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**MITTLEMAN BROTHERS**  
INVESTMENT MANAGEMENT

**Mittleman Investment Management, LLC**  
**Part 2A of Form ADV**

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This brochure (“**Brochure**”) provides information about the qualification and business practices of Mittleman Investment Management, LLC. If you have any questions about the contents of this Brochure, please contact us at 212-217-2340, or via email at [compliance@mittlemanbrothers.com](mailto:compliance@mittlemanbrothers.com). The information in this Brochure has not been approved or verified by the United States Securities and Exchange Commission (“**SEC**”) or by any state securities authority. We are an SEC-registered investment adviser under the U.S. Investment Advisers Act of 1940, as amended. Registration as an investment adviser does not imply any level of skill or training.

Additional information about Mittleman Investment Management, LLC is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). You can search this site by a unique identifying number, known as a CRD number. Our CRD number is 138338.

## **ITEM 2 MATERIAL CHANGES**

Mittleman Investment Management, LLC (“**Mittleman**”) is pleased to provide its clients with this Brochure, which is the firm’s Form ADV Part 2A. This Brochure contains important information about the business practices of the Adviser (as defined below), as well as a description of potential conflicts of interest relating to the firm’s advisory business that could affect a client’s account with the Adviser. Other than the acquisition of Mittleman, its parent company and related entities by Aimia Inc. (the “**Acquisition**”), we have not experienced any material changes since the last annual update to our Brochure dated March 20, 2020. In addition to updates related to disclosures related to the Acquisition, this Brochure includes clarifying information about fees, expenses, risks and conflicts of interest. In addition, we routinely make updates throughout the Brochure to improve and clarify the description of our business practices, compliance policies and procedures, as well as to respond to evolving industry best practices.

You may request the most recent version of this Brochure by contacting our Chief Compliance Officer, Stephen G. Bondi, at 212-217-2340, or via email at [compliance@mittlemanbrothers.com](mailto:compliance@mittlemanbrothers.com).

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## **ITEM 4      ADVISORY BUSINESS**

Mittleman Investment Management, LLC (“**Mittleman**,” “**we**,” “**our**,” or “**us**”) is a limited liability company formed under the laws of the State of New York.

We began providing discretionary portfolio management and advisory services with a focus on domestic and foreign equity securities in 2005. We are a wholly-owned subsidiary of Mittleman Brothers, Inc. (“**Mittleman Brothers**”), a holding company organized in the State of Delaware. 100% of the voting interests of Mittleman Brothers are owned by Aimia Inc. (“**Aimia**”), a publicly traded company listed on the Toronto Stock Exchange (Ticker: AIM: CN).

We serve as an investment adviser and provide asset management services to high-net-worth individuals and various types of institutional clients described below in “*Item 7 – Types of Clients*” and to one private investment fund. We conduct research, make investment decisions for our client accounts, and generally select the broker-dealers for the execution of client transactions. Additional details are provided below in “*Item 12 – Brokerage Discretion.*”

As of May 31, 2020, we managed approximately \$146 million in net assets on a discretionary basis. We do not provide investment management services on a non-discretionary basis.

### **A. SEPARATELY MANAGED ADVISORY ACCOUNTS**

Separately Managed Accounts (“**SMAs**”) are managed in accordance with the terms, conditions, guidelines, and limitations contained in Investment Advisory Agreements or Investment Management Agreements (either, an “**IMA**”) between us and our corresponding client. In general, we do not tailor our asset management strategy to the individual requests of our clients, though allocations of investment opportunities to our clients’ accounts will typically vary as we make independent allocation decisions with respect to each client account. Under limited circumstances, if acceptable investment guidelines are requested by an institutional investor, we may approve client guidelines and restrictions on a case-by-case basis.

### **B. PRIVATE FUND (AFFILIATED WITH AND MANAGED BY US)**

We advise one affiliated private investment fund, Precog Capital Partners, L.P. (“**Precog**” or the “**Private Fund**”). We manage the Private Fund in accordance with the objectives and investment strategies described in its offering documents. The terms, conditions, risks, and fees pertaining to an investment in the Private Fund, are outlined in the Private Fund’s Private Placement Memorandum and other applicable offering documents. Our clients are under no obligation to consider, or make, an investment in the Private Fund. See additional details regarding conflicts of interest below in “*Item 8 - Methods of Analysis, Investment Strategies & Risk of Loss*” and “*Item 11 - Code of Ethics, Participation of Interest in Client Transactions and Personal Trading.*”

Investing in the Private Fund involves various risks, including but not limited to: the potential for complete loss of principal, liquidity constraints, and a lack of transparency. Unlike liquid investments that a client may maintain, the Private Fund may not provide daily liquidity or pricing. Each prospective investor interested in investing in the Private Fund is required to complete a Subscription Agreement in which the prospective investor attests that it meets the qualifications to invest in the Private Fund and further acknowledges and accepts the various risks associated with such an investment.

We serve as the investment manager to the Private Fund and provide investment advice thereto in accordance with the investment objectives, policies, and guidelines set forth in the Private Fund’s offering documents, and not in accordance with the individual needs or objectives of any particular investor therein. In general, investors in the Private Fund are not permitted to impose restrictions or limitations. However, we may enter into side letter agreements with one or more investors that may alter, modify, or change the terms of the interest(s) held by the investor(s).

Throughout this Brochure, discussions of the Private Fund are separated from our discussions about matters that relate to our SMA clients except where such separation is unnecessary because the Private Fund and our SMA clients are treated in the same or substantially the same manner.

## **ITEM 5 FEES AND COMPENSATION**

### *Management Fee*

We act as the investment adviser to the Private Fund and SMAs. Generally, we are compensated for investment advisory services by our clients based upon the value of the assets in their respective SMAs. These are referred to as “**asset-based fees**” or “**Management Fees.**” In the case of the Private Fund, such Management Fees are calculated based upon the value of the net assets in the Private Fund.

### *Performance-based Fees or Allocations*

For the Private Fund, we also may receive performance-based “incentive allocations” in accordance with Rule 205-3 of the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder (the “**Advisers Act**”).

Management Fees and performance-based fees and allocations payable by our clients are described in the Private Fund’s offering documents, which are provided to investors of the Private Fund, and in each SMA account holder’s IMA. A performance-based fee or allocation may create an incentive to make riskier, more speculative investments than would be the case under a solely asset-based fee arrangement. However, regardless of the fee arrangements, we expect that accounts we manage according to the same investment strategy will be invested in the same securities with similar position weightings. See “*Item 6 - Performance-Based Fees and Side-by-Side Management*” and “*Item 12 - Brokerage Practices.*”

### *Other Fees and Compensation*

We are an indirect wholly-owned subsidiary of Aimia. Shares of Aimia’s common stock and/or other securities issued by Aimia or its affiliates (collectively, “**Aimia Securities**”) are currently held in the investment portfolios of our clients. We may determine to purchase additional Aimia Securities for our clients’ accounts in the future.

A portion of the compensation of certain of our executive officers and employees is borne by Aimia for these persons serving as executive officers and/or directors of, and/or for providing other services to, Aimia. In addition, Christopher P. Mittleman, our Chief Investment Officer (“**CIO**”), also serves as the CIO of Aimia and as the Chairperson of Aimia’s Investment Committee.

The ability of Christopher and our other executive officers or employees to act in their own interests with respect to their Aimia-related roles and their related compensation, their equity ownership, including any incentive awards, of Aimia Securities, creates a conflict of interest between us, as an adviser to our clients, and certain of our executive officers and employees, on the one hand, and our clients, on the other because the executive officer’s or employee’s interest may not be aligned with those of our clients (e.g., our CIO may have an incentive to not sell Aimia Securities in client accounts even if he feels they have reached fair value), and the executive officer may determine to sell

Aimia Securities he/she owns at a different time, or on different terms, than how we may sell the security for client accounts. For a discussion of material conflicts of interest created by the receipt of such compensation, please see Item 11 below.

#### **A. SEPARATELY MANAGED ACCOUNTS**

Our SMA clients are billed an annual asset-based management fee, typically of 1.5% of the market value of the assets managed by us. Certain legacy clients that have account sizes below our minimum asset level of \$5,000,000 may be subject to a higher asset-based management fee. Under some circumstances, a client's account fee rate, the timing of payment, or billing may be negotiable. Such circumstances may include, among others, the size of the client's portfolio and whether the IMA contains a most favorable rate provision.

The minimum asset level for new SMA relationships is generally \$5,000,000. However, in our sole discretion, we have reduced, and we may in the future reduce our minimum asset requirement based upon certain criteria, including but not limited to: anticipated future additional assets inflows, the dollar amount of assets to be managed, account relationships, account composition, and individual negotiations with a client.

Generally, IMAs executed between us and our client(s), in addition to brokerage or custodial agreements, authorize the account's custodian to debit our management fees directly from our clients' brokerage or custodial account(s) in compliance with applicable regulations. In certain cases, based upon the specific request of a client, we bill the client directly, in which case, payment is typically due upon receipt. Asset-based management fees are billed quarterly, in advance, and are calculated on the value of the client's account as of last business day of the prior quarter adjusted for any contributions and withdrawals.

IMAs between us and our clients remain in effect until terminated in writing by either party as set forth in the terms of the applicable IMA. Upon termination of an IMA and thus the account relationship we have with such respective client, we will refund the pro-rated portion of any advanced asset-based management fees paid by the client. Refunded fees are calculated based upon the number of calendar days remaining in the billing quarter.

