



**WESTCHESTER**  
CAPITAL MANAGEMENT  
A VIRTUS INVESTMENT PARTNER

Form ADV, Part 2A Brochure

**ITEM 1 – COVER PAGE**

## **WESTCHESTER CAPITAL MANAGEMENT, LLC**

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VALHALLA, NY 10595**

**914-741-5600**

**[www.westchestercapitalmanagement.com](http://www.westchestercapitalmanagement.com)**

**OCTOBER 15, 2021**

This brochure provides information about the qualifications and business practices of Westchester Capital Management, LLC (“WCM”). If you have any questions about the contents of this brochure, please contact us at (914) 741-5600 or [compliance@mergerfund.com](mailto:compliance@mergerfund.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.

WCM is a registered investment adviser. Registration of an investment adviser does not imply any level of skill or training. The oral and written communications of an adviser provide you with information with which you determine to hire or retain an adviser.

Additional information about Westchester Capital Management, LLC also is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## ITEM 2 – MATERIAL CHANGES

Pursuant to SEC Rules, you will receive a summary of any material changes to this and subsequent brochures within 120 days of the close of our business' fiscal year, which is December 31<sup>st</sup>. We may further disclose information about material changes as necessary and we will provide you with a new brochure as necessary, based on changes or new information, at any time, without charge.

Our brochure is available free of charge upon request. You can request our brochure by calling our Compliance Department at 914-741-5600, and/or emailing us at [compliance@mergerfund.com](mailto:compliance@mergerfund.com). Additional information about WCM is also available from the SEC's web site at: [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

This brochure contains the following material changes from our last update, dated March 31, 2021:

- Item 4: We updated our assets under management, updated the description of our advisory business to include changes to WCM's ownership and clients, and added additional detail regarding the strategies and types of securities we invest in on behalf of our clients.
- Item 5: We updated the description of our fees and compensation to include new fee arrangements.
- Item 7: We updated the description of our types of clients to include changes to our clients
- Item 10: We updated the description of other financial industry activities and affiliations to include new activities and affiliates.
- Item 11: We updated the description of our Code of Ethics, Code of Conduct, and Participation in Client Transactions to include newly adopted policies and procedures.
- Item 12: We updated the description of our brokerage practices to include information on Cross Transactions and Error Correction, and to describe the specific types of research services obtained with soft dollars.
- Item 13: We updated the description of our review of accounts to include updates to the review process.
- Item 14: We updated the description of client referrals and other compensation to include detail regarding compensation arrangements.

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#### **ITEM 4 - ADVISORY BUSINESS**

On October 1, 2021, Westchester Capital Management, LLC (“WCM”) became a wholly-owned subsidiary of Virtus Partners, Inc. (“VPI”) which is wholly-owned by Virtus Investments Partners, Inc. (“Virtus”). Virtus, a publicly traded firm, is singularly committed to the long-term success of individual and institutional investors, offering asset management through its affiliated managers and select subadvisers (see [www.virtus.com](http://www.virtus.com)). WCM (along with its predecessor firm) has been an established manager in the merger arbitrage space for over 30 years. WCM has been an investment adviser registered with the Securities and Exchange Commission since 2010 and its predecessor firm was registered in 1980.

WCM provides investment management services to the following portfolios, all of which are affiliated with WCM, as subadviser under subadvisory agreements with Virtus Investment Advisers, Inc. (“VIA”), also an affiliate of WCM:

- The Merger Fund (“TMF”)
- The Merger Fund VL (“VL”)
- Virtus Westchester Event-Driven Fund (“EDF”)
- Virtus Westchester Credit Event Fund (“CEF”)

WCM also provides investment management services as a subadviser to the following non-affiliated mutual funds:

- JNL/Westchester Capital Event Driven Fund (“JNL”)
- JNL Multi-Manager Alternative Fund (“JARB”)
- Principal Global Multi-Strategy Fund (“GMS”)

