan term but is payable at maturity and repayment of the loan principal thus often depends upon the future availability of real estate financing from the existing or an alternative lender and/or upon the current value and salability of the real estate. Therefore, the unavailability of real estate financing may lead to default.

Most commercial mortgage loans underlying MBS are effectively nonrecourse obligations of the borrower, meaning that there is no recourse against the borrower's assets other than the collateral. If borrowers are not able or willing to refinance or dispose of encumbered property to pay the principal and interest owed on such mortgage loans, payments on the subordinated classes of the related MBS are likely to be adversely affected. The ultimate extent of the loss, if any, to the subordinated classes of MBS may only be determined after a negotiated discounted settlement, restructuring or sale of the mortgage note, or the foreclosure (or deed in lieu of foreclosure) of the mortgage encumbering the property and subsequent liquidation of the property. Foreclosure can be costly and delayed by litigation and/or bankruptcy. Factors such as the property's location, the legal status of title to the property, its physical condition and financial performance, environmental risks, and governmental disclosure requirements with respect to the condition of the property may make a third party unwilling to purchase the property at a foreclosure sale or to pay a price sufficient to satisfy the obligations with respect to the related MBS. Revenues from the assets underlying such MBS may be retained by the borrower and the return on investment may be used to make payments to others, maintain insurance coverage, pay taxes or pay maintenance costs. Such diverted revenue is generally not recoverable without a court-appointed receiver to control collateral cash flow.

*ABS.* ABS are not secured by an interest in the related collateral. Credit card receivables, for example, are generally unsecured and the debtors are entitled to the protection of a number of state and federal consumer loan laws, many of which give such debtors the right to set off certain amounts owed on the credit cards, thereby reducing the balance due. Most issuers of ABS backed by automobile receivables permit the servicers to retain possession of the underlying obligations. If the servicer were to sell these obligations to another party, there is a risk that the purchaser would acquire an interest superior to that of the holders of the related ABS. In addition, because of the large number of vehicles involved in a typical issuance and technical requirements under state laws, the trustee for the holders of the ABS may not have a proper security interest in all of the obligations backing such ABS. Therefore, there is a possibility that recoveries on repossessed collateral may not, in some cases, be available to support payments on these securities. The risk of investing in ABS is ultimately dependent upon payment of consumer loans by the debtor.

The collateral supporting ABS is of shorter maturity than certain other types of loans and is less likely to experience substantial prepayments. ABS are often backed by pools of any variety of assets, including, for example, leases, mobile home loans and aircraft leases, which represent the obligations of a number of different parties and use credit enhancement techniques such as letters of credit, guarantees or preference rights.

The value of an ABS is affected by changes in the market's perception of the asset backing the security and the creditworthiness of the servicing agent for the loan pool, the originator of the loans or the financial institution providing any credit enhancement, as well as by the expiration or removal of any credit enhancement.

*RMBS.* Holders of RMBS bear various risks, including credit, market, interest rate, structural and legal risks. RMBS represent interests in pools of residential mortgage loans secured by one to four family residential mortgage loans. Such loans may be prepaid at any time. Residential mortgage loans are obligations of the borrowers thereunder only and are not typically insured or guaranteed by any other person or entity, although such loans may be securitized by government agencies and the securities issued are guaranteed. The rate of defaults and losses on residential mortgage loans may be affected by a number of factors, including general economic conditions and those in the geographic area where the mortgaged property is located, the terms of the mortgage loan, the borrower's "equity" in the mortgaged property and the financial circumstances of the borrower. If a residential mortgage loan is in default, foreclosure of such residential mortgage loan may be a lengthy and difficult process, and may involve significant expenses. Furthermore, the market for defaulted residential mortgage loans or foreclosed properties may be very limited.

Investments in RMBS may experience losses or reduced yield if, for example, (i) the borrower of an underlying residential mortgage loan defaults or is unable to make payments, (ii) the underlying residential mortgage loans are prepaid, (iii) there is a general decline in the housing market, or (iv) violations of particular provisions of certain federal laws by an issuer of RMBS limit the ability of the issuer to collect all or part of the principal of or interest on the related underlying loans.

**Collateralized Obligations Generally.** There are a variety of different types of CLO and CDO securities. CLOs/CDOs are subject to credit, liquidity and interest rate risks, which are each discussed in greater detail above. The CLO/CDO equity may be unrated or non-investment grade. As a holder of CLO/CDO equity, the Master Fund will have limited remedies available upon the default of the CLO/CDO. The Master Fund may be unable to find a sufficient number of attractive opportunities to meet its investment objective or fully invest its committed capital. For example, from time to time, the market for CLO/CDO transactions has been adversely affected by a decrease in the availability of senior and subordinated financing for transactions, in part in response to regulatory pressures on providers of financing to reduce or eliminate their exposure to such transactions. CLOs/CDOs often invest in concentrated portfolios of assets. The concentration of an underlying portfolio in any one obligor would subject the related CLOs/CDOs to a greater degree of risk with respect to defaults by such obligor and the concentration of a portfolio in any one industry would subject the related CLOs/CDOs to a greater degree of risk with respect to economic downturns relating to such industry.

The value of CLOs/CDOs generally fluctuates with, among other things, the financial condition of the obligors or issuers of the underlying portfolio of assets of the related CLO/CDO ("CLO/CDO Collateral"), general economic conditions, the condition of certain financial markets, political events, developments or trends in any particular industry and changes in prevailing interest rates. Consequently, holders of CLOs/CDOs must rely solely on distributions

on the CLO/CDO Collateral or proceeds thereof for payment in respect thereof. If distributions on the CLO/CDO Collateral are insufficient to make payments on the CLOs/CDOs, no other assets will be available for payment of the deficiency and following realization of the CLOs/CDOs, the obligations of such issuer to pay such deficiency generally will be extinguished. CLO/CDO Collateral may consist of high-yield debt securities, loans, asset-backed securities and other securities, which often are rated below investment grade (or of equivalent credit quality). High-yield debt securities generally are unsecured (and loans may be unsecured) and may be subordinated to certain other obligations of the issuer thereof. The lower ratings of high-yield securities and below investment grade loans reflect a greater possibility that adverse changes in the financial condition of an issuer or in general economic conditions or both may impair the ability of the related issuer or obligor to make payments of principal or interest. Such investments may be speculative.