As a subsidiary of Aimia, we do not provide discretionary investment advisory services with respect to any Aimia Securities in our clients' "**Retirement Accounts**" (that is, accounts for Individual Retirement Accounts, 401(k) Plans, Profit Sharing Plans, Defined Benefit Plans, and Defined Contribution Plans and any other retirement account), and such accounts are not charged a Management Fee attributable to the net asset value of the Aimia Securities held in their accounts. In this regard, we do not take or accept any investment discretion or make any investment recommendations related to Aimia Securities in Retirement Accounts and we no longer vote or grant proxies with respect to Aimia Securities in Retirement Accounts, although we will provide an administrative method by which our clients with Retirement Accounts can vote or take other actions with regard to their Aimia Securities.

Unless the client directs otherwise or the circumstances of an individual require it, we recommend that Pershing Advisor Solutions LLC ("**PAS**") acts as the prime broker for SMAs and that its clearing firm, Pershing LLC ("**Pershing**"), serves as the custodian for those SMAs, although we may recommend one or more other broker-dealers/custodians in the future. Broker-dealers, such as PAS and Pershing, charge brokerage commissions and/or transaction fees for effecting certain securities transactions and may charge other fees, such as safekeeping and other fees attributable to non-U.S. securities positions of the account, or wire fees related to movements of monies by the client in the account. Additionally, we have entered, or may enter into arrangements for brokerage or clearing services with other broker-dealers to effect client transactions in individual equity and/or fixed-income securities and these broker-dealers may effect certain client transactions through other broker-dealers. In these instances, the client will generally incur both the transaction

fee charged by the executing broker-dealer and a “trade-away” fee charged by their broker or custodian though; none of these fees are paid to us. See “*Item 12 - Brokerage Practices.*”

Neither our affiliates, nor any of our Access Persons (as defined in our Code of Ethics) accept compensation based on the purchase or sale of securities or other investment products.

## **B. PRIVATE FUND**

### *Precog Capital Partners, L.P.*

We receive compensation from Precog in the form of a 2% annual asset-based management fee and a performance-based charge (or “**incentive allocation**”) equal to 20% of the net realized and unrealized appreciation in the value of each investor’s capital account, made only with respect to the appreciation in the value of the capital account in excess of 10% annually, a “hurdle rate” that resets at the beginning of each year, and is subject to a high water mark.

Management fees are payable by investors quarterly, in advance, as of the beginning of each calendar quarter and are deducted directly from the investor’s capital account. Management fees payable by a Precog investor for any incomplete or partial fiscal quarter will be prorated over the applicable period of such fiscal quarter. The incentive allocations, to the extent applicable, will be allocated as of the close of business on the last day of each calendar year, the date of any withdrawal of capital by any investor at any time, or the date of winding-up and termination of Precog. Management fees will be refunded or credited back to Precog proportionately as of the date of withdrawal with respect to any investor permitted or required to withdraw as of any time other than the end of a performance period.

In addition to management fees and incentive allocations (as applicable), unless otherwise determined by us, Precog may bear (and the limited partners therein will bear their pro rata share of) the following costs and expenses:

(i) all operating expenses, including, but not limited to: cost of purchasing or disposing investments (e.g. brokerage commissions), office facilities and overhead, administrative services, internet, dues and subscriptions, telephone, office supplies, postage, accounting, filing fees, registration fees and similar fees, legal fees, data processing, insurance, travel and entertainment, and investment research services, (ii) organizational expenses, tax preparation fees, auditors’ fees and extraordinary expenses as well as regulatory filing fees, investment banking fees, consulting fees, travel expenses, proxy solicitation expenses and all investment related expenses incurred by it, including commissions, custodial fees, clearing fees, stock borrow fees and similar expenses, (iii) taxes and other governmental charges, (iv) all expenses (including reasonable attorneys’ fees) incurred in connection with any threatened, pending or anticipated litigation, Internal Revenue Service examination or audit, or similar audit or examination by any state or local taxing authority, or other proceedings, and (v) all other expenses and liabilities incurred in connection with or arising out of the business of Precog, including legal fees, auditing and accounting expenses and other professional fees and extraordinary or non-recurring charges.

All of the aforementioned expenses, if incurred, would be borne by Precog separate and apart from the Management Fee. We are entitled to obtain reimbursement from Precog for all such costs and expenses borne by us or our affiliates on behalf of Precog. Precog also generally will pay any other fees and expenses of Precog deemed appropriate by us. Precog will also be charged its pro rata share of fees and expenses if such fees and expenses are incurred by us or an affiliate thereof as part of an overall investment program that includes other client accounts. To the extent that any such fees or expenses are solely attributable to Precog, it will bear the entire portion of such fees and expenses.

Precog is responsible for, and pays all its own transaction, brokerage, custodial and related fees and expenses. See “*Item 12 - Brokerage Practices.*”

In some instances, Precog and its investors may bear expenses that may also benefit us or our other SMA clients. More information regarding the fees charged by, and the expenses incurred by, Precog is provided in Precog’s offering documents.

## **ITEM 6 PERFORMANCE-BASED FEES & SIDE-BY-SIDE MANAGEMENT**

We receive performance-based incentive allocations from our Private Fund investors.

Performance-based incentive allocations could motivate us to make investment decisions that are riskier or more speculative than would be the case if these arrangements were not in place. In addition, because performance-based incentive allocations with respect to the Private Fund are calculated based on both realized and unrealized appreciation in the Private Fund’s portfolio based upon values that in certain circumstances may be assigned by us, we face a conflict of interest in valuing that portfolio. Both we and our Access Persons may have an incentive to favor and devote more time and effort to managing investments where we would receive performance-based incentive allocations or to favor accounts where we would receive higher performance-based incentive allocations, or higher management or related fees, over accounts in respect of which we would receive lower or no performance-based fees, incentive allocations, or management or similar fees. Our Access Persons who may be compensated to some extent based upon investment profits for which they are responsible, face the same potential conflict. We address these conflicts through: disclosures in this Brochure; disclosures in the applicable governing account and/or Private Fund offering documents; as well as through our Trade Allocation Policy, Code of Ethics and the policies and procedures contained in our Compliance Manual, which govern our conduct and the conduct of our Access Persons.

We may simultaneously manage the Private Fund and SMAs according to the same or a similar investment strategy (i.e., side-by-side management). The simultaneous management of these different investment products creates certain conflicts of interest, as the fees for the management of certain types of products may be higher than others. When managing the assets of our client accounts, we have an affirmative duty to treat all such client accounts fairly and equitably over time, and we have adopted policies and procedures that are designed and implemented to satisfy this duty. Allocations of investment opportunities are not necessarily made on a pro rata basis as our clients may pursue distinct investment strategies. Rather, we make independent allocation decisions with respect to each client. Allocations of investment opportunities among our clients are based on a variety of considerations, including: potentially different or conflicting investment objectives and strategies, the life cycle of various portfolios, risk parameters (including, without limitation, the use of leverage), cash and liquidity availability (e.g., allocation size may vary depending on a client’s cash availability, the other liquidity obligations of the applicable client or commitments made to other investments), follow-on investments (e.g., such investments may be allocated in accordance with the allocation of the original investment), investment time frames, and legal, tax, and regulatory considerations.

Investors in SMAs generally have the right to withdraw all or a portion of their capital from such SMA on shorter notice and/or with more frequency than provided by the terms of the Private Fund. In addition, since an SMA investor directly owns the investments held in its separately managed account, such investor may have full, real-time transparency as to all transactions and holdings in the SMA, and may be better able to assess the future prospects of a portfolio that is substantially similar to the Private Fund’s portfolio. Investors in the Private Fund are not provided with comparable transparency. Due to the account activity of any SMA or the Private Fund, we may be required to sell investments on behalf of such SMAs or the Private Fund in order to satisfy withdrawal requests from such accounts. We are under no obligation to sell such investments on behalf of any other SMA or Private Fund at such time, and may determine to hold such positions for any other SMA or the Private Fund for an indefinite period. Additionally, we may determine to add to any other SMA’s or the Private Fund’s positions that



are being sold on behalf of any SMA or the Private Fund. Sales of investments for the benefit of any SMA or the Private Fund may have an adverse effect on the value of an SMA's or Private Fund's continuing investment in such securities. In addition, the value realized by any such SMA or the Private Fund in connection with such sale may differ from the value realized by any other SMA or Private Fund when it disposes of the same positions at a later time.

## **ITEM 7 TYPES OF CLIENTS**

- A. SMAS** - Generally, our clients include high-net-worth individuals and various institutional clients including, but not limited to: corporations, partnerships, private funds, small businesses, endowments (public and private), ERISA plans & retirement accounts, foundations, accounts of other investment advisers, and pooled investment vehicles. We may elect to provide investment advisory and asset management services to other types of clients. We generally require a minimum asset level of \$5,000,000 to open new SMA relationships, although we have accepted, and have the discretion to accept on a case-by-case basis, investable assets below such amount.
- B. PRIVATE FUND** – Our clients also include the Private Fund which is not registered under the Investment Company Act of 1940, as amended, in reliance on the exemption provided in Section 3(c)(1) thereunder. Additionally, the Private Fund's interests are not registered under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (the “**Securities Act**”) pursuant to an exemption from registration under Regulation D of the Securities Act. The minimum initial capital contribution for an investment in the Private Fund is \$500,000, subject to waiver at our discretion. To invest in the Private Fund, investors must be, among other things, “accredited investors” as defined in Rule 501(a) of Regulation D under the Securities Act and “qualified clients” as defined in Rule 205-3 under the Advisers Act, as amended.