TMF, VL, EDF, CEF, JNL, JARB and GMS are collectively referred to as the “Funds.” Each of the Funds may engage in merger arbitrage, event-driven or credit event strategies. Merger arbitrage is an investment approach designed to profit from the successful completion of proposed mergers, takeovers, tender offers, leveraged buyouts, liquidations and other types of corporate reorganizations. Event-driven is an investment approach designed to capture price movements generated by specific events such as mergers, acquisitions, asset sales, restructurings, refinancings, recapitalizations, reorganizations or other specific special situations. Credit event is an investment approach designed to profit from credit events or similar situations such as capital structure arbitrage, mergers and acquisitions, spin-offs, credit restructurings, IPOs of debt, refinancings, debt maturities, asset monetizations and other restructurings. The Funds may pursue other investment strategies as part of their principal investment strategies. A summary of each Fund’s principal investment strategies is included in its offering documents.

In pursuing these investment strategies, WCM will invest in the following types of securities on behalf of the Funds: equity securities of any kind, debt securities of any kind, warrants, rights, convertible securities, derivatives instruments of any kind such as options, futures, currency

forwards and swaps, special purpose acquisition companies, foreign issues, investment company securities, including closed-end funds and exchange-traded funds, initial public offerings, preferred stock and other preferred securities, American depository receipts (ADRs), real estate investment trusts (REITs) and master limited partnerships (MLPs).

WCM tailors its advisory services to the specific investment objectives, policies and restrictions, if any, of each Fund as set forth in the relevant prospectus, prospectus supplement, statement of additional information, sub-advisory contract and other governing documents pertaining to each Fund (collectively, the “Fund Documents”). Investment advice is provided in respect of each Fund, and not individually to investors in the Funds. Each Fund is subject to the investment restrictions described, if applicable, in its Fund Documents.

In addition, WCM is an affiliate of Westchester Capital Partners, LLC, an investment adviser (“WCP”). WCP serves as the general partner of WCM Hudson Valley Partners, L.P., a Delaware limited partnership (“HVP”), investment adviser to WCM Merger Fund Ltd., a Cayman Islands exempt company (“LTD”), and the manager of WCM Master Trust, a Bermuda trust (the “Master Fund”), a master-feeder structure in which HVP and LTD comprise the feeder funds to the Master Fund.

As of September 30, 2021, WCM managed approximately \$5,427,896,600 in client assets on a discretionary basis and did not manage any assets on a non-discretionary basis.

## **ITEM 5 - FEES AND COMPENSATION**

This section describes our basic fee schedule. WCM reserves the right to negotiate all fees based on individual client considerations, including but not limited to, number and frequency of reports and client meetings, individual security investments versus common or collective funds or mutual funds, investment guidelines and restrictions, and account size. We believe that our fees are competitive with those charged by other investment advisers for comparable services, but other firms may offer similar services for lower fees.

The fees WCM receives for sub-advisory services provided to the Funds are separately negotiated between WCM and the unaffiliated or affiliated investment adviser and/or Fund and fixed at the time each Fund’s sub-advisory agreement is entered into. Fees typically are based on a percentage of assets under management.

With respect to TMF, VL, EDF and CEF, WCM receives 50% of the net advisory fee paid by such funds to the affiliated investment adviser. With respect to JNL and JARB, WCM is paid a sub-advisory fee at an annual rate of 0.85% of the average daily net assets of each of JNL and JARB. The sub-advisory fee accrues daily and is paid monthly. With respect to GMS, WCM is paid a sub-advisory fee at an annual rate of 0.90% of the average daily net assets of GMS. The sub-advisory fee accrues daily and is paid monthly. Shareholders invested in a Fund subadvised by WCM should refer to the Fund’s Prospectus for more detail regarding the Fund’s applicable fees.