Also, the "Volcker Rule" contained in the Dodd-Frank Act (which became effective on July 21, 2012 and imposes limitations on the ability of banking entities and their affiliates to invest in private investment funds such as CLO/CDO issuers) may have a substantial negative impact on the liquidity and value of CLOs/CDOs. No prediction can be made on whether the Volcker Rule will be modified by legislation, rule or regulation following its effective date or the impact of any such modifications on the liquidity of CLOs/CDOs purchased by the Master Fund. Furthermore, no assurance can be made that the United States federal government or any U.S. regulatory body (or other authority or regulatory body) will not continue to take further legislative or regulatory action in response to the economic crisis or otherwise, and the effect of such actions on the liquidity and value of CLOs/CDOs, if any, cannot be known or predicted.

*Subordination of CLO/CDO Debt and CLO/CDO Equity.* Subordinate CLO/CDO debt generally is fully subordinated to the related CLO/CDO senior tranches. CLO/CDO equity generally is fully subordinated to any related CLO/CDO debt and is not secured by any collateral. Distributions to holders of CLO/CDO equity will generally be made solely from distributions on the assets of the CLO/CDO issuer after all other payments have been made pursuant to the priority of payments of such CLO/CDO. To the extent that any losses are incurred by a CLO/CDO in respect of its related CLO/CDO Collateral, such losses will be borne first by the holders of the related CLO/CDO equity, next by the holders of any related subordinated CLO/CDO debt and finally by the holders of the related CLO/CDO senior tranches. In addition, if an event of default occurs under the governing instrument or underlying investment, as long as any CLO/CDO senior tranches are outstanding, the holders thereof generally will be entitled to determine the remedies to be exercised under the instrument governing the CLO/CDO. Remedies pursued by such holders could be adverse to the interests of the holders of any related subordinated CLO/CDO debt and/or the holders of the related CLO/CDO equity, as applicable. Subordinate CLO/CDO debt and CLO/CDO equity represent leveraged investments in the assets of the CLO/CDO. Therefore, the leveraged nature of such securities may magnify the adverse impact on the market value of such securities caused by changes affecting the assets underlying such securities, including, without limitation, changes in the market value of such assets, changes in distributions on such assets, defaults and recoveries, capital gains and losses on such assets, prepayments and the availability, prices and interest rates of such assets.

Accordingly, subordinate CLO/CDO debt and CLO/CDO equity may not be paid in full and may be subject to up to 100% loss.

*Control by Senior CLO/CDO Debt.* In a typical CLO/CDO, the most senior CLO/CDO debt (the "Controlling Class") will control many rights under the CLO/CDO indenture and therefore, holders of subordinate CLO/CDO debt and CLO/CDO equity will have limited rights in connection with an event of default or distributions thereunder. Remedies pursued by the holders of the Controlling Class upon an event of default could be adverse to the interests of the holders of subordinate CLO/CDO debt and CLO/CDO equity. If an event of default has occurred and is continuing, the holders of CLO/CDO equity will not have any creditors' rights against the CLO/CDO issuer and will not have the right to determine the remedies to be exercised under the CLO/CDO indenture. There is no guarantee that any funds will remain to make distributions to the holders of subordinate CLO/CDO debt and CLO/CDO equity following any liquidation of the CLO/CDO assets and the application of the proceeds from the CLO/CDO assets to pay senior classes of CLO/CDO debt and the fees, expenses, and other liabilities payable by the CLO/CDO issuer. The Controlling Class may also have consent rights in respect of amendments and CLO/CDO manager removal rights in connection with certain events.

*Mandatory Redemption of CLO/CDO Senior Tranches and CLO/CDO Debt.* Under certain circumstances, cash flows from CLO/CDO Collateral that otherwise would have been paid to the holders of any related CLO/CDO debt and the related CLO/CDO equity will be used to redeem the related CLO/CDO senior tranches. This could result in an elimination, deferral or reduction in the interest payments, principal repayments or other payments made to the holders of such CLO/CDO debt or such CLO/CDO equity, which could adversely impact the returns to the holders of such CLO/CDO debt or such CLO/CDO equity.

*Optional Redemption of CLO/CDO Senior Tranches and CLO/CDO Debt.* An optional redemption of a CLO/CDO could require the collateral or portfolio manager of the related CLO/CDO to liquidate positions more rapidly than would otherwise be desirable, which could adversely affect the realized value of the items of CLO/CDO Collateral sold (and which in turn could adversely impact the holders of any related CLO/CDO debt, and/or the holders of the related CLO/CDO equity).

*Future actions of any rating agency can adversely affect the market value or liquidity of CLOs/CDOs.* Rating agencies rating a CLO/CDO may change their published ratings criteria or methodologies for CLOs/CDOs at any time in the future. Further, such rating agencies may retroactively apply any such new standards to the ratings of the CLO/CDO securities purchased by the Master Fund. Any such action could result in a substantial lowering (or even withdrawal) of any rating assigned to any such CLO/CDO security, despite the fact that such CLO/CDO security might still be performing fully to the specifications set forth for such CLO/CDO security in the related transaction documents. The rating assigned to any CLO/CDO may also be lowered following the occurrence of an event or circumstance despite the fact that the related rating agency previously provided confirmation that such occurrence would not result in the rating of

such CLO/CDO being lowered. Additionally, any rating agency may, at any time and without any change in its published ratings criteria or methodology, lower or withdraw any rating assigned by it to any class of CLO/CDO security. If any rating initially assigned to any CLO/CDO security is subsequently lowered or withdrawn for any reason, holders of such security may not be able to resell their security without a substantial discount. Any reduction or withdrawal to the ratings on any class of CLO/CDO security may significantly reduce the liquidity thereof and may adversely affect the CLO/CDO issuer's ability to make certain changes to the composition of the CLO/CDO assets since the CLO's/CDO's indenture may contain restrictions on portfolio modifications that are tied to the ratings on the CLO's/CDO's securities.

A rating agency may also revise or withdraw its ratings of a CLO/CDO security as a result of a failure by the issuer or the manager of such CLO/CDO to provide it with information requested by such rating agency or comply with any of its obligations contained in the engagement letter with such rating agency, including the posting of information provided to the rating agency on a website that is accessible by rating agencies that were not hired in connection with the issuance of the CLO/CDO securities as required by law. In addition, a CLO/CDO security may receive an unsolicited rating, which may have an adverse effect on the liquidity or the market price of such CLO/CDO security. Any such revision or withdrawal of a rating as a result of such a failure might adversely affect the liquidity and value of the CLO/CDO security.