## **ITEM 8 METHODS OF ANALYSIS, INVESTMENT STRATEGIES & RISK OF LOSS**

We pursue superior returns through long-term investments in what we deem to be extremely undervalued securities, while maintaining a focus on limiting risk. We seek to mitigate risk, which we define as the probability of the long-term loss of capital, by investing in businesses that we believe are proven franchises with durable economic advantages, evidenced by a well-established track record of substantial free cash flow generation over complete business cycles, and only when we believe the very low valuation at which the investment is made provides a significant “margin of safety.” We employ a concentrated, long-term investment approach, typically holding between 10 and 20 securities. Investments are made globally, with foreign holdings historically representing an average of approximately 40% of our portfolios, although this percentage could be higher or lower, depending on the investment opportunities we deem attractive. Unconstrained by capitalization parameters, we tend to gravitate towards smaller market capitalization companies where we have identified the greatest disparities between market price and our estimate of fair value. We buy stock in large capitalization companies as well, but only when we believe those companies are priced attractively enough to warrant inclusion in our portfolios. We believe that our ability to go wherever the best risk/reward ratios appear to be available, in companies small and large, domestic and international, gives us an advantage over other investment managers, who we believe often operate within a more constrained investment universe.

Precog offers its limited partners investment strategies that are similar to those employed by us for our SMA clients, but generally more concentrated and thus potentially more volatile than the average portfolio that we would administer in respect of most of our SMA clients.

We have full discretion in respect of the types of securities in which the Private Fund invests. We generally utilize the fundamental method of security analysis, performing analyses on historical and present data, with the goal of making financial forecasts. We follow a long-term value-oriented investment strategy when giving investment

advice to our clients. Typically, positions are held for a least one year, often times much longer though trading around a position (selling down a position weighting into strength or buying more of the position on weakness) may also occur. Positions may be held for less than one-year depending on events and our perceived valuation of the security. Margin transactions may occur for certain SMAs or the Private Fund depending on the respective SMA client's preference or the terms of the offering documents for the Private Fund though we typically do not frequently enter into such transactions. Please refer to the Private Fund's offering documents for a more detailed description of its investment strategies.

Different types of investments involve varying degrees of risk that our clients should be prepared to bear, and it should not be assumed that future performance of any specific investment or investment strategy (including the investments and/or investment strategies recommended or undertaken by us) will be profitable or equal any specific performance level.

There can be no assurance that our clients or investors will achieve their investment objectives or that investments made by us will be successful. Our investment strategies involve a substantial degree of risk, including the complete loss of capital. Nothing in this Brochure is intended to imply, and no one is or will be authorized to represent, that our investment strategies are either low risk or risk free. Our investment strategies are appropriate only for sophisticated persons who fully understand and are capable of bearing the risks of our investment strategy. The various risks outlined below are not the only risks associated with our investment strategies and processes and may not necessarily apply to each client or investor. With respect to the Private Fund, the following risks are qualified in their entirety by the risks set forth in the Private Fund's offering documents.

## **KEY RISK AREAS ASSOCIATED WITH OUR INVESTMENT PROCESSES AND STRATEGIES**

### *General Economic, Political or Market Conditions*

Our success in investment activities will be affected by general economic and market conditions, such as changes in interest rates, availability of credit, inflation rates, economic uncertainty, changes in laws (including laws relating to taxation of our clients' 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 securities prices and the liquidity of our clients' investments. Volatility and/or illiquidity could impair the profitability of our clients' assets or result in losses. Our clients could incur material losses even if we react quickly to difficult market conditions, and there is no guarantee that our clients will be protected from suffering material losses and other adverse effects from broad and rapid changes in market conditions in the future. Our clients should realize that markets for the financial instruments in which we seek to invest can, at times, correlate strongly with each other or in ways that are difficult to predict. Even a well-analyzed approach may not protect our clients from significant losses under certain market conditions.

The political environment in the United States and globally has continued to cause uncertainty regarding future political, legislative or administrative changes that may impact us, our clients and their investments, and the range and potential implications of possible outcomes are difficult to predict. Such uncertainty may have an adverse effect on, or cause volatility in, the U.S. or global economies and currency and financial markets in the short or long term, which in turn could have a material adverse effect on the performance of a client's investments. In addition, such changes could impact the regulations applicable to Mittleman, our clients, or their investments. While certain of such changes could have a beneficial impact, other changes may more beneficially impact competitors, or could adversely impact Mittleman, our clients or their investments.

### *Market Analysis Limitations*

Every method of analysis has its own inherent risks. To perform an accurate market analysis, we must have access to current and new market information. We have no control over the dissemination rate of market information;

therefore, unbeknownst to us, certain analyses may be compiled with outdated market information, severely limiting the value of our analysis. Furthermore, an accurate market analysis can only produce a forecast of the direction of market values. There is no guarantee that a forecasted change in market value(s) will materialize into actionable and/or profitable investment opportunities.

#### Data Sources

We subscribe to external data sources used to screen for compliance with investment restrictions and to assist in making investment decisions. We also use external software and systems to analyze performance attribution and, in various situations, for trading purposes, to assist in investment decision making and for investment research. As a result, if information that we receive from a third party data source is incorrect, the desired result(s) may not be achieved. Although the third party data sources are generally reliable, we typically receive these services on an “as is” basis and cannot guarantee that the data received from these sources is accurate.

#### Risks Associated with Our Primary Investment Strategy

Our long-term value-oriented investment strategy is a fundamental investment strategy. Every investment strategy has its own inherent risks and limitations. Shorter-term investment strategies require a shorter investment time period to potentially develop but, as a result of more frequent trading, may incur higher transactional costs when compared to a longer-term investment strategy. Trading, an investment strategy that requires the purchase and sale of securities within a given investment time period, involves a very short investment time period, but will incur higher transaction costs when compared to a short-term investment strategy and substantially higher transaction costs than a longer-term investment strategy. We may employ varying combinations of investment strategies detailed above, but our long-term value-oriented investment strategy is utilized most often.

#### Margin Risks

We may also implement the use of leverage through margin loans in certain client accounts that have authorized us to use margin. Margin entails a higher level of risk. A margin transaction occurs when an investor uses borrowed funds to purchase financial instruments, or withdraws funds from a previously unleveraged investment account in excess of actual, non-margin cash available. The investor obtains the borrowed funds from its custodian brokerage firm by using other securities in the account as collateral for the borrowed sum. The effect of utilizing margin is to magnify any gains or losses in the portfolio holdings in relation to the net equity value of the account, or to provide for liquidity needs of our client. Our use of leverage in an attempt to enhance account returns is extremely limited, and on the occasions when margin is used, it is primarily employed on a transitory basis to provide funds to satisfy our client’s withdrawal demands that would otherwise result in the premature liquidation of longer-term investments.

#### Potential for Fraud

In spite of our desire to invest in reputable and trustworthy companies, there is a risk that we may invest our clients’ assets in an issuer that engages in fraud. As cases have shown, instances of fraud can be particularly difficult to detect and prevent. To the extent that we invest in a company that engages in fraud, a client or an investor could lose all or a substantial portion of its investment in such company and such fraud could have a materially adverse effect on our client’s financial condition and profit or loss.

#### Investment and Trading Risks - Generally

All investments risk the loss of capital. No guarantees or representations are made that our investment strategies will be successful. Our investment strategies involve, without limitation, risks associated with limited diversification, equity risks, interest rates, currencies, illiquidity, volatility, credit deterioration or default risks,

systems risks and other risks inherent in such activities. Certain investment techniques may, in certain circumstances, substantially increase the impact of adverse market movements to which our clients' investments may be subject. In addition, our clients' investments may be materially affected by conditions in the financial markets and overall economic conditions occurring globally or in markets where we invest our clients' assets. Our methods of minimizing such risks may not accurately predict future risk exposures. Risk management techniques are based, in part, on the observation of historical market behavior, which may not predict market divergences that are larger than historical indicators. Also, information used to manage risks may not be accurate, complete or current, and such information may be misinterpreted.

### Equity Risks

As noted above, we invest primarily in equity and equity-linked securities for our clients' accounts. The value of these securities generally varies with the performance of the issuer and movements in the broader equity markets. As a result, our clients may suffer losses if we invest in equity securities of issuers whose performance diverges from its expectations or if equity markets generally move in a single direction and we have not hedged against such a general move. Our clients 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. In some cases, the issuers of equity securities may be highly leveraged or subject to other risks such as limited product lines, markets or financial resources. Some of the small and mid-cap issuers of equity securities in which we invest may be more vulnerable than larger capitalization issuers to adverse business or market developments, have limited markets or financial resources and lack experienced management. In addition, some equity securities for micro-cap and small-cap companies could have substantially less liquidity. We may acquire a significant portion of the outstanding public float of a particular company, creating additional illiquidity, especially in the event that we wish to entirely dispose of, or reduce our position in such company by selling shares into the market over a relatively short period of time. Due to perceived or actual illiquidity or investor concerns regarding leveraged capitalization, certain equity securities often trade at significant discounts to otherwise comparable investments, or are not readily tradable. Such securities generally do not produce current income for our clients and may also be speculative. In addition, actual and perceived accounting irregularities may cause dramatic price declines in the equity securities of companies reporting such irregularities or that are rumored to be subject to accounting irregularities.

### Relative Value and Directional Investments

Our investment strategies depend on our ability to accurately predict future price movements of securities or the convergence of market prices toward the theoretical values expected by it. Any such attempts to predict future price movements are inherently risky and inaccurate. Often, price movements will be determined by unanticipated factors, and our analysis of known factors may prove incorrect, in each case potentially leading to substantial losses for our clients.

