

**DERBY COPELAND MANAGEMENT GROUP, LLC**

**d/b/a Derby Copeland Capital**

**Form ADV Part 2A Brochure**

**Updated as of August 4, 2023**

**Item 1 – Cover Page**

This Brochure provides information about the qualifications and business practices of Derby Copeland Management Group, LLC (the “Advisor”), an investment adviser registered with the United States Securities and Exchange Commission (“SEC”). If you have any questions about the contents of this brochure, please contact us at 41 Madison Avenue, 40<sup>th</sup> Floor, New York, NY 10010 or by calling (646) 860-9520, [derbycopeland.com](http://derbycopeland.com). Registration with the SEC does not imply that the Advisor or its employees possess any level of skill or training.

The information in this brochure has not been approved or verified by the SEC or any state securities authority. Additional information about the Advisor is also available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). The information in this brochure has been prepared for use by the clients of the Advisor and has been obtained from sources believed to be reliable. Please note that the registered status of the Advisor with the SEC does not imply a certain level of skill or training.

## **Item 2 – Material Changes**

The material changes in this brochure from the last annual updating amendment of Derby Copeland Management Group, LLC on March 30, 2023, are described below. Material changes relate to Derby Copeland Management Group, LLC's policies, practices or conflicts of interests.

- Derby Copeland Management Group, LLC has updated Custody. (Item 15)

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#### **Item 4 – Advisory Business**

- A. The Advisor is a Delaware limited liability company with its principal place of business in New York, New York and conducts its business under the name Derby Copeland Capital. The Advisor was formed in 2022 by Jesse Hutcher and Jonathan Scibilia, who each co-manage and own 50% of the membership interests of the Advisor.
- B. The Advisor provides investment advisory services to Derby Copeland Capital Opportunistic Fund, LP (the “Client” or the “Partnership”). The Advisor and affiliates of the Advisor intend to launch additional funds in the future. The Advisor’s investment advice is limited to real estate related investments in certain areas of the United States. Initially, the Client will be engaged in the origination and acquisition of debt instruments secured by real estate and the entities that beneficially own such real estate, which include but are not limited to: (i) commercial real-estate loans; and (ii) mezzanine loans. The Client may also acquire preferred equity interests in real estate holding entities as part of its portfolio.
- C. Interests in the Client are offered to investors who are both “accredited investors” and “qualified clients” and who meet other certain criteria (the “Investors”). The offering consists of two classes of limited partnership interests that provide for target preferred returns (the “Preferred Returns”). Detailed terms applicable to investors are contained in the Client’s confidential offering memorandum and/or limited partnership agreement (“LP Agreement”). The Advisor provides investment advice to the Client subject to the direction and control of the Client’s general partner, DCC OCF GP, LLC (“General Partner”), which is affiliated with the Advisor. Any restrictions imposed upon the Advisor’s investment decisions are dictated by the General Partner in accordance with the Investment Management Agreement entered into by the Client and the General Partner (the “IMA”) which is attached as an exhibit to the Client’s confidential offering memorandum. The parameters of the IMA are described in the Client’s confidential offering memorandum and/or limited partnership agreement. An Investor in the Client may not impose any restrictions on the types of investments or specific investments that the Client may make. However, the Client or its General Partner may enter in to “side letter” or similar agreement that provides an investor with specific rights and benefits that are not generally available to all investors. In addition, the Client offers separate classes of interest with different economic benefits, and the class of each investment is determined based upon the either the time the investment is made and/or the size of each individual investment. While the Advisor currently provides investment advisory services only for the Client, it reserves the right to manage other funds or investment vehicles.
- D. The Advisor does not participate in wrap fee programs.
- E. All of the assets under management are discretionary. As of the date hereof the total discretionary assets under management are \$151,401,006.17.

#### **Item 5 – Fees and Compensation**

- A. The Fee Schedule and compensation to the Advisor for advisory services rendered to the Client is described below. Please note that the Advisor may enter into different fee arrangements and may offer different terms to different investors pursuant to a side letter or otherwise. Investors are encouraged to review the Client’s offering memorandum.

- B. Management Fees - The Partnership will pay the Advisor a management fee equal to one and twenty-five hundredths of a percent (1.25%) per annum of the Assets Under Management, as determined at the beginning of the related month. Such Management Fee shall be payable monthly, in arrears. The Advisor's affiliate, Derby Copeland Servicer LLC ("Servicer"), will also provide loan servicing and other administration services to the Partnership in exchange for an administration fee of seventy-five hundredths of a percent (0.75%) per annum of the total capital commitments that have been deployed, payable on a monthly basis, which shall be paid to certain affiliates providing such services. The Servicer will also be entitled to payment of all originations, extension, application and other fees payable by any borrowers.