**Structured Notes.** Structured notes, variable rate mortgage-backed and asset-backed securities each have rates of interest that vary based on a designated floating rate formula or index. The value of these investments is closely tied to the absolute levels of such rates or indices, or the market's perception of anticipated changes in those rates or indices. The movements in specific indices or interest rates may be difficult or impossible to hedge.

**When-Issued and Forward Commitment Securities.** The purchase of securities on a "when-issued" basis involves a commitment by the Master Fund to purchase or sell securities at a future date (typically one or two months later). No income accrues on securities that have been purchased on a when-issued basis prior to delivery to the Master Fund. When-issued securities may be sold prior to the settlement date. If the Master Fund disposes of the right to acquire a when-issued security prior to its acquisition, it may incur a gain or loss. In addition, there is a risk that securities purchased on a when-issued basis may not be delivered to the Master Fund. In such cases, the Master Fund may incur a loss.

**Distressed Obligations.** The obligations of issuers in weak financial condition, experiencing poor operating results, having substantial capital needs or negative net worth, facing special competitive or product obsolescence problems (including companies involved in bankruptcy or other reorganization and liquidation proceedings) are likely to be particularly risky investments although they also may offer the potential for correspondingly high returns. Among the risks inherent in investments in troubled entities is the risk that it frequently may be difficult to obtain information as to the true condition of such issuers. Such investments may also be adversely affected by laws relating to, among other things, fraudulent transfers and other voidable transfers or payments, lender liability and the bankruptcy court's power to disallow, reduce,

subordinate, recharacterize debt as equity or disenfranchise particular claims. Such companies' obligations may be considered speculative, and the ability of such companies to pay their debts on schedule could be affected by adverse interest rate movements, changes in the general economic climate, economic factors affecting a particular industry or specific developments within such companies. In addition, there is no minimum credit standard that is a prerequisite to the Master Fund's investments in any security. Obligations in which the Master Fund invests may be less than investment grade. The level of analytical sophistication, both financial and legal, necessary for successful investment in companies experiencing significant business and financial difficulties is unusually high. There is no assurance that the value of the assets collateralizing the Master Fund's investments will be sufficient or that prospects for a successful reorganization or similar action will become available. In any reorganization or liquidation proceeding relating to a company in which the Master Fund invests, the Master Fund may lose its entire investment, may be required to accept cash or securities with a value less than its original investment and/or may be required to accept payment over an extended period of time. Under such circumstances, the returns generated from the Master Fund's investments may not compensate the Shareholders adequately for the risks assumed. In addition, under certain circumstances, payments and distributions may be disgorged if any such payment is later determined to have been a fraudulent conveyance or a preferential payment.

In liquidation (both in and out of bankruptcy) and other forms of corporate reorganization, there exists the risk that the reorganization either will be unsuccessful (due to, for example, failure to obtain requisite approvals), will be delayed (for example, until various liabilities, actual or contingent, have been satisfied) or will result in a distribution of cash or a new security the value of which will be less than the purchase price to the Master Fund of the security in respect to which such distribution was made.

**Equity Securities Generally.** The value of equity securities of public and private, listed and unlisted companies and equity derivatives generally varies with the performance of the issuer and movements in the equity markets. As a result, the Master Fund may suffer losses if it invests in equity instruments of issuers whose performance diverges from the Investment Manager's expectations or if equity markets generally move in a single direction and the Master Fund has not hedged against such a general move. The Master Fund also may be exposed to risks that issuers will not fulfill contractual obligations such as, in the case of convertible securities or private placements, delivering marketable common stock upon conversions of convertible securities and registering restricted securities for public resale.

**Preferred Stock.** Investments in preferred stock involve risks related to priority in the event of bankruptcy, insolvency or liquidation of the issuing company and how dividends are declared. Preferred stock ranks junior to debt securities in an issuer's capital structure and, accordingly, is subordinate to all debt in bankruptcy. Preferred stock generally has a preference as to dividends. Such dividends are generally paid in cash (or additional shares of preferred stock) at a defined rate, but unlike interest payments on debt securities, preferred stock dividends are payable only if declared by the issuer's board of directors. Dividends on preferred stock may be cumulative, meaning that, in the event the issuer fails to make one or more dividend payments on the preferred stock, no dividends may be paid on the issuer's common stock until all unpaid



preferred stock dividends have been paid. Preferred stock may also be subject to optional or mandatory redemption provisions.

**PIPE Transactions.** Private investments in public companies whose stocks are quoted on stock exchanges or which trade in the over-the-counter securities market, a type of investment commonly referred to as a "PIPE" transaction, may be entered into with smaller capitalization public companies, which will entail business and financial risks comparable to those of investments in the publicly issued securities of smaller capitalization companies, which may be less likely to be able to weather business or cyclical downturns than larger companies and are more likely to be substantially hurt by the loss of a few key personnel. In addition, PIPE transactions will generally result in the Master Fund acquiring either restricted stock or an instrument convertible into restricted stock. As with investments in other types of restricted securities, such an investment may be illiquid. The Master Fund's ability to dispose of securities acquired in PIPE transactions may depend on the registration of such securities for resale. Any number of factors may prevent or delay a proposed registration. Alternatively, it may be possible for securities acquired in a PIPE transaction to be resold in transactions exempt from registration in accordance with Rule 144 under the Securities Act, or otherwise under the U.S. federal securities laws. There can be no guarantee that there will be an active or liquid market for the stock of any small capitalization company due to the possible small number of stockholders. As a result, even if the Master Fund is able to have securities acquired in a PIPE transaction registered or sell such securities through an exempt transaction, the Master Fund may not be able to sell all the securities on short notice, and the sale of the securities could lower the market price of the securities. There is no guarantee that an active trading market for the securities will exist at the time of disposition of the securities, and the lack of such a market could hurt the market value of the Master Fund's investments.

**Convertible Securities.** A convertible security may be subject to redemption at the option of the issuer at a price established in the convertible security's governing instrument. If a convertible security held by the Master Fund is called for redemption, the Master Fund will be required to permit the issuer to redeem the security, convert it into the underlying common stock or sell it to a third party. Any of these actions could have an adverse effect on the Master Fund's ability to achieve its investment objective.