Our fees are exclusive of brokerage commissions, transaction fees, and other related costs and expenses which will be incurred by the client. Please refer to *Item 12 – Brokerage Practices* for more information on our brokerage practices. Our clients may also incur certain charges imposed by custodians, brokers, third-party investment and other third parties such as but not limited to fees

charged by managers, custodial fees, deferred sales charges, transfer taxes, wire transfer and electronic fund fees, and other fees and taxes on brokerage accounts and securities transactions. Mutual funds bear their own operating expenses, including compensation paid to their advisers and other service providers as well as other expenses and fees. This information is disclosed in the specific fund's prospectus or offering documents.

Subject to client imposed restrictions if any, WCM may invest or recommend investment in open-end and closed-end registered investment companies, exchange traded funds ("ETFs") and other pooled investment vehicles. When WCM invests client assets in these investment vehicles, unless otherwise agreed and where permitted by applicable law, a Fund may bear its proportionate share of fees and expenses as an investor in the investment vehicle in addition to WCM's subadvisory fees. The investment vehicle's prospectus, offering documents or other disclosure documents contain a description of its fees and expenses.

Our sub-advisory contracts provide for termination without penalty (generally with a sixty-day notice) by the client, adviser or subadviser and termination in the event of an assignment (as such term is defined in the Investment Company Act).

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

WCM is an affiliate of WCP, an investment adviser since 1996, which provides investment advice as (i) the general partner of HVP, (ii) investment adviser to LTD, and (iii) the manager of the Master Fund, a master-feeder structure in which HVP and LTD comprise the feeder funds to the Master Fund. The Master Fund engages in merger arbitrage. WCP does not charge any fee to the Master Fund for its services. Instead fees are paid at the feeder fund level as described below.

WCP charges HVP a 1.0% management fee which is accrued and calculated monthly and payable in arrears as of the last day of each calendar quarter. In addition, WCP is entitled to an incentive allocation, which is an amount, paid annually, equal to 20% of the net profits of HVP, if any, during each fiscal year (subject to recoupment of each applicable limited partner's prior cumulative net loss).

WCP charges LTD a management fee, which is payable quarterly in arrears and is accrued and calculated monthly (as of the last business day of each month) at an annual rate of 1.0% of the net asset value of LTD calculated as set forth in its Fund Documents. In addition, WCP is entitled to an incentive fee, which is an amount, accrued monthly and paid annually, equal to 20% of the net profits of LTD, if any, during each fiscal year (subject to recoupment of each applicable shareholder's prior cumulative net loss).

Roy Behren and Michael T. Shannon are Co-Presidents and Co-Chief Investment Officers of WCM and WCP. The fact that WCM's and WCP's portfolio managers manage accounts that are charged a performance-based fee and accounts that are charged an asset-based fee (and accounts that are charged fees at different rates) creates the potential for a conflict of interest, since receipt of a portion of any profits with respect to WCM-advised and WCP-advised accounts that are charged a performance-based fee (or a fee at a higher rate) could, in theory, create an incentive to favor such accounts (*e.g.*, by allocating to them the most favorable investment opportunities or by allocating more resources and time to managing those accounts). However, WCM believes that

any conflicts of interest are mitigated, at least in part, for the following reasons: (i) the Funds and the Master Fund all may engage in merger arbitrage and other event-driven strategies and, in many respects, are managed in a similar fashion; (ii) WCM and WCP follow written trade allocation procedures designed to allocate securities purchases and sales among the Funds and the Master Fund in a fair and equitable manner over time; and (iii) all allocations are subject to review by WCM's and WCP's Chief Compliance Officer.

## **ITEM 7 - TYPES OF CLIENTS**

WCM serves as subadviser to certain investment portfolios of registered investment companies, including a family of Mutual Funds known as the Virtus Funds pursuant to a written subadvisory agreement with Virtus Investment Advisers, Inc. WCM also serves as subadviser to unaffiliated funds including JNL, JARB and GMS.