The Partnership may also engage certain affiliate entities ("Affiliates") of the General Partner to provide services to the Partnership and the portfolio investments for which such Affiliates will be compensated by the Partnership. The Affiliates may also charge the Client reasonable, market-based processing, underwriting, and inspection fees to help cover expenses associated with processing, underwriting, and inspecting any assets originated, acquired, or extended. Such fees will typically range from \$500 to \$15,000. All fees and compensation paid to Affiliates shall be market-based and commercially reasonable at all times. In addition, the General Partner of the Partnership, which is an affiliate of the Advisor is entitled to a performance-based profit carried interest distribution when available pursuant to the following schedule:

- (a) Return of Capital: First, 100% to such Investor until distributions to such Investor of distributable cash on a cumulative basis pursuant to this clause (a) equal such Investor's investments relating to all realized investments;
- (b) Preferred Return: Second, 100% to such Investor until distributions to such Investor of distributable cash on a cumulative basis pursuant to this clause (b) equal to the Preferred Return for the applicable class of limited partnership interest held by such Investor;
- (c) Carried Interest: Third, 20% to the General Partner until distributions to the General Partner of excess distributable cash ("EDC") arising from realized investments as carried interest distributions.
- (d) Split: Any balance of EDC, (i) 80% to such Investor and (ii) 20% to the General Partner; provided that if the Fund is able to satisfy the following internal rate of return thresholds (collectively the "Performance IRR Thresholds"), the split hereunder shall be modified as follows:
  - (i) In the event the Fund achieves an aggregate internal rate of return (as calculated in accordance with the LPA (the "IRR") for Investors in excess of sixteen (16%), 50% of the EDC to the Investor and 50% of the EDC to the General Partner.
  - (ii) In the event the Fund achieves an aggregate IRR for Investors in excess of twenty (20%), 30% of the EDC to the Investor and 70% of the EDC to the General Partner.

The performance-based distributions to the General Partner are subject to a Clawback as described in the offering memorandum.

- C. Fees will be deducted in advance from the Client's operating account on a monthly basis. In addition to the fees and distributions described above and certain expenses described above, the Partnership will be responsible (either directly, indirectly or by reimbursing the General Partner and/or Advisor) for all expenses incurred in the buying, selling and holding of securities and other investments (including, without limitation, all custody, accounting, transfer and legal fees, government fees and expenses, brokerage commissions and interest expense), investment related expenses, including software, computer systems, quotation and news service fees and expenses, certain research and portfolio management expenses, the Partnership's legal and accounting fees and expenses associated with the continued offering of Partnership Interests. Certain of the Partnership's expenses may be borne or reimbursed by placement agents executing transactions for the Partnership. The Advisor will assume the payment of all other operating expenses of the Partnership, as well as their respective overhead and operating expenses.
- D. The Management fees enumerated above are paid in advance for each period in which they are due. Pursuant to the LP agreement and the offering memorandum, Investors are not permitted to redeem their investments until the expiration of a three year "lock-up" period, at which time, partial redemptions can be granted subject to availability of funds from the realization of underlying investments and in the Advisor's sole discretion.
- E. Neither the Advisor nor its affiliates or supervised persons receive compensation for the sale of securities or other investment products.

#### **Item 6 – Performance based fees and Side-By-Side Management**

The General Partner of the Client, which is affiliated with the Advisor, accepts performance-based compensation in the form of carried-interest distributions and incentive allocation described in Item 5 above. The General Partner will be entitled to fifty percent (50%) of the carried interest distributions and its share of the split distributions described above. The partial deal-by-deal carry with loss carryforward model allows the General Partner to start receiving carried interest distributions before the investors have received distributions of their full invested capital plus their full Preferred Return. The carried interest distributions for any harvested investment are reduced to the extent of any previously realized losses on harvested investments and write-downs (or permanent impairments of value) attributable to investments not yet sold.

Since the incentive allocation is performance based, an incentive may be created for the Advisor to make more speculative investments on behalf of the Client than the Client would have made absent the incentive. While affiliates of the Advisor invest their own capital in the Client, the interests in the affiliates may in some cases conflict with those of the Client, its investors or both. These conflicting interests may influence the Advisor's decision on specific investment decisions.

To mitigate these risks, the carried-interest distributions and incentive allocation are subject to clawback (the "Clawback"). The balance of the distributions will be distributed to the General Partner upon the earlier of (x) the winddown of the Partnership (subject to the payment obligations described below); or (y) the Investors receiving their Preferred Returns and to the extent the Fund achieves the Performance Threshold IRR. The General Partner is required to refund portions of the Carried Interest distributions it has received in the event that either (i) losses from unprofitable investments; and/or (ii) unexpected liabilities result in the Fund's inability to achieve the Preferred Returns for Investors.