### Market Capitalization Risks

For our clients' accounts, we invest in the securities of companies with market capitalizations ("**cap**") ranging from small to large. While we believe such securities provide significant potential for appreciation, securities of certain companies, particularly small-cap companies, involve higher risks in some respects than investments in large-cap securities. For example, prices of small-cap and mid-cap securities are often more volatile than prices of large-cap securities, and the risk of bankruptcy or insolvency of small/mid-cap companies (which could result in client losses) may be higher than for large-cap or so-called "blue-chip" companies. In addition, due to thin trading in the securities of some small-cap companies, an investment in those companies may be illiquid.

### Market Volatility

The prices of financial instruments in which we invest may be volatile. Price movements of the financial instruments in which we invest are influenced by, among other things: interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, and national and international political and economic events and policies. Our clients are subject to the risk of failure of any of the exchanges on which their positions trade or of their clearing houses. In addition, governments from time-to-time may intervene in certain markets, both directly and by regulation, particularly in currencies, futures and options. Such intervention is often intended to directly influence prices and may, together with other factors, cause some or all of these markets to move rapidly in the same direction. The effect of such intervention is often heightened by a group of governments acting in concert.

### Investments in Unlisted Securities

We may invest a portion of our clients' assets in unlisted securities of companies. Because of the absence of any trading market for these investments, it may take longer to liquidate, or it may not be possible to liquidate, these positions than would be the case for publicly-traded securities. Although these securities may be resold in privately negotiated transactions, the prices realized on these sales could be less than those originally paid by our clients. Further, companies whose securities are not publicly-traded may not be subject to public disclosure and other investor protection requirements applicable to publicly-traded securities. In the event there is no trading market for these investments, we value such investments in accordance with our Valuation Policy.

### Convertible Securities

On behalf of our clients, we may invest in convertible securities. Convertible securities are bonds, debentures, notes, preferred stocks or other securities that may be converted into or exchanged for a specified amount of common stock of the same or different issuer within a particular period of time at a specified price or formula.

The value of a convertible security is a function of its “**investment value**” (determined by its yield in comparison with the yields of other securities of comparable maturity and quality that do not have a conversion privilege) and its “**conversion value**” (the security's worth, at market value, if converted into the underlying common stock). The investment value of a convertible security is influenced by changes in interest rates, with investment value declining as interest rates increase and increasing as interest rates decline. The credit standing of the issuer and other factors may also have an effect on the convertible security's investment value. The conversion value of a convertible security is determined by the market price of the underlying common stock. If the conversion value is low relative to the investment value, the price of the convertible security is governed principally by its investment value. To the extent the market price of the underlying common stock approaches or exceeds the conversion price, the price of the convertible security will be increasingly influenced by its conversion value. A convertible security generally will sell at a premium over its conversion value by the extent to which investors place value on the right to acquire the underlying common stock while holding a fixed-income security. Generally, the amount of the premium decreases as the convertible security approaches maturity.

A convertible security may be subject to redemption, at the option of the issuer, based on a price established in the convertible security's governing instrument. If a convertible security held by our clients' accounts is called for redemption, we 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 our ability to achieve our investment objective for our clients' accounts.

### Concentration of Investments and Risk Management Failures

We typically invest our clients' funds in a limited number of small-cap, mid-cap and large-cap issuers and generally have no formal guidelines relating to the diversification of our clients' assets related to market capitalization. As a result, our clients' portfolios may be concentrated in a limited number of issuers, types of financial instruments, industries, sectors, strategies, countries, or geographic regions, and any such concentration of risk may increase losses suffered by our clients. This limited diversity could expose our clients to losses disproportionate to market movements in general. Even when we attempt to control such risks, risks associated with different assets may be correlated in unexpected ways, with the result that our clients face concentrated exposure to certain risks. In addition, many other investment managers pursue similar strategies which create the risk that many funds would be forced to liquidate positions at the same time thus reducing liquidity, increasing volatility and exacerbating losses. Although we attempt to identify, monitor and manage significant risks, these efforts cannot take all risks into account and there is no assurance that these efforts will be effective. Many risk management techniques are based upon observed historical market behavior, but future market behavior may be entirely different. Any inadequacy or failure in our risk management efforts could result in material losses for our clients.

### Non-U.S. Investments

On behalf of our clients, we often invest in financial instruments of non-U.S. corporations and may invest in financial instruments of foreign governments. Investing in the financial instruments of companies (and, from time-to-time, governments) outside of the U.S. involves certain considerations not usually associated with investing in financial instruments 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 or other income 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 our clients' 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, we may be unable to structure transactions that achieve the intended results or to mitigate all risks associated with non-U.S. markets. Finally, it could be difficult to enforce our clients' rights in non-U.S. markets.

### Corporate Debt

On behalf of our clients, we may invest in bonds, notes and debentures issued by corporations. These instruments may pay fixed, variable or floating rates of interest, and may include zero coupon obligations. We may also invest in corporate debt instruments that have experienced or are contemplated to experience ratings downgrades, or other instruments that have low quality ratings or are unrated. Credit ratings evaluate the safety of the principal and interest payments, not the market value risk of lower-rated instruments, but do not reflect macroeconomic or systemic risk, which includes the risk of increased illiquidity in the credit markets. It is possible that rating agencies might not change the rating of a particular issue on a timely basis and, as a result, outstanding ratings may not reflect the issuer's current credit standing. Conversely, rating agencies may re-rate an instrument which could cause substantial loss as the ratings are downgraded. Our clients' investments may experience significant credit rating volatility. In addition, our clients may be paid interest-in-kind in connection with investments in corporate debt and related financial instruments (e.g., the principal owed to our clients 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, our clients may experience substantial losses.

### Market Disruption and Geopolitical Risk

An unstable geopolitical climate and continued threats of terrorism could have a material effect on general economic conditions, market conditions and market liquidity. Additionally, a serious global health crisis or pandemic or a natural disaster could severely disrupt the global, national and/or regional economies. Our clients are subject to the risk that war, terrorism and related geopolitical events may lead to increased short-term market volatility and have adverse long-term effects on the U.S. and world economies and markets generally, as well as adverse effects on issuers of securities and the value of our clients' investments. Those events, as well as other changes in U.S. and non-U.S. economic and political conditions, also could adversely affect individual issuers or related groups of issuers, securities markets, interest rates, credit ratings, inflation, investor sentiment and other factors affecting the value of a client's account's investments. At such times, a client's exposure to a number of other risks described elsewhere in this section could increase.

### Coronavirus Outbreak Risks

The recent global outbreak of the 2019 novel coronavirus ("COVID19"), together with resulting voluntary and U.S. federal and state and non-U.S. governmental actions, including, without limitation, mandatory business closures, public gathering limitations, restrictions on travel and quarantines, has meaningfully disrupted the global economy and markets. Although the long-term economic fallout of COVID-19 is difficult to predict, it has and is expected to continue to have ongoing material adverse effects across many, if not all, aspects of the regional, national and global economies. In particular, the COVID-19 outbreak has and may continue to, adversely affect our clients' investments and the industries in which they operate. General fluctuations in the market prices of securities and economic conditions generally may reduce the availability of attractive investment opportunities for our clients and may affect our ability to make investments and the value of the investments held by our clients. Instability in the securities markets and economic conditions generally (including a slowdown in economic growth and/or changes in interest rates or foreign exchange rates) may also increase the risks inherent in our clients' investments and could have a negative impact on the performance of investments. Furthermore, our ability to operate effectively, including the ability of our personnel or our service providers and other contractors to function, communicate and travel to the extent necessary to carry out our investment strategy and objectives and our business and to satisfy our obligations to our clients, their investors, and pursuant to applicable law could be impaired. The spread of COVID-19 among our personnel and our service providers would also significantly affect our ability to properly oversee the affairs of our clients (particularly to the extent such impacted personnel include key investment professionals or other members of senior management), which could result in a temporary or permanent suspension of our investment activities or operations.

### Competition

The markets in which we participate in are extremely competitive. There is no assurance that our ability to identify or successfully pursue attractive investment opportunities in this environment will continue. Our clients should expect that their investments will involve substantially more company-specific and market risk and associated volatility in the future than in the past. We compete with firms that have greater financial resources, more favorable financing arrangements, larger research staffs and more securities traders than are available to us.

### Less Liquid Instruments

Under certain market conditions, such as during volatile markets or when trading in an instrument or market is otherwise impaired, the liquidity of our clients' portfolio positions may be reduced. In addition, our clients may hold large positions with respect to a specific type of instrument, further reducing liquidity. During such times, we may be unable to dispose of certain assets, which would adversely affect our ability to rebalance our clients' portfolio(s) or accommodate withdrawal requests. Such circumstances could force us to dispose of our clients' assets at reduced prices, thereby adversely affecting performance. If there are other market participants seeking

to dispose of similar assets at the same time, we may be unable to sell such assets or prevent losses relating to such assets. Furthermore, if our clients incur substantial trading losses, the need for liquidity could rise sharply while our access to liquidity could be impaired. In conjunction with a market downturn, our clients' counterparties could incur losses of their own, thereby weakening their financial condition and increasing our clients' credit risk to them.

We may also invest in securities that are subject to legal or other restrictions on transfer. We may be contractually prohibited from disposing of such investments for a specified period of time. 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. Restricted securities may sell at a price lower than similar securities that are not subject to restrictions on resale. The market prices, if any, for such investments tend to be volatile and may not be readily ascertainable and we may not be able to sell them when we desire to do so or to realize what we perceive to be the fair value in the event of a sale.