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

The Funds may invest a substantial portion of their total assets in companies which are involved in publicly announced mergers, takeovers, tender offers, leveraged buyouts, spin-offs, liquidations and other corporate reorganizations. Merger arbitrage is a highly specialized investment approach generally designed to profit from the successful completion of such transactions. Although a variety of strategies may be employed depending upon the nature of the reorganizations selected for investment, the simplest form of merger-arbitrage activity involves purchasing the shares of an announced acquisition target at a discount to their expected value upon completion of the acquisition. The size of this discount, known as the arbitrage "spread," may represent a Fund's potential profit on such an investment.

The Funds may employ a variety of hedging strategies to protect against issuer-related risk or other risks, including selling short the securities of the company that proposes to acquire the acquisition target and/or the purchase and sale of put and call options. The Funds may enter into derivative transactions and purchase or sell other instruments of any kind for hedging purposes, duration or volatility management purposes, or otherwise to gain, or reduce, long or short exposure to one or more asset classes or issuers. For example, WCM may seek to hedge a Fund's portfolio against a decline in the value of its portfolio securities or a decline in the market generally by purchasing put options.

A Fund may invest in other investment companies, including closed-end funds and ETFs. To the extent that a Fund invests in shares of another investment company or ETF, it bears its proportionate share of the expenses of the underlying investment company or ETF and is subject to the risks of the underlying investment company's or ETF's investments.

The Funds may engage in active trading and may invest a portion of their assets to seek short-term capital appreciation.

Some of the Funds invest in fixed and floating rate income investments of any credit quality or maturity, including below investment grade bonds (commonly known as "junk bonds"), bank debt and preferred stock and option writing strategies, including, for example, where that Fund writes

call options on its portfolio securities or a market index that is representative of its portfolio with the expectation of generating additional income.

On behalf of EDF, CEF, JNL, JARB and GMS, WCM may also, among other things, use the following “event-driven” strategies: (i) special situations strategy, including capital structure arbitrage and convertible arbitrage, (ii) distressed/restructuring strategies, and (iii) option income strategies. In addition to these strategies, WCM may invest in other investments or utilize other strategies. For example, EDF, CEF, JNL, and JARB may pursue other event-driven strategies, including investing in companies that may be subject to significant regulatory issues or changes or that may be exploring strategic alternatives. The success of those strategies will depend upon, among other things, WCM’s skill in evaluating the likelihood of the various potential outcomes and the market’s reaction to those outcomes.

Each Fund’s Fund Documents include a summary of the Fund’s principal investment strategies.

Investing in securities involves risk of loss that clients should be prepared to bear. The investment performance and the success of any investment strategy or particular investment can never be predicted or guaranteed, and the value of a client’s investment will fluctuate due to market conditions and other factors. Many factors may affect the Funds’ net asset values and/or performance, including the following:

*Convertible Security Risk* – Convertible securities generally offer lower interest or dividend yields than non-convertible securities of similar quality. Because convertible securities are higher in the firm’s capital structure than equity, convertible securities are generally not as risky as the equity securities of the same issuer. However, convertible securities may gain or lose value due to changes in the interest rates and other general economic conditions, industry fundamentals, market sentiment and changes in the issuer’s operating results and credit ratings.

*Counterparty Risk* – To the extent the Fund enters into contracts with counterparties, such as OTC derivatives contracts, the Fund runs the risk that the counterparty will be unable or unwilling to make timely settlement payments or otherwise honor its obligations. If a counterparty fails to meet its contractual obligations, goes bankrupt, or otherwise experiences a business interruption, the Fund could miss investment opportunities or otherwise hold investments it would prefer to sell, resulting in losses for the Fund. Counterparty risk is greater for derivatives with longer maturities where events may intervene to prevent settlement. Counterparty risk is also greater when the Fund has concentrated its derivatives with a single or small group of counterparties as it sometimes does as a result of its use of swaps and other OTC derivatives. There is neither an explicit limit on the amount of exposure that the Fund may have with any one counterparty nor a requirement that counterparties maintain a specific rating by a nationally recognized rating organization in order to be considered for potential transactions. To the extent that WCM’s view with respect to a particular counterparty changes (whether due to external events or otherwise), existing transactions are not required to be terminated or modified. Counterparty risk is pronounced during unusually adverse market conditions and is particularly acute in environments (like those of 2008) in which financial services firms are exposed to systemic risks of the type evidenced by the insolvency of Lehman Brothers in 2008 and subsequent market disruptions.