## **Item 7 – Types of Clients**

The Advisor generally provides investment advisory services to the Client subject to the direction and control of the General Partner, which is an affiliate of the Advisor. Investors in the Client, whether institutional or individuals, are required to qualify as an accredited investor within the meaning of rule 501 of Regulation D of the Securities Act of 1933 and as a qualified client as defined in Rule 205-3 under the Investment Advisers Act of 1940. The types of these investors may include but are not limited to high-net-worth individuals, pension plans, family offices, endowments, private funds or other institutions.

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

### **A. Investment Objective and Strategy**

The investment objectives of the Advisor with respect to the Client are to identify credit opportunities in targeted real estate markets that deliver consistent outsized risk premiums while maximizing protection against loss through (i) disciplined underwriting and due diligence of both the assets and the respective borrowers, (ii) a hyper-focused sub-market approach that allows for the ability to source an extensive range of investment opportunities, which also allows for selectivity in investment choices; (iii) comprehensive loan or investment documents; and (iv) diligent monitoring, servicing, and interest payment collection.

The Advisor will ensure that the Client employs a capital preservation approach to generate stable, inflation protected, monthly distributions provided from investments in a diverse portfolio of debt instruments secured by core real estate assets located in New York City. The substantial portion of investments will consist of mortgage loans that are sourced, originated, and underwritten by the Client. The Advisor will use its best efforts to ensure that this diversified credit strategy will target opportunistic returns through senior debt originations, mezzanine debt loans, and preferred equity investments that are primarily collateralized by New York City properties. Under certain circumstances, the Advisor and the Client reserve to right expand to other types of investment vehicles and strategies outside of the New York City market.

### **B. Material Risks of Significant Investment Strategy**

#### *Risks Related to Mortgage Loans and Real Estate Asset*

The Partnership will be subject to the risks that generally relate to investing in real estate. Real estate historically has experienced significant fluctuations and cycles in performance that may result in reductions in the value of the Partnership's real estate related investments. The performance and value of its investments once originated or acquired depends upon many factors beyond the Partnership's control. The ultimate performance and value of the Partnership's investments are subject to the varying degrees of risk generally incident to the ownership and operation of the properties in which the Partnership invests, and which collateralize or support its investments.

The ultimate performance and value of the Partnership's investments will depend upon, in large part, the Borrower's or the Partnership's ability to operate any given property so that it produces sufficient cash flows necessary to pay the interest and principal due to the Partnership on its

Mortgage Loans and investments and/or to recover the Partnership's equity investment in the case of REO. Revenues and cash flows may be adversely affected by: changes in national or local economic conditions; changes in local real estate market conditions due to changes in national or local economic conditions or changes in local property market characteristics, including, but not limited to, changes in the supply of and demand for competing properties within a particular local property market; competition from other properties offering the same or similar services; changes in interest rates and the credit markets which may affect the ability to finance, and the value of, investments; the ongoing need for capital improvements, particularly in older building structures; changes in real estate tax rates and other operating expenses; changes in governmental rules and fiscal policies, civil unrest, acts of God, including earthquakes, hurricanes, and other natural disasters, acts of war, or terrorism, which may decrease the availability of or increase the cost of insurance or result in uninsured losses; changes in governmental rules and fiscal policies which may result in adverse tax consequences, unforeseen increases in operating expenses generally or increases in the cost of borrowing; decreases in consumer confidence; government taking investments by eminent domain; various uninsured or uninsurable risks; the bankruptcy or liquidation of major tenants; adverse changes in zoning laws; the impact of present or future environmental legislation and compliance with environmental laws; the impact of lawsuits which could cause the Partnership to incur significant legal expenses and divert management's following.

In New York City, where, as of the date hereof, all of the properties securing our loans are located, the amount of rent that tenants may be charged on the apartments in certain buildings is restricted under certain "rent-control" and "rent-stabilization" laws. Rent-control laws apply to apartments in buildings that were constructed prior to February 1947. An apartment is said to be "rent-controlled" if the tenant has been living continuously in the apartment for a period of time beginning prior to July 1971. When a rent-controlled apartment is vacated, it typically becomes "rent-stabilized." Rent-stabilized apartments are generally located in buildings with six or more units that were built between February 1947 and January 1974. Rent-controlled and -stabilized (together, "rent-regulated") apartments tend to be more affordable to live in because of the applicable regulations, and buildings with a preponderance of such rent-regulated apartments are therefore less likely to experience vacancies in times of economic adversity. Some of our Borrowers project involve Value Added projects in order to eliminate any rent stabilization restrictions on the rates charged to tenants. Compliance with these requirements has been difficult to achieve because of the lack of documentation for historical tenancies required by the New York Department of Housing and Community Renewal and related administrative proceedings.