#### Default and Credit Risks

We may invest in debt obligations of both government and corporate issuers. These financial instruments involve the risk that the obligor either cannot or will not fulfill its obligations under the terms of the financial instrument. Our clients also assume the credit risk to their brokers, custodians and other counterparties in connection with brokerage arrangements, derivatives and other contractual relationships. In evaluating credit risk, we are often dependent upon information provided by the obligor, which may be materially inaccurate or fraudulent. Any actual default, or any circumstances that increase the possibility of default, could have a materially adverse effect on our clients.

#### Interest Rate Risks

Our investment strategies may include investments in debt securities of government and corporate issuers. These and various other assets, as well as our clients' borrowings, subject our clients to risks associated with movements in interest rates. For example, we may be required to manage both curve risk, which is the risk that the slope of the yield curve will vary from the slope assumed in our strategy, and credit spread risk, which is the risk that the spreads between yields of differently rated issuers will change in a manner that adversely affects our clients' portfolio.

#### Cash and Other Investments

A portion of our clients' investments may be invested in cash or cash equivalent investments, in whole or in part, for investment purposes, pending other investments. These cash investments are generally of high quality at the time of investment and may include money market instruments such as negotiable or nonnegotiable securities issued by or short-term deposits with the U.S. and non-U.S. governments and agencies or instrumentalities thereof, bankers' acceptances, high quality commercial paper, repurchase agreements, bank certificates of deposit and short-term debt securities of U.S. or non-U.S. issuers deemed by us to be creditworthy. While these investments generally involve relatively low risk levels, they may produce lower than expected returns and could result in losses. Clients will also be responsible for the expenses associated with any such investments.

#### Litigation

Our investment activities may subject our clients to the risks of becoming involved in litigation with third parties. The expense of defending against claims against our clients by third parties and the payment of any amounts pursuant to settlements or judgments may be borne by our clients and reduce the net asset value of their investment. We and our affiliates will generally be indemnified by our clients in connection with any such litigation, subject to certain conditions.



### Trading Decisions

Trading decisions made by us are based on fundamental and other analysis. Any factor that would lessen the prospect of major trends occurring in the future (e.g., 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 (e.g., significant decrease of liquidity in a particular market) would also be detrimental to profitability. Further, many advisers' 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. No assurance can be given that our strategies will be successful under all or any market conditions.

### "Widening" Risk

For reasons not necessarily attributable to any of the risks set forth herein (e.g., supply/demand imbalances or other market forces), the prices of the financial instruments in which we invest may decline substantially. In particular, purchasing assets at what may appear to be "undervalued" levels is no guarantee that these assets will not be trading at even more "undervalued" levels at a time of valuation or at the time of sale. It may not be possible to predict, or to hedge against, such "spread widening" risk.

### Technology and Cybersecurity Risks

We depend heavily on our own, and the certainty of our service providers', telecommunication, information technology and other operational systems (e.g., those utilized by brokers, custodians, transfer agents, portfolio management and trading software providers, and other parties to which we outsource certain services or business operations). These systems may fail to operate properly or become disabled as a result of events or circumstances wholly or partly beyond our or our service providers' control. Despite our best efforts to implement security measures, our information technology and other systems, and those of others, could be subject to physical or electronic break-ins, unauthorized tampering or other security breaches, resulting in a failure to maintain the security, availability, integrity and confidentiality of data assets. Technology failures or cybersecurity breaches, whether deliberate or unintentional, including those arising from use of third-party service providers, as well as failures or breaches suffered by the issuers of securities in which our strategy invests, could delay or disrupt our ability to do business and service our clients, harm our reputation, result in a violation of applicable privacy and other laws, require additional compliance costs, subject us to regulatory inquiries or proceedings and other claims, lead to a loss of clients and revenues or financial loss to our clients or otherwise adversely affect our business, our clients and/or investors. Cyberattacks are viewed as an emerging risk and the scope of the risk and related mitigation techniques are not yet fully understood and are subject to continuing change.

### Counterparty Risks

We have established, and may establish, additional relationships to obtain prime brokerage and other brokerage or custody related services. However, there can be no assurance that we will be able to maintain such relationships or establish such relationships. An inability to establish or maintain such relationships would limit our trading activities and could create losses, precluding us from engaging in or executing certain transactions and prime brokerage services, and preventing us from trading at optimal rates and terms. Moreover, a disruption in the brokerage or other services provided by any such relationships before we establish additional relationships could have a significant impact on our business due to our reliance on such counterparties. Furthermore, there is a risk that any of our counterparties could become insolvent and/or the subject of insolvency proceedings. If one or more of our counterparties were to become insolvent or the subject of insolvency proceedings, there exists the risk that the recovery of our clients' securities and other assets from such prime broker(s), broker-dealer(s) or custodian(s)

will be delayed or be of a value less than the value of the securities or assets originally entrusted to such prime broker, broker-dealer or custodian. We are not restricted from dealing with any particular counterparty or from concentrating any or all of its clients' transactions with a single counterparty. Moreover, our internal evaluation of the creditworthiness of our counterparties may prove insufficient. Our ability to transact business with any one or more counterparties, the lack of complete and "foolproof" evaluation of the financial capabilities of its counterparties, and the absence of a regulated market to facilitate settlement may increase the potential for losses by our clients.

#### *Dependence of Clients and Investors in Our Private Fund Where We Act as the Fund Manager*

All investment and business decisions on behalf of all our clients invested in SMAs, including those made on behalf of the investors of the Private Fund, will be made by us when we act as the manager of the Private Fund. Accordingly, no person should invest in the Private Fund unless he/she is willing to entrust all aspects of the investment management and operations of the Private Fund to us and our CIO, as we have full discretion in the types of securities in which the Private Fund will invest. The Private Fund is dependent upon the skill, judgment and expertise of our Access Persons and us.

#### *Side Letters*

We have the discretion to waive or modify the application of certain provisions or grant special or more favorable rights with respect to one or more investors in the Private Fund. We may enter into side letters or similar separate agreements with one or more such investors that may alter the terms and conditions described in the Private Fund's documents with respect to such investors (including with regard to, without limitation, to the payment of management fees, performance fees and/or incentive allocations, or related to withdrawals, transfers and notices).

#### *Conflicts of Interest*

In addition to providing investment advisory services to our clients, we, Aimia, and certain of our related entities and employees engage in a broad range of activities, including investment activities for our own accounts. In the ordinary course of conducting our activities, our interests can conflict with the interests of our clients.

In addition, certain of the executive officers and employees of Mittleman including Christopher P. Mittleman, our and Mittleman Brothers' CIO, serve on, and portions of their compensation including cash or equity incentive compensation, benefits, and equity awards for serving in executive officer or employee roles for, and on the board of directors of, and/or for providing other services to, Aimia, our parent company and a company whose securities are also in the investment portfolios of our clients. Our CIO is also the CIO of Aimia and acts as Chairperson of its Investment Committee along with certain other members of Aimia's management team. The ability of certain executive officers and employees to act in their own interests with respect to their Aimia related roles and related compensation, their equity ownership, including any incentive awards, of Aimia Securities, creates a conflict of interest between us, as an adviser to our clients, and our executive officers and certain employees, on the one hand, and our Clients, on the other because the executive officer's and/or employee's interest may not be aligned with those of our clients (e.g., our CIO may have an incentive not to sell Aimia Securities in client accounts even if he feels they have reached fair value), and the executive officer and/or may determine to sell Aimia Securities he/she owns at a different time, or on different terms, than the we may sell the same security for client accounts.

Although our Chief Investment Officer and our Access Persons devote a significant amount of their time to the interests of the SMAs and the Private Fund, we may engage in other business activities, including certain activities that may be competitive with those of the SMAs and the Private Fund.

Various conflicts of interests may exist between us, our investment team and our affiliates with respect to our clients and the investors in the Private Fund. Certain of our Access Persons serve, and others may serve and be

compensated, as directors, officers or committee members of both public and private companies and their activities on behalf of those other companies may present actual and/or potential conflicts of interest, including conflicting fiduciary duties. In particular, our Access Persons could face conflicts of interest between discharging their duties as in their capacity as directors, officers or committee members of such companies and acting in the best interest of our clients.

For a further description of these conflicts of interest and how such conflicts are addressed, see “*Item 6 - Performance-Based Fees & Side-by-Side Management*,” “*Item 10 - Other Financial Industry Activities & Affiliations*,” “*Item 11 - Code of Ethics, Participation of Interest in Client Transactions and Personal Trading*” and “*12 - Brokerage Practices*.”

**THE FOREGOING RISK FACTORS DO NOT PURPORT TO BE A COMPLETE DESCRIPTION OF ALL OF THE RISKS ASSOCIATED WITH OUR INVESTMENT STRATEGIES. PROSPECTIVE CLIENTS AND INVESTORS SHOULD READ THIS BROCHURE AND ALL OTHER APPLICABLE DISCLOSURE MATERIALS IN THEIR ENTIRETY BEFORE MAKING ANY INVESTMENT DECISIONS.**

## **ITEM 9 DISCIPLINARY INFORMATION**

Neither we, nor any member of our management team, have been involved in any legal or disciplinary events in the past ten years (and, to the best of our knowledge and belief, in years preceding that ten-year period) that would be material to an existing or prospective client’s or Private Fund investor’s evaluation of our advisory business or the integrity of our management.