**Illiquid Securities.** Certain securities may be illiquid because, for example, they are subject to legal or other restrictions on transfer or there is no liquid market for such securities. Valuation of such securities may be difficult or uncertain because there may be limited information available about the issuers of such securities. The market prices, if any, for such securities tend to be volatile and may not be readily ascertainable, and the Master Fund may not be able to sell them when it desires to do so or to realize what it perceives to be their fair value in the event of a sale. The sale of restricted and illiquid securities often requires more time and results in higher brokerage charges or dealer discounts and other selling expenses than does the sale of securities eligible for trading on national securities exchanges or in the over-the-counter markets. The Master Fund may not be able to readily dispose of such illiquid investments and, in some cases, may be contractually prohibited from disposing of such investments for a specified period of time. As a result, the Master Fund may be required to hold such securities despite adverse price movements. Even those markets which the Investment Manager expects to be liquid can experience periods, possibly

extended periods, of illiquidity. Occasions have arisen in the past where previously liquid investments have rapidly become illiquid.

**Restricted Securities.** Restricted securities cannot be sold to the public without registration under the Securities Act. Unless registered for sale, restricted securities can be sold only in privately negotiated transactions or pursuant to an exemption from registration (*e.g.*, under Rule 144A of the Securities Act). Although these securities may be resold in privately negotiated transactions, because there is often little liquidity for these securities, they may be difficult and take a substantial amount of time to sell, and the prices realized from these sales could be less than those originally paid by the Master Fund. Restricted securities may involve a high degree of business and financial risk which may result in substantial losses.

**Undervalued Securities.** The identification of investment opportunities in undervalued securities is a difficult task, and there are no assurances that such opportunities will be successfully recognized or acquired. While investments in undervalued securities offer the opportunity for above-average capital appreciation, these investments involve a high degree of financial risk and can result in substantial losses. Returns generated from the Master Fund's investments may not adequately compensate for the business and financial risks assumed.

**Unlisted Securities.** Unlisted securities may involve higher risks than listed securities. Because of the absence of any trading market for unlisted securities, it may take longer to liquidate, or it may not be possible to liquidate, positions in unlisted securities than would be the case for publicly traded securities. Companies whose securities are not publicly traded may not be subject to public disclosure and other investor protection requirements applicable to publicly traded securities.

**American Depositary Receipts and Global Depositary Receipts.** American Depositary Receipts ("ADRs") are receipts issued by a U.S. bank or trust company evidencing ownership of underlying securities issued by non-U.S. issuers. ADRs may be listed on a national securities exchange or may be traded in the over-the-counter market. Global Depositary Receipts ("GDRs") are receipts issued by either a U.S. or non-U.S. banking institution representing ownership in a non-U.S. company's publicly traded securities that are traded on non-U.S. stock exchanges or non-U.S. over-the-counter markets. Holders of unsponsored ADRs or GDRs generally bear all the costs of such facilities. The depository of an unsponsored facility frequently is under no obligation to distribute investor communications received from the issuer of the deposited security or to pass through voting rights to the holders of depositary receipts in respect of the deposited securities. Investments in ADRs and GDRs pose, to the extent not hedged, currency exchange risks (including blockage, devaluation and non-exchangeability), as well as a range of other potential risks relating to the underlying shares, which could include expropriation, confiscatory taxation, imposition of withholding or other taxes on dividends, interest, capital gains, other income or gross sale of disposition proceeds, political or social instability or diplomatic developments that could affect investments in those countries, illiquidity, price volatility and market manipulation. In addition, less information may be available regarding the underlying shares of ADRs and GDRs, and non-U.S. companies may not be subject to accounting, auditing and financial reporting standards and requirements comparable to, or as uniform as, those of U.S.

companies. Such risks may have a material adverse effect on the performance of such investments and could result in substantial losses.

**Initial Public Offerings.** Investments in initial public offerings (or shortly thereafter) may involve higher risks than investments issued in secondary public offerings or purchases on a secondary market due to a variety of factors, including, without limitation, the limited number of shares available for trading, unseasoned trading, lack of investor knowledge of the issuer and limited operating history of the issuer. In addition, some companies in initial public offerings are involved in relatively new industries or lines of business, which may not be widely understood by investors. Some of these companies may be undercapitalized or regarded as developmental stage companies, without revenues or operating income, or the near-term prospects of achieving them. These factors may contribute to substantial price volatility for such securities and, thus, for the value of the Master Fund's portfolio.

**Special Purpose Acquisition Companies.** A special purpose acquisition company ("SPAC") is a publicly traded company formed for the purpose of raising capital through an initial public offering to fund the acquisition, through a merger, capital stock exchange, asset acquisition or other similar business combination, of one or more operating businesses that are typically not publicly-listed. Following the acquisition of a target company, a SPAC's management team may exercise control over the management of the combined company in an effort to increase its value. Often now, though, management of the target company will continue to manage the now publicly-traded business subsequent to completion of its business combination with the SPAC. Capital raised through the initial public offering of securities of a SPAC is typically placed into a trust account until acquired business combination is completed or a predetermined period of time (typically 24 months) elapses. Investors in a SPAC would receive a return on their investment in the event that a target company is acquired and the combined publicly-traded company's shares trade above the SPAC's IPO price, or alternatively, the market price at which an investor acquired a SPAC's shares subsequent to its IPO. In the event that a SPAC is unable to locate and acquire a target business by the timeframe established at the time of its IPO, the SPAC would be forced to liquidate its assets, which may result in losses due to the expenses and liabilities of the SPAC, to the extent third-parties are permitted to bring claims against IPO proceeds held in the SPAC's trust account. Investors in a SPAC are subject to the risk that, among other things, (i) such SPAC may not be able to complete a qualifying business combination by the deadline established at the time of its IPO, (ii) assets in the trust account may become subject to third-party claims against such SPAC, which may reduce the per share liquidation value received by the investors in the SPAC in the event it fails to complete a business combination within the required time period, (iii) such SPAC may be exempt from the rules promulgated by the SEC to protect investors in "blank check" companies, such as Rule 419 promulgated under the Securities Act, so that investors in such SPAC may not be afforded the benefits or protections of those rules, (iv) such SPAC will likely only complete one business combination, which will cause its returns and future prospects to be solely dependent on the performance of a single acquired business, (v) the value of any target business, including its stock price as a public company, may decrease following its acquisition by such SPAC, (vi) the value of the funds invested and held in the trust account may decline, (vii) the inability to redeem due to the failure to hold the securities in the SPAC on the applicable record date to do so, and (viii) if the SPAC is unable to consummate a business combination, public stockholders will be forced to wait until the deadline before liquidating distributions are made. The

Investment Manager may cause clients to invest in a SPAC that, at the time of investment, has not selected or approached any prospective target businesses with respect to a business combination. In such circumstances, there may be limited basis for the Investment Manager to evaluate the possible merits or risks of such SPAC's investment in any particular target business. In addition, to the extent that a SPAC completes a business combination, it may be affected by numerous risks inherent in the business operations of the acquired company or companies. For these and additional reasons, investments in SPACs are speculative and involve a high degree of risk.