Participants in OTC derivatives markets typically are not subject to the same level of credit evaluation and regulatory oversight as are members of exchange-based markets, and, therefore, OTC derivatives generally expose the Fund to greater counterparty risk than exchange-traded derivatives. The Fund is subject to the risk that a counterparty will not settle a derivative in accordance with its terms because of a dispute over the terms of the contract (whether or not bona fide) or because of a credit or liquidity problem. If a counterparty's obligation to the Fund is not collateralized, then the Fund is essentially an unsecured creditor of the counterparty. If the counterparty defaults, the Fund will have contractual remedies, but the Fund may be unable to enforce them, thus causing the Fund to suffer a loss. Significant exposure to a single counterparty increases the Fund's counterparty risk. To the extent the Fund uses swap contract, it may be subject, in particular, to the creditworthiness of the counterparties because some types of swap contracts have durations longer than six months (and, in some cases, decades). The creditworthiness of a counterparty may be adversely affected by greater than average volatility in the markets, even if the counterparty's net market exposure is small relative to its capital. Counterparty risk still exists even if a counterparty's obligations are secured by collateral because the Fund's interest in the collateral may not be perfected or additional collateral may not be promptly posted as required.

Counterparty risk with respect to derivatives will be affected by new rules and regulations affecting the derivatives market. New regulations may cause certain bank and dealer counterparties to enter into derivatives transactions through affiliated entities, which affiliates may be less creditworthy than the bank or dealer itself. Credit risk of market participants with respect to derivatives that are centrally cleared is concentrated in a few clearing houses, and it is not clear how an insolvency proceeding of a clearing house would be conducted and what impact an insolvency of a clearing house would have on the financial system. A clearing member is obligated by contract and by applicable regulation to segregate all funds received from customers with respect to cleared derivatives transactions from the clearing member's proprietary assets. However, all funds and other property received by a clearing member from its customers with respect to cleared derivatives are generally held by the clearing member on a commingled basis in an omnibus account and the clearing member may invest those funds in certain instruments permitted under the applicable regulations. Therefore, the Fund might not be fully protected in the event of the bankruptcy of a clearing member, as the Fund would be limited to recovering only a pro rata share of all available funds segregated on behalf of the clearing member's customers for a relevant account class. Also, the clearing member is required to transfer to the clearing house the amount of margin required by the clearing house for cleared derivatives, which amounts are generally held in an omnibus account at the clearing house for all customers of the clearing member. Regulations promulgated by the CFTC require that the clearing member notify the clearing house of the initial margin provided by the clearing member to the clearing house that is attributable to each customer. However, if the clearing member does not accurately report the Fund's initial margin, the Fund is subject to the risk that a clearing house will use the Fund's assets held in an omnibus account at the clearing house to satisfy payment obligations of a defaulting customer of the clearing member to the clearing house. In addition, clearing members generally provide to the clearing house the net amount of variation margin required for cleared swaps for all of its customers in the aggregate, rather than individually for each customer. The Fund is therefore subject to the risk that a clearing house will not make variation margin payments owed to the Fund if another customer of the clearing member has suffered a loss and is in default, and the risk that the Fund will be required to provide additional variation margin to the clearing house before the clearing house will move the

Fund's cleared derivatives transactions to another clearing member. In addition, if a clearing member does not comply with the applicable regulations or its agreement with the Fund, or in the event of fraud or misappropriation of customer assets by a clearing member, the Fund could have only an unsecured creditor claim in an insolvency of the clearing member with respect to the margin held by the clearing member.