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

Neither we, nor any of our Access Persons, are registered or have an application pending to register as a broker-dealer, a registered representative of a broker-dealer, a futures commission merchant (“FCM”), a commodity pool operator (“CPO”) or a commodity trading advisor (“CTA”). In addition, neither we nor any of our Access Persons are an associated person(s) of an FCM, a CPO and/or a CTA.

We serve as both the investment manager and the general partner of the Private Fund. In addition, certain of our control persons or indirect owners may have financial interests in the Private Fund and may maintain significant investments in the Private Fund. These relationships present certain potential conflicts of interest, including but not limited to, those described below:

- To the extent certain of our individual SMA clients qualify, they will be eligible to participate as investors in the Private Fund. Some of our SMA clients are solicited to invest in the Private Fund where we deem such an investment as suitable, but no SMA client is ever obligated to invest in the Private Fund. Since certain of our Access Persons may earn compensation from the Private Fund that may exceed the asset-based fees and performance-based fees of an SMA, as applicable, the recommendation that a client become an investor in the Private Fund may present a conflict of interest. We address this conflict through disclosure to clients and operating in accordance with our Code of Ethics and fiduciary duties. See “*Item 5 - Fees and Compensation*” and “*Item 11 - Code of Ethics, Participation of Interest in Client Transactions and Personal Trading*.”
- We may receive performance-based incentive allocations from the Private Fund. Since Private Fund investments equal to or greater than \$10 million and our SMA clients are not subject to performance-based fees or allocations, this arrangement may create a conflict of interest as we and our representatives may have an incentive to favor and devote more time and effort to managing the investments of the Private Fund that are subject to performance-based incentive allocations. We address this conflict of interest through

disclosure to clients and operating in accordance with our Code of Ethics and fiduciary duties. See “*Item 5 - Fees and Compensation*” and “*Item 11 - Code of Ethics, Participation of Interest in Client Transactions and Personal Trading.*”

- The participation of persons related to us as investors in the Private Fund or SMAs may also create a conflict of interest, as we and our Access Persons may have an incentive to favor and devote more time and effort to managing the investments of the Private Fund or the respective SMAs. We may also have an incentive to recommend that SMA clients participate in the Private Fund if we perceive that such additional investment will benefit the Private Fund overall. We address this conflict through disclosure to clients and by operating in accordance with our Code of Ethics and fiduciary duties. See *Item 6 - Performance-Based Fees & Side-by-Side Management,*” and “*Item 11 - Code of Ethics, Participation of Interest in Client Transactions and Personal Trading.*”

Our Chief Compliance Officer (“CCO”) remains available to address any questions that a client or a prospective client may have regarding the above relationship(s) and any corresponding potential conflict of interest that any and all such relationships may create.

We do not receive, directly or indirectly, compensation from other investment advisers that we recommend or select for our clients nor do we have any other business relationships with any such advisers that could create a material conflict of interest.

## **ITEM 11 CODE OF ETHICS, PARTICIPATION OF INTEREST IN CLIENT TRANSACTIONS & PERSONAL TRADING**

### *Code of Ethics*

We have adopted and implemented a Code of Ethics that defines the standards of business conduct for our Access Persons. Our Code of Ethics is primarily designed to educate our Access Persons about our philosophy regarding ethics and professionalism. It emphasizes our fiduciary duties to our clients and requires our Access Persons to comply with applicable laws, such as preventing misuse of material non-public information, circulation of rumors and other forms of market abuse. It also addresses potential conflicts of interest related to personal securities transactions. We impose certain restrictions on our Access Persons relating to the purchase or sale of securities for their own accounts and the accounts of certain affiliated persons. Our Access Persons are required to submit quarterly reports disclosing personal securities transactions and annual reports disclosing personal securities holdings. These reports are reviewed by our CCO. We also maintain certain policies and procedures designed to prevent our Access Persons from misusing material non-public information. A copy of our Code of Ethics will be provided to clients and Private Fund investors upon request.

We may recommend that our clients buy or sell securities or other investment products in which we or a person related to us has a financial interest. In particular, we may cause our clients to purchase and/or sell Aimia Securities. We may also recommend that certain of our SMA clients invest in the Private Fund. In addition, certain of our control persons may have financial interests in the Private Fund. In general, our control persons directly, or through a general partner entity, may maintain investments in the Private Fund. See “*Item 10 - Other Financial Industry Activities & Affiliations.*”

### *Cross-Transactions*

In limited circumstances, we may “arrange” for and/or “facilitate” a cross-transaction between client accounts when we believe that such a transaction is beneficial to our clients. These transactions will generally occur in a situation when a client needs to liquidate a specific position that is suitable for another client. In so doing, we will arrange

for a broker to effect the transaction between two of our client accounts. However, for any such transaction, neither we nor any person or entity associated with us, will act as a broker or receive any commission or transaction-based compensation.

### *Aimia Related Conflicts*

Aimia Securities are included in our client portfolios, other than Retirement Account portfolios which were incepted after Aimia acquired Mittleman (and did not already own Aimia Securities).

Christopher P. Mittleman, our CIO, serves in similar roles at Mittleman Brothers and Aimia, our parent companies. Christopher also serves on the Board of Directors of Mittleman Brothers and Aimia and as the Chairperson of Aimia's Investment Committee. A portion of Christopher's compensation is borne by Aimia with the balance borne by us. In addition, Christopher and other executive officers of ours may receive other cash or equity incentive compensation, benefits and/or equity awards for their services to Mittleman, Mittleman Brothers, Aimia and its related entities.

The above creates a conflict of interest between us, as an adviser to our clients, our CIO and executive officers or employees on one hand, and our clients, on the other because our CIO's, certain executive officer's or employee's interests may not be aligned with those of our clients. For example, our CIO may be incentivized to increase or not dispose of the Aimia Securities held in client accounts. Our CIO may also determine to sell the Aimia Securities received personally by them at different times, or on different terms, than the sales they make for client accounts.

Our CIO and Aimia's Investment Committee will also make investment decisions for Aimia. We expect that Aimia's investment focus will mainly be on acquiring control and thus consolidating the cash flows of acquired companies, with most of such activities expected to occur in the private market. If a target company is publicly-traded, Aimia may seek to acquire shares in the open market before seeking control, or may be satisfied with a significant minority stake in a publicly traded entity, presumably with governance rights. As such activities are generally beyond the mandate and capacity of our clients' accounts, which cannot act in concert to take a company private and very rarely attain minority stakes large enough to seek governance rights, we view Aimia's investment strategy as sufficiently differentiated from our investment strategy for client accounts to mitigate conflicts of interest between us and Aimia with respect to allocation of investment opportunities. Both Aimia and our CIO on behalf of Mittleman will seek to invest in businesses that share the same key characteristics that our investment discipline has historically sought: sustained free cash flow generation, high barriers to entry, enduring franchises with durable economic advantages, high insider ownership, sourced globally, and purchased at an attractive valuation. Thus, the major difference between the two strategies will not be in the qualities of the businesses sought, but in the modality of ownership. Our clients generally cannot participate in private investments, but should benefit from Aimia's participation in such otherwise inaccessible opportunities through our clients' ownership of Aimia Securities, for as long as we believe Aimia Securities maintain an attractive risk/reward ratio or we otherwise determine to sell the position for our client accounts.

Aimia may also invest in individual securities on a portfolio basis to maximize returns on otherwise idle cash in the absence of other investment opportunities. If Aimia were to make temporary investments in securities that we also own for our client accounts, as opposed to seeking a control position in any such security, Aimia may do so by opening a separately managed account ("SMA") or investing in a private fund managed by us, in which case Aimia would be subject to the same trade allocation policies that are applied to our SMAs and the Private Fund.

In any case, where a publicly traded security is acquired or sold by Aimia outside of a Mittleman-managed SMA or the Private Fund, our CIO may consider transacting similarly for our client accounts if he deems it suitable to do so. In such cases, as provided for, and approved according to, our policies and procedures, Aimia may purchase or sell a publicly traded security before, at the same time as, or after our client accounts do so, and thus sometimes at a higher, lower or matching price, depending on our CIO's assessment of the efficiencies and other considerations

of choosing to prioritize transactions for one entity over the other - it being understood that with regard to such transactions by Aimia, absent a justifiable reason (e.g., the timing of a client account's cash flow moving in or out of the account), Aimia's transactions should not be executed at a better price on a given day than a client's account receives. There also may be situations where, with our client's prior written consent, Aimia would consider acquiring shares of a security from our clients. The factors to be considered with regard to the timing of the purchase or sale of a security by Aimia or our client accounts include liquidity, expediency, regulatory restrictions, market access, suitability, and other strategic or tactical considerations in addition to the normal fiduciary concerns.

### Resolution of Conflicts

In the case of all conflicts of interest, Mittleman's and Aimia's determination as to which factors are relevant, and the resolution of such conflicts, will be made using their best judgment, but in their sole discretion. In resolving conflicts, Mittleman and Aimia will consider various factors, including, for example, the interests of the applicable parties with respect to a short-term investment and/or with respect to their longer-term course of investing. Certain procedures for resolving specific conflicts of interest are set forth below. When conflicts arise, the following factors may mitigate, but will not eliminate, conflicts of interest:

- Our CIO will not make or recommend an investment unless he believes that such investment is an appropriate investment considered from the viewpoint of our clients or Aimia, as applicable;
- Many important conflicts of interest will generally be resolved by set procedures, restrictions or other provisions set forth in our Compliance Manual or adopted by Aimia's Investment Committee or Board;
- Conflicts of interest related to the allocation of investment opportunities between our clients, on one hand, and Aimia, on the other hand, are mitigated because we generally pursue different investment strategies for our clients than those that Aimia will pursue;
- Aimia's Board or a committee thereof and our CCO will review conflicts, should they arise, to make sure that our clients are not systematically experiencing a disadvantage as compared to Aimia; and
- Where we deem it appropriate, an unaffiliated third party may be used to help resolve a conflict, such as the use of an external compliance consultant or attorney.