Further, SPACs are structured as publicly-traded blank check companies. Accordingly, the clients investing in SPACs will also be subject to risks that arise from investments in vehicles that are managed by independent third parties, as well as the risk that the underlying business combinations being pursued by the SPACs in which clients invest will not be consummated or will not be successful.

**SPAC PIPE Transactions.** SPACs will often seek third-party equity capital in the form of a PIPE transaction that is funded on a concurrent basis with the consummation of the underlying business combination that is being pursued by the SPAC. While such SPAC PIPEs are typically entered into at the time a proposed business combination is announced, certain SPACs may seek PIPE commitments at the time of their IPO in the form of forward purchase agreements. Clients may participate in such SPAC PIPE transactions, including pursuant to forward purchase agreements, whereby it may make an irrevocable commitment to subscribe for equity securities of the combined company surviving the business combination between the SPAC and its target at a set price at the time that an agreement for the underlying business combination is signed. Consummation of a SPAC PIPE is typically contingent on and generally occurs concurrently with the successful closing of the underlying business combination which itself may be subject to conditions (such as regulatory approval, shareholder approval, etc.). As a result, clients may, in their capacity as an investor in a SPAC PIPE, bear the market or pricing risk of the transaction between the time of executing a subscription agreement to participate in the PIPE and the closing of the underlying business combination being pursued by the SPAC. In addition, during the period of time between a client's subscription to a PIPE and the consummation of the underlying business combination being pursued the SPAC, the Investment Manager may have to cause a client to reserve capital in anticipation of funding its irrevocable commitment. Such time period may be substantial in the case of a forward purchase agreement executed at the time of a SPAC's IPO. In such circumstances, any capital being reserved by clients will not be available for participation in other investment opportunities. Further, the shares issued at the closing of a SPAC PIPE will generally be restricted for a period of time following the closing until the company that results from the business combination is readmitted for trading on the relevant exchange and the securities are registered under the Securities Act.

#### Risks Related to Non-U.S. Investments and Non-U.S. Jurisdictions.

**Non-U.S. Exchanges.** The Master Fund may trade on exchanges or markets located outside the U.S. Trading on such exchanges or markets is not regulated by the SEC and the CFTC and may, therefore, be subject to more risks than trading on U.S. exchanges, such as the risks of exchange controls, expropriation, burdensome taxation, moratoria and political or diplomatic events. Risks in investments in non-U.S. securities may also include reduced and less reliable

information about issuers and markets, less stringent accounting standards, illiquidity of securities and markets, higher brokerage commissions and custody fees.

**Non-U.S. Investments.** Investing in the securities of companies (and, from time to time, governments) outside of the United States involves certain considerations not usually associated with investing in securities of U.S. companies or the U.S. Government, including political and economic considerations, such as greater risks of expropriation, nationalization, confiscatory taxation, imposition of withholding or other taxes on interest, dividends, capital gains, other income or gross sale or disposition proceeds, limitations on the removal of assets and general social, political and economic instability; the relatively small size of the securities markets in such countries and the low volume of trading, resulting in potential lack of liquidity and in price volatility; the evolving and unsophisticated laws and regulations applicable to the securities and financial services industries of certain countries; fluctuations in the rate of exchange between currencies and costs associated with currency conversion; and certain government policies that may restrict the Master Fund's investment opportunities. In addition, accounting and financial reporting standards that prevail outside of the U.S. generally are not as high as U.S. standards and, consequently, less information is typically available concerning companies located outside of the U.S. than for those located in the U.S. As a result, the Master Fund may be unable to structure its transactions to achieve the intended results or to mitigate all risks associated with such markets. It may also be difficult to enforce the Master Fund's rights in such markets. For example, securities traded on non-U.S. exchanges and the non-U.S. persons that trade these instruments are not subject to the jurisdiction of the SEC or the CFTC or the securities and commodities laws and regulations of the U.S. Accordingly, the protections accorded to the Master Fund under such laws and regulations are unavailable for transactions on non-U.S. exchanges and with non-U.S. counterparties.

## **ITEM 9 DISCIPLINARY INFORMATION**

The Investment Manager is not aware of any legal or disciplinary events that are material to a client's or prospective client's evaluation of the Investment Manager's advisory business or the integrity of the Investment Manager's management.

## **ITEM 10 OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

### **A. Broker-Dealer Registration Status.**

Neither the Investment Manager nor any of its management persons are registered as broker-dealers or has any application pending to register as a broker-dealer or registered representative of a broker-dealer.

### **B. Futures Commission Merchant, Commodity Pool Operator or Commodity Trading Adviser Registration Status.**

Neither the Investment Manager nor any of its management persons are registered as, and do not have any application to register as, futures commission merchants, commodity pool operators, commodity trading advisors or introducing brokers.

C. Material Relationships or Arrangements with Industry Participants.

The Investment Manager is subject to actual and potential conflicts of interest arising from sponsoring and/or acting as a manager to a Birch Grove Managed CLO, including those mentioned below.

The Investment Manager has purchased on behalf of clients different tranches of debt and/or equity of one or more Birch Grove Managed CLOs and other collateralized loan obligation special purpose vehicles. From time to time, the Investment Manager may make additional investments or sell its existing investments in such Birch Grove Managed CLOs and other collateralized loan obligation special purpose vehicles. These and other investments may be deemed to create a conflict of interest, particularly because the Investment Manager may take certain actions for some Accounts with respect to one tranche of debt or equity that may be adverse to other clients who hold other tranches of debt or equity of the same special purpose vehicle.

In certain circumstances, an investment opportunity may be appropriate for a Birch Grove Managed CLO and one or more clients. While the Investment Manager will generally allocate investments appropriate for clients and a Birch Grove Managed CLO in accordance with its investment allocation policy, the Investment Manager is subject to a conflict of interest in determining such allocation. For example, the Investment Manager may have an incentive to allocate the entire investment (or a greater portion of the investment than would otherwise be the case) to the Birch Grove Managed CLO, if such allocation would result in increased compensation to the Investment Manager.