#### *Risks of Investing in Subordinated (or Second Lien Position) Loans*

Some of the Partnership's investments may consist of subordinated Mortgage Loans and Mezzanine Loans. Such investments will be subordinated to the senior obligations of the property or issuer, either contractually, inherently due to the nature of equity securities, or both. In the event of default on the senior debt, the Partnership as a holder of a subordinated loan may be at the risk of realizing a loss of up to all of its investment before the senior debt will suffer any loss. Consequently, greater credit risks are usually attached to these subordinated investments than to a Borrower's first mortgage or other senior obligations. In addition, these securities may not be protected by financial or other covenants and may have limited liquidity. Adverse changes in the Borrower's financial condition and/or in general economic conditions may impair the ability of the Borrower to make payments on the subordinated securities and cause them to default more quickly with respect to such securities than with respect to the Borrower's senior obligations. In most cases, the Partnership's management of its investments and its remedies with respect thereto, including the ability to foreclose on any Collateral securing investments, will be subject to the rights of the more senior lenders and contractual Intercreditor provisions.



### *The Partnership's Investments are Illiquid in Nature*

Although some of the Partnership's investments may generate current income, the illiquidity commonly associated with real estate investments may limit the Partnership's ability to vary its portfolio of investments in response to changes in economic and other conditions. Illiquidity may result from the absence of an established market for investments as well as the legal or contractual restrictions on their resale. In addition, illiquidity may result from the decline in value of a property comprising one of the Partnership's investments. There can be no assurances that the fair market value of any property held by the Partnership will not decrease in the future, leaving the Partnership's investment relatively illiquid.

Furthermore, although the Advisor will use its best efforts to cause the Partnership's investments to be disposed of prior to dissolution, the Partnership may have to sell, distribute, or otherwise dispose of its investments at a disadvantageous time as a result of dissolution.

### *Other Real Estate Related Risks*

The Partnership's real estate related investments will be subject to the varying degrees of risk and significant fluctuations in their value. The value of the Partnership's investments depend upon the real property owner's ability to repair or rehabilitate the property as projected, operate the real property in a manner sufficient to meet its commitments, including debt service, and/or maintain or increase revenues in excess of operating expenses or, in the case of real property leased to a single lessee, the ability of the lessee to make rental payments. Revenues may be adversely affected by changes in national or international economic conditions; changes in local market conditions due to changes in general or local economic conditions and neighborhood characteristics; the financial condition of tenants, buyers, and sellers of properties; competition from other properties offering the same or similar services; changes in interest rates and in the availability, cost, and terms of mortgage Partnerships; the impact of present or future environmental legislation and compliance with environmental laws; the ongoing need for capital improvements (particularly in older structures); changes in real estate tax rates and other operating expenses; adverse changes in governmental rules and fiscal policies; civil unrest; acts of God, including earthquakes, hurricanes, and other natural disasters; acts of war; acts of terrorism (any of which may result in uninsured losses); adverse changes in zoning laws; and other factors that are beyond the control of the real property owners and the Partnership. In the event that any of the properties underlying the Partnership's investments experience any of the foregoing events or occurrences, the ability of the real property owner to pay the interest and principal on any debt securities would be negatively impacted.

*The Portfolio will be concentrated, by asset type and by region, increasing our risk of loss if there are adverse developments or greater risks affecting the particular concentration.*

The Partnership's investment guidelines do not require the Advisor to observe specific diversification criteria. As a result, the portfolio may be concentrated, and may continue to be concentrated, by asset type and geographic region, increasing our risk of loss if there are adverse developments or greater risks affecting the particular concentration.

### *Risk of Litigation*

The Partnership's investment activities may include activities that will subject it to the risks of becoming involved in litigation by third parties. The expense of defending claims against the Partnership by third parties and paying any amounts pursuant to settlements or judgments would be borne by the Partnership and would reduce net assets and could require the Partners to return distributed capital and earnings to the Partnership. The General Partner, the Advisor, and their Affiliates will be indemnified by the Partnership in connection with such litigation, subject to

certain conditions.

#### *Lender Liability Risks Including Equitable Subordination*

In recent years, a number of judicial decisions in the U.S. have upheld the right of Borrowers to sue lenders on the basis of various evolving legal theories (collectively termed “lender liability”). Generally, lender liability is founded upon the premise that an institutional lender has violated a duty (whether implied or contractual) of good faith and fair dealing owed to the Borrower or has assumed a degree of control over the Borrower resulting in creation of a fiduciary duty owed to the Borrower or its other creditors or shareholders. Because of the nature of certain of the Partnership’s investments, the Partnership could be subject to allegations of lender liability.