### Outside Activities

Our CCO serves on the Board of Directors of a publicly-traded investment management firm, which does not have a business relationship with us, as well as on the Board and as an officer of a non-profit entity. He is compensated by the publicly-traded company for his Board and related committee roles but not by the non-profit company for his roles as a director and an officer. Certain of our other Access Persons may serve on the Board of Directors of, or in an advisory role to, other non-profit entities, publicly traded companies, or other types of companies provided permission to do so has been granted in accordance with our Code of Ethics. Service by persons related to us as an advisor, officer, committee member, or on the Board of companies that issue securities or that could engage our advisory services, could create a direct conflict of interest. We review the activities of our Access Persons to mitigate potential conflicts. Additional relationships of this type could occur in the future.

### Allocation of Investment Opportunities

In exercising our discretion to allocate investment opportunities, we may be faced with a variety of conflicts of interest. For example, in allocating an investment opportunity to Aimia or among clients with differing fee, expense and compensation structures, we may have an incentive to allocate investment opportunities where we or related persons may derive, directly or indirectly, a higher fee, compensation or other benefit. Further, if, in our discretion,

we feel our clients should not participate in a particular investment opportunity for strategy, tax, regulatory or other reasons, such investment opportunity may be allocated only to Aimia. To the extent an investment is not allocated pro rata, clients participating in such an investment opportunity at such level could incur a disproportionate amount of income or loss related to such investment relative to any other clients or Aimia.

Our Private Fund may co-invest with third parties or otherwise participate in pooled investment vehicles with others if we determine that such investments or arrangements represent the best way to access a particular investment opportunity. These arrangements would result in an additional layer of fees and expenses being charged to the Private Fund's investors. We or our Access Persons may also manage or have direct investments in these pooled investments. We intend to address any such conflict(s) through proper disclosure, adherence to our Code of Ethics, and in accordance with our fiduciary duties to our clients.

There may be a conflict of interest in the allocation of investment opportunities among our clients and Aimia. Our CIO intends to allocate investment opportunities in a manner which is believed to be appropriate and in the best interests of all the parties involved. While allocations of investment opportunities among our clients are generally made with similar portfolio weightings for each client account, there can be no assurances that an investment opportunity which is provided to Aimia will not be wholly or primarily allocated to Aimia, without our clients being able to participate in such investment opportunity or being able to participate only on a limited basis.

Our clients could be disadvantaged because of the investment activities conducted by Aimia for its own account as a result of, among other things, (i) restrictions on the combined size of a position held for our clients and by Aimia, thereby limiting the size of our clients' position, (ii) the difficulty of liquidating an investment where we believe the market cannot absorb the sale of the combined positions, and (iii) the regulatory filing obligations that could be imposed on us and/or Aimia if, for example, Mittleman and Aimia are treated as members of a "group," resulting in aggregation of their holdings for purposes of their regulatory filing obligations or the applicability of short-swing profit disgorgement rules with respect to such acquisitions and dispositions, where Mittleman would not have been subject to such filing obligations and short-swing profit disgorgement rules in the absence of Aimia being invested in the same securities. These filing obligations and short-swing profit disgorgement rules may cause us to make different investment decisions for our clients than those we would have made in the absence of an affiliation with Aimia. In general, we intend to manage our clients' investments to avoid the short-swing profit disgorgement provisions of Section 16 of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**").

In addition, there may be circumstances under which Aimia will have made an investment in a security in which we originally did not intend to invest for our clients. Subsequent investments by us for our clients in securities of the same issuer may create the perception that we are using our clients' assets to support Aimia's positions. We will evaluate a variety of factors for each investment which may be relevant in determining whether a particular investment opportunity is appropriate and feasible for our clients or for Aimia at a particular time, including the nature of the investment opportunity taken in the context of the other investments at the time, the potential liquidity of the investment relative to the needs of our clients and Aimia, governance matters related to owning the investment for our clients or Aimia, the investment or regulatory limitations of owning the particular investment and the transaction or other costs involved. Because these considerations will generally differ for our clients and Aimia for any particular investment opportunity, investment activities of our clients and Aimia will generally differ considerably as a result of their different investment focuses. In addition, where an investment opportunity may be appropriate for our clients but is not of the type of investment typically made by Aimia, it will typically be offered first to our clients.

Where our clients and Aimia invest in the same company, there can be no assurance that such parties will dispose of the investments at the same time and on the same terms. Investments disposed of at different times will likely be disposed of at different valuations and, as a result, our clients may realize different returns as compared to the same investment held by Aimia. These variations in timing may be detrimental to our clients.

The application of our compliance policies and procedures and the involvement of Aimia's Investment Committee and Board oversight are expected to vary based on the particular facts and circumstances surrounding each investment made by both our clients and Aimia including in different levels of an issuer's capital structure (as may be the case) and, as such, there may be a degree of variation and potential inconsistencies in the manner in which conflicts are addressed.

### Personal Trading and Investments

Subject to various restrictions, policies and procedures as set forth in our Code of Ethics, our Access Persons have, and may, purchase for themselves, securities purchased for, or recommended to, our clients. Allowing our Access Persons to purchase these securities may motivate them and/or our affiliates to engage in potentially manipulative practices. In order to seek to prevent this, our CIO and CCO (or certain other designated persons) must pre-clear personal securities transactions by our Access Persons in these securities, as well as in any Covered Security (as defined by our Code of Ethics). In this regard, our Code of Ethics includes our Personal Trading Policy which outlines certain procedures that our Access Persons are required to follow. In certain situations, we restrict our Access Persons from trading in securities purchased for, or recommended to, our clients when we believe the personal securities transactions could conflict with our Code of Ethics or our fiduciary duties to our clients. Our CCO performs certain post-trade reviews to confirm that personal securities transactions by our Access Persons are being performed in accordance with our Code of Ethics. In addition to the required pre-clearance for transactions in Covered Securities, our Access Persons are required to report and certify personal securities transactions on a quarterly basis, certify personal securities holdings (initially upon commencement of employment and annually thereafter), and report any violations of the Code of Ethics to our CCO.

From time to time, we and our Access Persons may acquire, or may be in a position to potentially acquire, material non-public and/or confidential information that may restrict by law, internal policies or otherwise us from purchasing securities or other assets, or selling securities or other assets for our clients or otherwise using or receiving such information for the benefit of our clients' accounts. For example, in certain cases, an Access Person of ours may serve as a member of the board of directors of an issuer and come into possession of material non-public and/or confidential information through such board membership.

## **ITEM 12 BROKERAGE PRACTICES**

In the event that our SMA clients request that we recommend a broker-dealer/custodian for execution and/or custodial services (exclusive of those clients that may direct us to use a specific broker-dealer/custodian), we generally recommend that SMAs be maintained as prime brokerage accounts at PAS which clears and custodies its client assets with Pershing, a wholly owned subsidiary of the Bank of New York Mellon, although we may recommend one or more other broker-dealer/custodians in the future. Prior to engaging us to provide investment advisory services, an SMA client is required to enter into a formal IMA with us setting forth the terms, conditions, guidelines and limitations under which we will manage the client's assets, and a separate account/custodial/clearing or other agreement with each designated broker-dealer/custodian.

In general, we have authority to determine the brokers and other counterparties to be used for the Private Fund's transactions and to negotiate commission rates and other monies paid by the Private Fund. Generally, the Private Fund uses Pershing, although it may use one or more other broker-dealers/custodians in the future.

Factors that we consider in recommending and using Pershing or any other broker-dealer/custodian to clients include their historical relationship with us as well as their firm's financial strength, reputation, execution capabilities, pricing, research, and service. Although we have a duty to obtain best execution with respect to commissions and/or transaction fees paid by our clients, a client may pay a commission that is higher than another qualified broker-dealer might charge to effect the same transaction where we will determine, in good faith, that the commission/transaction fee is reasonable in relation to the value of the brokerage and research services received. In



seeking best execution, the determinative factor is not the lowest possible cost, but whether the transaction represents the best qualitative execution, taking into consideration the full range of a broker-dealer's services, including the value of research provided, if any, execution capability, commission rates, and responsiveness. Accordingly, although we will seek competitive rates, we may not necessarily obtain the lowest possible commission rates for our clients' account transactions. The brokerage commissions or transaction fees charged by the designated broker-dealer/custodian are exclusive of, and in addition to, our investment advisory asset-based management fees and performance-based fees, as applicable. Due to SEC regulations or PAS's rules regarding prime brokerage accounts, certain smaller client accounts may not be able to participate in the allocation of trades executed outside of PAS or Pershing. Certain other regulations or rules may limit our ability to allocate trades to these accounts.

We do not currently use soft dollars generated by our clients' accounts to pay for certain research and/or related services provided by brokers described above, nor do we intend to, though this does not preclude us from doing so in the future. The term "**soft dollars**" refers to the receipt of products and services (including research) provided by brokers to an investment manager without any cash payment by the investment manager. The items provided may be provided based on the volume of revenues generated from brokerage commissions for transactions executed for clients of the investment manager. The products and services available from brokers include both internally generated items (such as research reports prepared by employees of the broker) as well as items acquired by the broker from third parties (such as quotation or data services).