Clients are permitted to purchase equity and debt tranches of Birch Grove Managed CLOs, and will, from time to time, make such purchases when clients also have the opportunity to purchase equity and debt tranches of a non-Birch Grove Managed CLO and/or another investment. In its capacity as portfolio manager of any Birch Grove Managed CLO or in its capacity as a security holder in such Birch Grove Managed CLO, the Investment Manager, its affiliates, and/or their respective employees may make decisions and take actions without regard to the impact, if any, that such decisions and/or actions may have on clients that own securities issued by such Birch Grove Managed CLOs.

The Investment Manager may seek to avoid the receipt of material, non-public information about the issuers of loans and other investments (including from the issuer itself) being considered for acquisition by a Birch Grove Managed CLO. The Investment Manager's decision not to receive such material, non-public information may disadvantage the Birch Grove Managed CLO, and could adversely affect the CLO's performance (and, in turn, that of clients to the extent such clients have invested in the CLO).

Clients may purchase and sell equity and/or debt tranches in certain Birch Grove Managed CLOs. These transactions are subject to inherent conflicts of interest, including conflicts relating to the terms and conditions of such transactions, fees that may accrue to the benefit of the

Investment Manager or its affiliates as a result of such transactions, and the allocation of expenses relating to the common ownership of Birch Grove Managed CLOs among the Investment Manager and its clients.

In connection with the business combination described in Item 4, Jonathan I. Berger serves as Chief Executive Officer and Chief Investment Officer of ASBG LLC and Ascribe Management LLC, and Andrew A. Fink serves as President of ASBG LLC and Ascribe Management LLC. ASBG LLC and Ascribe Management LLC are advisory affiliates of American Securities LLC and under common control with the Investment Manager. Mr. Berger and Fink's responsibilities with respect to ASBG LLC and Ascribe Management LLC do not present conflicts with respect to the public credit investment opportunities pursued by the Investment Manager, as these entities pursue primarily private credit investment opportunities. Further, the Investment Manager has established policies and procedures, including through the adoption of a shared restricted list, to limit exposure to material non-public information.

**D. Material Conflicts of Interest Relating to Other Investment Advisers.**

The Investment Manager does not recommend or select other investment advisers for its clients.

**ITEM 11  
CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS  
AND PERSONAL TRADING**

**A. Code of Ethics.**

The Investment Manager strives to adhere to the highest industry standards of conduct based on principles of professionalism, integrity, honesty and trust. In seeking to meet these standards, the Investment Manager has adopted a Code of Ethics (the "Code"). The Code incorporates the following general principles that all employees are expected to uphold:

- employees must at all times place the interests of clients first;
- personal securities transactions must be conducted in a manner consistent with the Code and any actual or potential conflicts of interest or any abuse of an employee's position of trust and responsibility must be avoided;
- employees must not take any inappropriate advantage of their positions;
- information concerning the identity of securities and financial circumstances of the Funds, including the Funds' investors, must be kept confidential; and
- independence in the investment decision-making process must be maintained at all times.

Clients may request a copy of the Code by contacting us at the address or telephone number listed on the first page of this document.

B. Securities that the Investment Adviser or a Related Person Has a Material Financial Interest.

1. *Cross Trades.*

The Investment Manager may determine that it would be in the best interests of a client and one or more other clients to transfer a security from one client to another (each such transfer, a "Cross Trade") for a variety of reasons, including, without limitation, tax purposes, liquidity purposes, to rebalance the portfolios of the Funds, or to reduce transaction costs that may arise in an open market transaction. If the Investment Manager decides to engage in a Cross Trade, the Investment Manager will determine that the trade is in the best interests of both of clients involved and take steps to ensure that the transaction is consistent with the duty to obtain best execution for each of those clients. The Investment Manager generally intends to execute Cross Trades, if at all, with the assistance of a broker-dealer which executes and books the transaction at the close of the market on the day of the transaction. Alternatively, a cross transaction between two fund clients may occur as an "internal cross", where the Investment Manager instructs the custodian for the clients to book the transaction at the price determined in accordance with the Investment Manager's valuation policy. If the Investment Manager effects an internal cross, the Investment Manager will not receive any fee in connection with the completion of the transaction.

2. *Principal Transactions.*

To the extent that Cross Trades may be viewed as principal transactions (as such term is used under the Investment Advisers Act of 1940, as amended (the "Advisers Act") due to the ownership interest in a Fund by the General Partner, the Investment Manager or its personnel, the General Partner and the Investment Manager will comply with the requirements of Section 206(3) of the Advisers Act. In connection with principal transactions, Cross Trades, related-party transactions and other transactions and matters involving potential conflicts of interest, the Offshore Fund's board of directors and the General Partner are each authorized to select one or more persons who are not affiliated with the Investment Manager (such as an independent Director) to serve on a committee (the "Advisory Committee"), the purpose of which is to consider and, on behalf of the Shareholders and, if desired by the Offshore Fund's board of directors or General Partner, the investors in any other feeder fund in the Master Fund, approve or disapprove, to the extent required by applicable law or deemed advisable by the Offshore Fund's board of directors or the General Partner, such transactions and conflicts of interest. The Advisory Committee may approve such transactions prior to or contemporaneous with, or ratify such transactions subsequent to, their consummation. In no event will any such transaction be entered into unless it complies with applicable law. The member(s) of the Advisory Committee may be exculpated and indemnified by the Fund. Any decision of the Advisory Committee will be binding on all investors.

C. Investments in Securities by Investment Manager Personnel.



The Code of Ethics of the Investment Manager places restrictions on personal trades by employees, including that they disclose their personal securities holdings and transactions to the Investment Manager on a periodic basis, and requires that employees pre-clear certain types of personal securities transactions. Subject to internal compliance policies and approval procedures, partners and employees of the Investment Manager, may engage, from time to time, in personal trading of securities, including securities in which the Master Fund or Managed Accounts may invest.

The Investment Manager, its affiliates and its employees may give advice or take action for their own accounts that may differ from, conflict with or be adverse to, advice given or action taken for the Master Fund or Managed Accounts. These activities may adversely affect the prices and availability of other securities held by or potentially considered for purchase by the Master Fund.