In addition, under common law principles that, in some cases, form the basis for lender liability claims, if a lending institution (a) intentionally takes an action that results in the undercapitalization of a Borrower to the detriment of other creditors of such Borrower, (b) engages in other inequitable conduct to the detriment of such other creditors, (c) engages in fraud with respect to, or makes misrepresentations to, such other creditors or (d) uses its influence as an equity holder to dominate or control a Borrower to the detriment of the other creditors of such Borrower, a court applying bankruptcy laws may elect to subordinate the claim of the offending lending institution to the claims of the disadvantaged creditor or creditors, a remedy called “equitable subordination.” The Partnership could be subject to claims from creditors of an obligor that the Partnership’s investments in debt obligations of such obligor should be equitably subordinated. Alternatively, in bankruptcy a court may re-characterize the Partnership’s claims or restructure the debt using “cram down” provisions of the bankruptcy laws.

#### *Risks Associated with a Changing Economic Environment*

The achievement of the Partnership’s targeted rate of return is dependent, at least in part, upon the Partnership’s ability to access capital at rates and on terms the Advisor determines to be acceptable. If the Partnership’s ability to access capital becomes significantly constrained, the Partnership’s financial condition and future investments may be significantly adversely affected.

#### *Rising interest rates could impact the value of our investments.*

Interest rates are one of the variables that affect real estate asset prices. A number of other factors are also important, including real estate market fundamentals, inflation expectations, and investor investment horizons and return targets. For real estate, changes in interest rates influence real estate capitalization rates, with higher interest rates ultimately resulting in higher capitalization rates and lower property values, all other things being equal. However, interest and capitalization rates do not always move in lockstep, as there typically is a lag between changes in interest rates and capitalization rates, and especially for high-quality properties.

#### *Risks of Uninsured Losses*

The Partnership will require that all Assets are insured against hazard. However, some events may be uninsurable or insurance coverage for such events may not be economically practicable. Losses from earthquakes, floods, or other weather phenomena, for example, that could occur may be uninsured and cause losses to the Partnership. In addition, insurance may lapse without proper notice to the Advisor and/or Assets may become temporarily uninsured and sustain damage during this period (see below regarding regional bank risk failure).

*The Partnership may need to foreclose on its Loans, which could result in losses that materially and adversely affect the Investors returns.*

The Partnership may find it necessary or desirable to foreclose on Mortgage Loans, and the

foreclosure process may be lengthy and expensive. There are a variety of factors that may inhibit the ability to foreclose upon loan and liquidate real property or its equity interests. These factors include, without limitation: (1) extended foreclosure timelines in states that require judicial foreclosure; (2) significant collateral documentation deficiencies; (3) U.S. federal, state or local laws that are Borrower friendly, including legislative action or initiatives designed to provide Borrowers with assistance in avoiding loan foreclosures and that serve to delay the foreclosure process; (4) programs that require specific procedures to be followed to explore the refinancing prior to the commencement of a foreclosure proceeding; (5) declines in real estate values and sustained high levels of unemployment that increase the number of foreclosures and place additional pressure on the already overburdened judicial and administrative systems; and (6) other force majeure events. In periods following home price declines, “strategic defaults” (decisions by Borrowers to default on their mortgage loans despite having the ability to pay) also may become more prevalent. Even if we are successful in foreclosing on a mortgage loan, the liquidation proceeds upon sale of the underlying real estate may not be sufficient to recover our cost basis in the loan, resulting in a loss to us or the requirement for the Partnership to operate the underlying property. We will bear a risk of loss of principal to the extent of any deficiency between the value of the collateral and the principal and accrued interest of the residential mortgage loan. Furthermore, any costs or delays involved in the foreclosure of the loan or a liquidation of the underlying property will further reduce the net proceeds and, thus, increase the loss. The incurrence of any such losses could materially and adversely affect us.

*The planned discontinuance of LIBOR and transition to alternative reference rates may adversely affect us.*

Many existing LIBOR contracts will transition to another benchmark after June 30, 2023, or, in some cases, after December 31, 2021. As to any particular LIBOR-based security or obligation, the actual transition from LIBOR to another reference rate will generally require two separate events to occur. The first event includes the FCA and IBA announcements noted above; the second event is the occurrence of a contractually defined benchmark replacement date. Although most benchmark replacement dates will correspond to the dates above, some may not, depending on the relevant contractual terms; as a result of which actual transition dates in particular cases may vary.

A significant amount of the mortgage loans and other mortgage-related assets in our portfolio or that we may acquire in the future bear or will bear interest at a rate that adjusts in accordance with LIBOR, and we expect that a significant portion of such loans and assets will not have matured, been prepaid or otherwise terminated prior to the time at which LIBOR ceases to be published. Some mortgage loans and mortgage-related assets held by us now or in the future may not include robust fallback language that would facilitate replacing LIBOR with SOFR or another clearly defined alternative reference rate after LIBOR’s discontinuation. If such mortgage loans and mortgage-related assets mature after LIBOR ceases to be published, our counterparties may disagree with us about how to calculate or replace LIBOR. Even when robust fallback language is included, there can be no assurance that the replacement rate plus any spread adjustment will be economically equivalent to LIBOR, which could result in a lower interest rate being paid to us on such assets. Modifications to any mortgage loans, mortgage-related assets, interest rate hedging transactions or other contracts to replace LIBOR with an alternative reference rate could result in adverse tax consequences. Any of these events, and other consequences of the discontinuance of LIBOR and the transition to alternative reference rates, could negatively affect the value of our mortgage loans and mortgage-related assets, negatively impact our ability to sell such mortgage loans and mortgage-related assets, and negatively impact our ability to effectively hedge our interest rate risks, any of which could adversely affect us.