Using soft dollars to obtain investment research and/or related services could create a conflict of interest between us and our clients. Soft dollars may be used to acquire products and services that are not exclusively for the benefit of our clients that paid the commissions and that may primarily or exclusively benefit us. If we are able to acquire these products and services without expending our own resources (including management fees paid by clients), the use of soft dollars would tend to increase profitability. Further, we may have an incentive to select or recommend brokers based on our interest in receiving research or other products or services, rather than on our clients' interest in receiving most favorable execution. We could also cause our clients to pay commissions (e.g., markups or markdowns) higher than those charged by other brokers in return for soft dollar benefits.

In selecting or recommending brokers, we do not consider whether we or our related persons receive client or investor referrals from such brokers.

For client directed brokerage arrangements outside of Pershing, our client may negotiate terms and arrangements for their account with that broker-dealer. This may limit our ability to seek better execution services or prices from other broker-dealers and may preclude us from being able to "batch" our client's transactions for execution through other broker-dealers with orders for other accounts managed by us. As a result, our clients may pay higher commissions or other transaction costs or greater spreads, or receive less favorable net prices, on transactions for the account than would otherwise be the case.

We may, and generally attempt to, combine or "bunch" orders when possible to, obtain best execution, negotiate more favorable commission rates or allocate transactions equitably among our clients, reduce differences in prices and/or commissions or other transaction costs that might have been obtained had such orders been placed independently in accordance with our Trade Allocation Policy. We will not receive any additional compensation or remuneration as a result of such aggregation.

We generally allocate investment opportunities among our clients in a fair and equitable manner. Typically, if participating clients receive less than their target (full) allocation of an order, these clients will generally receive a pro rata portion of the next executed order. Under certain circumstances, we have discretion to utilize alternative allocation procedures provided that we treat all participating clients fairly and equitably. We generally prioritize the allocation of buys to accounts with the highest percentage of cash but we may prioritize orders differently, for example, based on an account being underweight with regard to a particular security. Generally, sell trades are

allocated to accounts with the highest percentage weighting in the security being sold but they may also be allocated based on other fair allocation methods, for example, based on accounts with the lowest cash percentage weighting if we anticipate needing cash soon for another investment. Trade allocations of sell orders for accounts in liquidation (due to closure or significant withdrawal) will be done on a fair allocation basis as determined by the CIO or his designees.

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

- A. SMAS** - Our CIO, along with certain of our staff, performs periodic reviews of our SMAs on an ongoing basis. These reviews include, but are not limited to: trade activity, fees charged and other account activity to confirm accurate execution of trades as well as client requested transactions (i.e., contributions and withdrawals) and to monitor for potential suspicious or fraudulent activity. On a quarterly basis, our Director of Administration & Operations and certain other staff review our SMAs and test to confirm that management fees have been accurately billed to or debited from client accounts and remitted directly to us in compliance with our policies and procedures. Events that trigger a non-periodic review include, but are not limited to, a market correction, a client request to update account information, a client request to terminate their IMA, and/or any suspicion of fraudulent activity.

Our clients are provided with confirmation notices corresponding to each transaction made for their SMA as such transaction is executed. They also may have the option to select quarterly notification of all transactions executed during the period, if so desired. The broker-dealer/custodian and/or program sponsor for the client accounts also provides monthly account statements directly to our clients. We also provide clients with a quarterly written report summarizing account performance which includes a disclosure that the custodial statements received from the broker-deal/custodian are the official records of their account balances.

- B. PRIVATE FUND** - Our CIO and certain members of our staff also conduct periodic reviews of the investment activity of the Private Fund on an ongoing basis. These reviews include, but are not limited to: trade activity, fees, charges, and other account activity to confirm accurate execution of trades as well as monitor for potential suspicious or fraudulent activity. On a monthly basis, our Trading & Operations staff will review the custodial statements issued by the broker-dealer/custodian as well as the month-end financial reports and monthly investor statements issued by the Private Fund's administrator. On a quarterly basis, our Director of Administration & Operations reviews the activity for the Private Fund to confirm that it was billed directly for the management fees and that the management fees were directly remitted to us in compliance with our policies and procedures. Investors in the Private Fund are provided with a monthly statement from the Private Fund's administrator.

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

Except as otherwise described in this Brochure, we do not receive any economic benefit from any person who is not a client for providing investment advice or other services to our clients.

Certain of our Access Persons may receive compensation, in addition to their salary and other compensation, which may be partially or fully based on the asset-based and/or performance-based fees we receive from our SMA clients. Any such compensation is payable by us from the fees we receive and does not result in an additional charge to the client.

If a client is introduced to us by either an unaffiliated or an affiliated solicitor, we may pay that solicitor a referral fee in accordance with the requirements of Rule 206(4)-3 under the Advisers Act and/or any corresponding state securities law(s) as well as any law of any applicable foreign country. Any such referral fee is payable by us from the fees we receive and does not result in an additional charge to the client. If the client is introduced to us by an

unaffiliated solicitor, with whom we have a written solicitation agreement, in accordance with Rule 206(4)-3 under the Advisers Act, the solicitor, at the time of the solicitation, is required to disclose the nature of his/her/its solicitor relationship, and to provide each prospective client with a copy of our Brochure that contains the solicitor's written disclosure statement describing the terms of the solicitation arrangement between us and the solicitor, including the compensation to be received by the solicitor from us.

## **ITEM 15 CUSTODY**

- A. SMAS** - Although we do not have physical custody of our SMA clients' assets, we are deemed to have custody due to our ability to debit client fees directly from their custodial accounts. All of our clients' assets are placed with independent, qualified custodians that send monthly statements directly to the clients. To confirm their accuracy, client should compare reports provided by us to the statements provided by the respective qualified custodian.
- B. PRIVATE FUND** - We are deemed to have custody with respect to the Private Fund's assets due to our serving as its General Partner. The cash and securities held by the Private Fund are held with one or more qualified custodians. In that regard, the Private Fund undergoes an annual financial statement audit by an independent accounting firm which is registered with, and subject to regular inspection by, the PCAOB.

## **ITEM 16 INVESTMENT DISCRETION**

- A. SMAS** - Upon execution of an IMA with a client we accept discretionary authority to manage accounts on behalf of such client. We generally do not accept any restrictions/limitations our client may request to impose on the discretionary authority granted to us. However, under certain circumstances, we may approve investment restrictions and or limitations on a case-by-case basis as set forth in an IMA.
- B. PRIVATE FUND** - Subject to the guidelines and objectives set forth in the Private Fund's offering documents, we have discretionary authority over the types of financial instruments to be bought or sold, as well as the amount to be bought or sold on behalf of the Private Fund. Investors are not permitted to impose restrictions/limitations on the management of the Private Fund. However, we may enter into side letter agreements with one or more investors in the Private Fund that alter, modify, or change the terms of the interests held by those investors.

## **ITEM 17 VOTING CLIENT SECURITIES**

Unless our client directs otherwise in writing, and other than as provided in the following paragraph, we are responsible for voting and granting or withholding proxies with respect to securities held in our SMA client accounts and the Private Fund. We vote on proxy proposals, amendments, consents or resolutions in a manner that we believe will serve the best, long-term economic interests of our clients, as determined in our discretion, and in accordance with our Proxy Voting Policy (copy available upon written request to our CCO).

As a subsidiary of Aimia, we do not provide our discretionary investment advisory services related to Aimia Securities that may be held in our clients' "Retirement Accounts" (accounts for Individual Retirement Accounts, 401(k) Plans, Profit Sharing Plans, Defined Benefit Plans, and Defined Contribution Plans and any other retirement account). In this regard, we do not take or accept any investment discretion or make any investment recommendations related to Aimia Securities held in Retirement Accounts and we do not vote or grant proxies with respect to any Aimia Securities held in Retirement Accounts, although we will provide an administrative method by which our clients with Retirement Accounts can vote or take other actions with regard to their Aimia Securities.

We maintain records pertaining to proxy voting as required under Rule 204-2(c)(2) of the Advisers Act. We utilize the services of a third party vendor for administrative voting services that provides for the receipt of and tracking of ballots, the option to implement specific proxy voting guidelines, acceptance and recording of our voting instructions, recordkeeping, and reporting. Generally, we rely on either the issuer of the securities or our clients' custodians to forward any material concerning shareholder meetings directly to the vendor.

Conflicts of interest may arise related to proxy voting and if we identify any actual or potential conflict of interest between our clients and us, we will disclose that conflict in advance, in an effort to obtain our client's consent to proceed before voting the securities or granting a proxy.

- A. SMAS** – Other than for proxy voting, our SMA clients maintain exclusive responsibility for all legal proceedings or other types of events pertaining to their account assets, including but not limited to, opting in or out of class action lawsuits.
- B. PRIVATE FUND** - We generally have the authority to vote and grant or withhold proxies with respect to securities owned by the Private Fund. Investors in the Private Fund generally may not direct or otherwise influence our vote with respect to any particular proxy solicitation.

Information pertaining to how we voted a client's securities in a particular matter is available to such client upon written request. All requests should be directed to our Director of Administration & Operations who oversees the administration of our proxy voting procedures.

## **ITEM 18 FINANCIAL INFORMATION**

We are unaware of any financial condition that is reasonably likely to impair our ability to meet our contractual commitments relating to our discretionary authority over our clients' accounts.

We have not been the subject of a bankruptcy petition.

## **ADDITIONAL DISCLOSURES**

We have a Business Continuity Plan in place that is included in our Compliance Manual, a copy of which is available upon request. A copy of our Privacy Notice is also available upon request. Please direct such requests to our CCO as indicated on page 2 of this Brochure.