#### *1. Allocations of Trades and Investment Opportunities.*

It is the policy of the Investment Manager to allocate investment opportunities to the Master Fund and to any other clients fairly, to the extent practical and in accordance with the Master Fund's or other clients' applicable investment strategies, over a period of time. Investment opportunities will generally be allocated among those clients for which participation in the respective opportunity is considered appropriate, taking into account, among other considerations: (i) whether the risk-return profile of the proposed investment is consistent with a client's objectives; (ii) the potential for the proposed investment to create an imbalance in a client's portfolio; (iii) the liquidity requirements of a client; (iv) potentially adverse tax consequences; (v) regulatory restrictions that would or could limit a client's ability to participate in a proposed investment; and (vi) the need to re-size risk in a client's portfolio.

The Investment Manager will have no obligation to purchase or sell a security for, enter into a transaction on behalf of, or provide an investment opportunity to, the Master Fund or other clients solely because the Investment Manager purchases or sells the same security for, enters into a transaction on behalf of, or provides an opportunity to, any other client or the Master Fund if, in its reasonable opinion, such security, transaction or investment opportunity does not appear to be suitable, practicable or desirable for the Master Fund or the other client.

#### *2. Order Aggregation and Average Pricing.*

If the Investment Manager determines that the purchase or sale of a security is appropriate with regard to the Master Fund and any other clients, the Investment Manager 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 the Investment Manager. In the event of a partial fill, allocations may be modified on a basis that the Investment Manager 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 the Investment Manager. As a result, certain trades in the same security for one client (including a Fund in which the Investment Manager 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.

**D. Conflicts of Interest Created by Contemporaneous Trading.**

The Investment Manager manages investments on behalf of a number of clients. Certain clients have investment programs that are similar to or overlap and typically, therefore, participate with each other in investments. It is the policy of the Investment Manager to allocate investment opportunities among all clients fairly, to the extent practical and in accordance with each client's applicable investment strategies, over a period of time. The Investment Manager will have no obligation to purchase or sell a security for, enter into a transaction on behalf of, or provide an investment opportunity to any client solely because the Investment Manager purchases or sells the same security for, enters into a transaction on behalf of, or provides an opportunity to any client if, in its reasonable opinion, such security, transaction or investment opportunity does not appear to be suitable, practical or desirable for the client.

**ITEM 12  
BROKERAGE PRACTICES**

**A. Factors Considered in Selecting Broker-Dealers.**

The Investment Manager has complete discretion in deciding which securities are bought and sold, the amount and price of those securities, the brokers or dealers to be used for a particular transaction, and commissions or markups and markdowns paid.

Portfolio transactions for the Master Fund are 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 Investment Manager and/or certain Funds, but not beneficial to all Funds. Subject to best execution, in selecting brokers and dealers (including prime brokers) to execute transactions, provide financing and securities on loan, hold cash and short balances and provide other services, the Investment Manager may consider, among other factors that are deemed appropriate to consider under the circumstances, the following: 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 capital introduction, talent introduction, marketing assistance, consulting with respect to technology, operations and equipment, commitment of capital, access to company management 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 Master 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. A significant portion of the trading done for the Master Fund is done on a net basis, so in many circumstances it may not be possible to determine the amount of commission being paid to a broker or dealer. The Investment Manager need not solicit

competitive bids and does not have an obligation to seek the lowest available commission cost or spread. Generally, neither the Investment Manager nor the Master Fund separately compensates any broker or dealer for any of these other services.

If the Investment Manager decides, based on the factors set forth above, to execute over-the-counter transactions on an agency basis through Electronic Communications Networks ("ECNs"), it will also consider the following factors when choosing to use one ECN over another: the ease of use, the flexibility of the ECN compared to other ECNs, and the level of care and attention that will be given to smaller orders.

The Investment Manager maintains policies and procedures to review the quality of executions, including periodic reviews by its investment professionals.

#### 1. *Soft Dollars.*

Although not currently anticipated, from time to time, the Investment Manager may pay a broker-dealer commissions (or markups or markdowns with respect to certain types of riskless principal transactions) for effecting Fund transactions in excess of that which another broker-dealer might have charged for effecting the transaction in recognition of the value of the brokerage and research services provided by the broker-dealer. The Investment Manager will effect such transactions, and receive such brokerage and research services, only to the extent that they fall within the safe harbor provided by Section 28(e) of the Exchange Act and subject to prevailing guidance provided by the SEC regarding Section 28(e). The Investment Manager believes it is important to its investment decision-making processes to have access to independent research.

Also, consistent with Section 28(e), research products or services obtained with "soft dollars" generated by the Master Fund may be used by the Investment Manager to service one or more other Funds, including Funds that may not have paid for the soft dollar benefits. The Investment Manager will not seek to allocate soft dollar benefits to Funds in proportion to the soft dollar credits the Funds generate. Where a product or service obtained with soft dollars provides both research and non-research assistance to the Investment Manager (*i.e.*, a "mixed use" item), the Investment Manager will make a good faith allocation of the cost which may be paid for with soft dollars. In making good faith allocations of costs between administrative benefits and research and brokerage services, a conflict of interest may exist by reason of the Investment Manager's allocation of the costs of such benefits and services between those that primarily benefit the Investment Manager and those that primarily benefit the Funds.

When the Investment Manager uses brokerage commissions (or markups or markdowns) generated by any Funds to obtain research or other products or services, the Investment Manager receives a benefit because it does not have to produce or pay for such products or services. The Investment Manager may have an incentive to select or recommend a broker-dealer based on the Investment Manager's interest in receiving research or other products or services, rather than on a Fund's interest in receiving most favorable execution.

At least annually, the Investment Manager considers the amount and nature of research and research services provided by broker-dealers, as well as the extent to which such

services are relied upon, and attempts to allocate a portion of the brokerage business of its Funds on the basis of that consideration. Broker-dealers sometimes suggest a level of business they would like to receive in return for the various products and services they provide. Actual brokerage business received by any broker-dealer may be less than the suggested allocation, but can (and often does) exceed the suggested level, because total brokerage is allocated on the basis of all of the considerations described above. In no case will the Investment Manager make binding commitments as to the level of brokerage commissions it will allocate to a broker-dealer, nor will it commit to pay cash if any informal targets are not met. A broker-dealer is not excluded from receiving business because it has not been identified as providing research products or services.

## *2. Brokerage for Client Referrals.*

Neither the Investment Manager nor any related person receives client referrals from any broker-dealer or third party. However, as discussed above, subject to best execution, the Investment Manager may consider, among other things, capital introduction and marketing assistance with respect to investors in the Funds in selecting or recommending broker-dealers for the Funds.

## *3. Directed Brokerage.*

The Investment Manager does not recommend, request or require that a client direct us to execute transactions through a specified broker-dealer.