The Advisor and related affiliates have made the determination to shift to Secured Overnight

Financing Rate for most newly originated loans; provided, however, the Fund's loan origination documents and general investment strategy allow the Advisor and the loan originators to use alternative benchmark interest rates for loans.

*Certain actions by the U.S. Federal Reserve could materially and adversely affect us.*

To the extent benchmark interest rates rise, one of the immediate potential impacts on our assets would be a reduction in the overall value of our assets and the overall value of the pipeline of mortgage loans that our Advisor identifies. Rising benchmark interest rates also generally have a negative impact on the overall cost of borrowings we may use to finance our acquisitions and holdings of assets, including as a result of the requirement to post additional margin (or collateral) to lenders to offset any associated decline in value of the assets we finance with the use of leverage. Rising benchmark interest rates may also cause sources of leverage that we may use to finance our investments to be unavailable or more limited in their availability in the future. These and other developments could materially and adversely affect us.

*Prepayment rates may adversely affect the value of our portfolio.*

Prepayment rates may adversely affect the value of the portfolio. Prepayment rates on our investments, where contractually permitted, are influenced by changes in current interest rates, significant improvement in the performance of underlying real estate assets and a variety of economic, geographic, and other factors beyond our control. Consequently, prepayment rates cannot be predicted with certainty and no strategy can completely insulate us from increases in such rates.

*The Partnership may be exposed to environmental liabilities with respect to properties in which we have an interest.*

The Partnership may take title to real estate, and, if we do take title, we could be subject to environmental liabilities with respect to these properties. In such a circumstance, we may be held liable to a governmental entity or to third parties for property damage, personal injury, investigation, and clean-up costs incurred by these parties in connection with environmental contamination or may be required to investigate or clean up hazardous or toxic substances, or chemical releases at a property. The costs associated with investigation or remediation activities could be substantial. In addition, the presence of hazardous substances may adversely affect an owner's ability to sell real estate or borrow using real estate as collateral. To the extent that an owner of an underlying property becomes liable for removal costs, the ability of the owner to make debt payments may be reduced, which in turn may materially adversely affect the value of the relevant mortgage-related assets held by us.

*Risk that the Stated Value of Individual Fund Assets is Incorrectly Determined by the Investment Advisor*

The Investment Advisor will develop and utilize a consistent methodology to calculate the assets under management on an ongoing basis, typically calculating this fair value for the Partnership's assets (the "Fund Assets") at the time of origination or acquisition and at the end of each calendar quarter. The Investment Advisor will use methodologies that it deems reasonable based on various valuation practices commonly used in similar businesses in the industry, including Broker Price Opinions ("BPOs"), Comparative Market Analyses ("CMAs"), appraisals, comparable sales of other assets similar to Fund Assets, historical data and trends from actual sales, disposition, or performance of Fund Assets, cash balances (in the case of cash Assets), and other such methodologies generally used and accepted in the market. This being said, the determination of the fair value of any given Fund Asset may be highly subjective and may change continuously on an ongoing basis. There is no guarantee that any fair value as determined by the Investment Advisor

of one or more of the Fund Assets is an accurate representation of the true, current value of any Fund Asset, and as such, the price per limited partnership interests may not fairly represent the then-current true value of the Units.

Although the Investment Advisor will use methodologies that it believes are based on reasonable approaches to establishing value, it may modify, alter, or improve its methodologies at its sole discretion at any time during the life of the Fund. The Investment Advisor shall make all determinations as to the fair value of the Fund Assets at its sole discretion.

#### *Recent and Anticipated Legislative and Regulatory Activity*

The U.S. Congress, the SEC, and other regulators have taken, or represented that they may take, action to increase or otherwise modify the laws, rules, and regulations applicable to techniques and instruments in which the Partnership may invest. New (or modified) laws, rules, and regulations may prevent, or significantly limit the ability of, the Advisor from using certain such instruments or from engaging in such transactions. This may impair the ability of the Advisor to carry out the Partnership's investment strategy and may otherwise have an adverse impact on the Partnership's returns. Compliance with such new or modified laws, rules, and regulations may also increase the Partnership's expenses and therefore, may adversely affect the Partnership's performance. It is not possible at this time to predict with certainty what, if any, impact the new or modified regulations will have on the Advisor or the Partnership, and it is possible that such impact could be adverse and material.

#### **COVID-19**

The COVID-19 pandemic has caused severe and unprecedented disruptions to the U.S. and global economies and has contributed to the volatility and negative pressure in financial markets. The outbreak resulted in governments and other authorities around the world to impose or re-impose measures intended to control its spread, including restrictions on freedom of movement, such as quarantine and "stay-at-home" orders, restrictions on travel and transport, school closures, limits on the operations of non-essential businesses and other workforce pressures. Most of these restrictions have now been lifted in the jurisdictions the Fund will operate in. However, we cannot predict the length of time that it will take for a meaningful economic recovery to take place. Additional surges in new cases of COVID-19 and mutated strains of the virus have caused and may continue to cause additional quarantines and "stay-at-home" orders, which could delay any economic recovery. The impact of the COVID-19 pandemic, measures to prevent its spread, and government actions to mitigate its impact had an adverse effect on us in the past and may continue to adversely affect us as long as the outbreak persists and potentially even longer. Although it is difficult to measure the magnitude of the business and economic implications, the COVID-19 pandemic has affected and may continue to affect us in various ways.

#### **Regional Bank Failures**

Signature Bank was closed by the New York State Department of Financial Services on March 12, 2023, with the FDIC named as receiver. On March 12, 2023, the FDIC announced that depositors of Signature Bank would have access to their funds starting March 13, 2023.

The Fund and other affiliates of the Adviser maintain deposits and other accounts with Signature Bank and other regional banks that are comparably sized. To date, the Fund has not had any difficulty in accessing or transferring funds into or out of these accounts. In addition, certain assets of the Fund are mezzanine loans that are junior to Signature Bank's mortgage position to the same borrowers.

The Advisor and the Fund continue to closely monitor the situation regarding the Signature Bank

receiverships and related developments as they relate to the instability of any of the Fund, any of the Fund's borrowers and will continue to assess any direct or indirect impact to the Advisor or the Fund. In response to the potential crisis, the Advisor and the Fund have determined to open additional accounts at Bank of America and maintain redundant accounts in order to avoid any material disruption to the operations of the Fund.

#### **Item 9 – Disciplinary Information**

Neither the Advisor nor any principal or employee of the firm has ever been involved in any securities-related disciplinary action or litigation.

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

- A. Neither the Advisor nor any of its management persons are registered, and neither has an application pending to register, as a broker dealer or a registered representative of a broker-dealer.
- B. Neither the Advisor nor any of its management persons are registered, and neither has an application pending to register, as a futures commission merchant, commodity pool operator, a commodity trading advisor, or an associated person of the foregoing entities.
- C. The General Partner, DCC OCF GP, LLC, is a related party to the Advisor and each is controlled by the same beneficial owners, Jesse Hutcher and Jonathan Scibilia. The General Partner is the sole general partner of the Client.

Derby Copeland Servicer LLC (“Servicer”) is a related party to the Advisor and each is controlled by the same beneficial owners, Jesse Hutcher and Jonathan Scibilia. The Servicer provides loan servicing and other administration services to the Partnership in exchange for fees from the Partnership and arising from the origination of the loans.

The Advisor, the General Partner, the Servicer, and other Affiliates are entitled to fees and other compensation from the Client, which are enumerated in Item 5 above. Performance-based compensation to be paid by clients to the Advisor creates a potential conflict in the level of risk that may be involved with potential investments. In order to address potential conflict of interests in connection with performance fees, the Advisor has established and adopted a written Code of Ethics that contains policies to address these conflicts, requiring the Advisor to make investment decisions for the Client in a manner that is consistent with its fiduciary duty.

- D. The Advisor does not recommend, select, or receive compensation for the recommendation or selection of other investment advisers for the Client.

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

The Advisor has adopted a written Code of Ethics (the “Code”) designed to address and avoid potential conflicts of interest as required under Rule 204A-1 of the Advisors Act. The Code sets forth a standard of business conduct and compliance with federal securities laws by all of the Advisor's employees. The Code contains policies and procedures that ensure that all personal securities trading by employees of the Advisor is conducted in such a manner as to avoid actual or potential conflicts of interest or any abuse of an individual's position of trust and responsibility.

The Advisor prohibits personal trading on certain securities or instruments; requires pre-clearance of personal trades in certain circumstances; requires periodic reporting of employees' personal securities transactions and holdings; and requires prompt internal reporting of Code violations.

While the Advisor rarely has access to non-public information relating to public companies, as part of its Code, the Advisor has established procedures to prevent the abuse of material, non-public information, which includes procedures for, among other things, the use and maintenance of restricted trading lists

Affiliates of the Advisor serve as the managers to Client, which issue partnership interests to third party investors. Other than with respect to these structures, neither the Advisor nor any of its related persons recommend to the Client, or buy or sell for its Client, investments in which the Advisor or any related persons have a material financial interest.