## *4. Trade Errors.*

The Master Fund may on occasion bear errors with respect to trades made on its behalf. Trade errors may include, for example, (i) the placement of orders (either purchases or sales) in excess of the amount of securities the Master Fund intended to trade; (ii) the sale of a security when it should have been purchased; (iii) the purchase of a security when it should have been sold; (iv) the purchase or sale of the wrong security; (v) the purchase or sale of a security contrary to regulatory restrictions or Fund investment guidelines or restrictions; (vi) incorrect allocations of trades; (vii) keystroke errors that occur when entering trades into an electronic trading system; and (viii) typographical or drafting errors related to derivatives contracts or similar agreements. Trade errors may result in losses or gains. The Investment Manager generally will endeavor to detect trade errors prior to settlement and correct and/or mitigate them in an expeditious manner. To the extent an error is caused by a counterparty, such as a broker-dealer, the Investment Manager will seek to recover any losses associated with such error from the counterparty. Pursuant to the exculpation and indemnification provided by the Fund, the Intermediate Fund and the Master Fund to the Investment Manager and its affiliates and personnel, the Investment Manager and its affiliates and personnel will generally not be liable to the Fund, the Intermediate Fund or the Master Fund for any act or omission, absent bad faith, gross negligence, willful misconduct or actual fraud, and the Fund or the Intermediate Fund or the Master Fund, as applicable, will generally be required to indemnify such persons against any losses they may incur by reason of any act or omission related to the Fund, the Intermediate and/or the Master Fund, as applicable, absent bad faith, gross negligence, willful misconduct or actual fraud. As a result of these provisions, the Fund (and not the Investment Manager) will benefit from any gains resulting from trade errors and will bear any losses (including additional trading costs) resulting

from trade errors and similar human errors, absent bad faith, gross negligence, willful misconduct or actual fraud. Given the potentially large volume of transactions executed by the Investment Manager on behalf of the Master Fund, investors should assume that trade errors (and similar errors) will occur and that, to the extent permitted by law and under each Fund's governing documents, the Master Fund will be responsible for any resulting losses, even if such losses result from the negligence (but not gross negligence) of the Investment Manager's personnel.

Conflicts of interest may arise between the interests of the Funds on the one hand and the Investment Manager or its affiliates on the other hand. If the Investment Manager determines that it may have, or is perceived to have, a conflict of interest when voting Proxies, the Investment Manager will vote in accordance with its voting policies and procedures. Investors may obtain a copy of the Investment Manager's voting policies and its proxy voting record upon request.

### **ITEM 13 REVIEW OF ACCOUNTS**

#### **A. Frequency and Nature of Review of Client Accounts or Financial Plans.**

The Investment Manager performs frequent and regular reviews of each client's portfolio. Such reviews are conducted by the members of the Investment Manager's management, portfolio managers and research associates.

#### **B. Factors Prompting Review of Client Accounts Other than a Periodic Review.**

A review of a client account may be triggered by any unusual activity or special circumstances.

#### **C. Content and Frequency of Account Reports to Clients.**

The Investment Manager generally provides annual audited financial statements to our clients within 120 days of the applicable client's fiscal year end.

### **ITEM 14 CLIENT REFERRALS AND OTHER COMPENSATION**

#### **A. Economic Benefits for Providing Services to Clients.**

The Investment Manager does not receive economic benefits from non-clients for providing investment advice and other advisory services.

#### **B. Compensation to Non-Supervised Persons for Client Referrals.**

Neither the Investment Manager nor any related person directly or indirectly compensates any person who is not a supervised person, including placement agents, for client referrals.

## **ITEM 15 CUSTODY**

The Investment Manager is deemed to have custody of client funds and securities because it has the authority to obtain client funds or securities, for example, by deducting advisory fees from a client's account or otherwise withdrawing funds from a client's account. Account statements related to the clients are sent by qualified custodians to the Investment Manager.

The Investment Manager is subject to Rule 206(4)-2 under the Advisers Act (the "Custody Rule"). However, the Investment Manager is not required to comply (or it is deemed to have complied) with certain requirements of the Custody Rule with respect to each Fund because it will comply with the provisions of the so-called "Pooled Vehicle Annual Audit Exception", which, among other things, requires that each Fund be subject to audit at least annually by an independent public accountant that is registered with, and subject to regular inspection by, the Public Company Accounting Oversight Board, and requires that each Fund distribute its audited financial statements to all investors within 120 days of the end of its fiscal year.

## **ITEM 16 INVESTMENT DISCRETION**

The Investment Manager serves as the investment adviser with discretionary trading authority to each Fund. Our investment decisions and advice with respect to each Fund is subject to each Fund's investment objectives and guidelines, as set forth in its offering documents.

The Investment Manager or one of its affiliates have entered into an investment management agreement, or similar agreement, with each Fund, pursuant to which the Investment Manager or one of its affiliates is granted discretionary trading authority.

## **ITEM 17 VOTING CLIENT SECURITIES**

In compliance with Advisers Act Rule 206(4)-6, the Investment Manager has adopted voting policies and procedures. The general policy is to vote proxy proposals, amendments, consents or resolutions (collectively, "Proxies") in a prudent and diligent manner that will serve the applicable client's best interests and is in line with each client's investment objectives.

The Investment Manager may take into account all relevant factors, as determined by the firm in its discretion, including, without limitation:

- the impact on the value of the securities or instruments owned by the relevant client and the returns on those securities;
- the anticipated associated costs and benefits;
- the continued or increased availability of portfolio information; and
- industry and business practices.

In limited circumstances, the Investment Manager may refrain from voting Proxies where it believes that voting would not be in the client's best interest, taking into consideration the cost

of voting the Proxies and the anticipated benefit to the Investment Manager's clients. Generally, clients may not direct the Investment Manager's vote in a particular solicitation.

Conflicts of interest may arise between the interests of the clients on the one hand and the Investment Manager or its affiliates on the other hand. If the Investment Manager determines that it may have, or be perceived to have, a conflict of interest when voting Proxies, the Investment Manager will vote in accordance with its voting policies and procedures. Clients may obtain a copy of the Investment Manager's voting policies and its proxy voting record upon request.

## **ITEM 18**

### **FINANCIAL INFORMATION**

The Investment Manager is not aware of any financial condition reasonably likely to impair its ability to meet its contractual commitments to clients, and it have not been the subject of a bankruptcy petition at any time during the past ten years.