A copy of the Advisor's Code of Ethics will be provided to Clients or prospective Clients upon request.

#### **Item 12 – Brokerage Practices**

The Advisor's investment strategy involves investing primarily in loan origination and does not involve the purchase or sale of publicly traded equity securities. The Advisor does not select or recommend broker-dealers for the purchase and sale of securities for the Client.

#### **Item 13 – Review of Accounts**

Jesse Hatcher and Jonathan Scibilia will monitor the investment portfolios of the Client (or any other funds that the Investment Advisor may engage with from time to time) on a monthly, weekly or daily basis as the principals deem appropriate. The reviews consider the investment positions, portfolio composition, investment opportunities, a change in market conditions or a potential conflict with the applicable private placement memorandum or governing limited partnership agreement, among other things.

Each Investor typically receives: (i) annually, financial statements of the Client prepared by a certified public accountant and independent auditor for such year along with a statement of each investor's capital account; (ii) quarterly, unaudited reports of the Client's performance; and (iii) tax information for the preparation of the investor's tax returns.

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

- A. The Advisor does not receive any economic benefit, including sales awards or prizes, from any third party for providing advisory services to clients.
- B. The Advisor does not currently but may permit the Client to enter into agreements with individuals (such as placement agents) who may refer potential investors to the Client. Such individuals receive compensation for referrals, which will be paid directly by the Client. Any such arrangements will be in compliance with Rule 206(4)-3 under the Advisers Act.

## Item 15 – Custody

Client funds or securities are held by a custodian. The Advisor will furnish investors with annual financial statements prepared by a certified public accountant within 120 days of the Fund's calendar year-end.

The loans held in Derby Copeland Capital Opportunistic Credit Fund, LP's (the "Fund") portfolio that are originated or otherwise sourced by the Fund, are typically serviced by Derby Copeland Servicer, LLC (the "Servicer"). The Servicer performs the duties and responsibilities typically assigned to it pursuant to a Master Loan Servicing Agreement on behalf of each loan originator (the "Loan Originators"). The Loan Originator establishes the following accounts for each loan:

- A collection account for interest reserves, real estate tax reserves and insurance premiums and payments made by the borrowers (the "Collection Account") in the name of Loan Originator and maintained by a major U.S. bank that meets the definition of a "qualified custodian" under the custody rule of the Advisers Act (the "Custody Rule"), facilitates the movement of cash to and from the lenders and the borrowers, as applicable. The Fund also provides the funds for the origination of the loan into the Collection Account.
- Loan servicing fees payable to the Servicer arising from the origination and extension of the loans are paid from the Collection Account.
- The principals of the Adviser and the Servicer are identical and are both authorized signatories for the Collection Accounts.

Under the Custody Rule, an adviser is deemed to have "custody" of client assets if it (or an affiliate in connection with the adviser's advisory services) holds, directly or indirectly, or has the authority to obtain possession of, client funds or securities, including if it (or such affiliate) acts as a general partner of a client limited partnership or a managing member of a client limited liability company or if it has the authority to withdraw client funds from a separately managed account pursuant to an investment advisory agreement. The Servicer may be deemed to have custody of the assets in the Collection Account because of the common control with the Adviser. Although the Servicer has no authority to determine how the cash is used, allocated or disbursed, nothing would prevent the Servicer or other affiliates of the Adviser from withdrawing cash held in the Collection Account for reasons unrelated to the loan origination and servicing of the loans, as principals of the Adviser control the Collection Account. Because the assets of Fund and third parties are commingled in the Collection Account, the Adviser is taking the following steps commencing on September 1, 2023 in order to comply with the Custody Rule in accordance with guidance from the staff of the SEC:

1. The Fund has engaged a third-party loan administrator to approve any payments to the Servicer or any other affiliates of the Adviser in accordance with the applicable credit documents.
2. All real estate taxes or insurance premium reserves held by the Loan Originators will be deposited and maintained in a separate account from any interest reserves.
3. The Fund will engage an independent public accountant to provide an internal control report, no less frequently than once each calendar year.



**Item 16 – Investment Discretion**

The Advisor maintains discretionary authority to provide investment advice directly to the Client pursuant to the investment strategies and objectives enumerating in the Client's private placement memorandum, investment management agreement and/or limited partnership agreement. The Advisor derives this discretionary authority from the execution of a management agreement with the Client and its general partner.

**Item 17 – Voting Client Securities**

The Advisor does not invest the Client's assets in public equity securities and does not receive or vote proxies.

**Item 18 – Financial Information**

The Advisor does not believe that there is any financial condition that is reasonably likely to impair its ability to meet contractual commitments to clients and has not been the subject of any bankruptcy petition at any time during the past ten years.