Also, in the event of a counterparty's (or its affiliate's) insolvency, the Fund's ability to exercise remedies, such as the termination of transactions, netting of obligations and realization on collateral, could be stayed or eliminated under new special resolution regimes adopted in the United States, the European Union and various other jurisdictions. Such regimes provide government authorities with broad authority to intervene when a financial institution is experiencing financial difficulty. In particular, with respect to counterparties who are subject to such proceedings in the European Union, the liabilities of such counterparties to the Fund could be reduced, eliminated, or converted to equity in such counterparties (sometimes referred to as a "bail in").

*Debt Securities Risk* – Debt securities may fluctuate in value and experience periods of reduced liquidity due to, among other things, changes in interest rates, governmental intervention, general economic conditions, industry fundamentals, market sentiment and the financial condition of the issuer, including the issuer's credit rating or financial performance. During those periods, a Fund may experience high levels of shareholder redemptions, and may have to sell securities at times when it would otherwise not do so, and at unfavorable prices. Debt securities may be difficult to value during such periods. Debt securities are subject to interest rate risk, which is the risk that when interest rates rise, the values of fixed income debt securities tend to decline. Debt securities have varying levels of sensitivity to changes in interest rates, and the values of securities with longer durations tend to be more sensitive to changes in interest rates. Debt securities are subject to the risk that if interest rates decline, issuers of debt securities may exercise redemption or call provisions. This may force a Fund to reinvest redemption or call proceeds in securities with lower yields, which may reduce Fund performance. Debt securities are also subject to credit risk, which is the risk that the issuer of an instrument may default on interest and/or principal payments due to a Fund. An increase in credit risk or a default will cause the value of a Fund's fixed and floating rate income securities to decline. Securities rated below-investment-grade (and unrated securities of comparable credit quality), commonly referred to as "high-yield" or "junk" bonds, have speculative characteristics and generally have more credit risk than higher-rated securities. Lower rated issuers are more likely to default and their securities could become worthless. Below-investment-grade securities are also subject to greater price volatility than investment grade securities. In addition, investments in defaulted securities and obligations of distressed issuers, such as issuers undergoing or expected to undergo bankruptcy, may be illiquid and are considered highly speculative.

The market value of convertible debt securities will also be affected by changes in the price of the underlying equity securities. The market values of debt securities issued by companies involved in pending corporate mergers, takeovers or other corporate events, or debt securities that will be repaid in connection with a merger, takeover or other corporate event, may be determined in large part by the status of the transaction and its eventual outcome, especially if the debt securities are subject to change of control provisions that entitle the holder to be paid par value or some other specified dollar amount upon completion of a transaction or other event.

*Derivatives Risk* – Derivatives, such as options, swaps, futures and forward contracts, may not produce the desired investment results because, for example, they are not perfect substitutes for the underlying securities, indices or currencies from which they are derived. Derivatives also may create leverage which will amplify the effect of their performance on a Fund and may produce significant losses.

Derivatives involve special risks, including: (1) the risk that interest rates, securities prices and currency markets will not move in the direction that a portfolio manager anticipates; (2) imperfect correlation between the price of derivative instruments and movements in the prices of the securities, interest rates or currencies being hedged; (3) the fact that skills needed to use these strategies are different than those needed to select portfolio securities; (4) the possible absence of a liquid secondary market for any particular instrument and possible exchange imposed price fluctuation limits, either of which may make it difficult or impossible to close out a position when desired; (5) the risk that adverse price movements in an instrument can result in a loss substantially greater than a Fund's initial investment in that instrument (in some cases, the potential loss is unlimited); (6) particularly in the case of privately-negotiated instruments, the risk that the counterparty will not perform its obligations, or that penalties could be incurred for positions held less than the required minimum holding period; and (7) the inability to close out certain positions to avoid losses, exposing a Fund to greater potential risk of loss. In addition, the use of derivatives for non-hedging purposes is considered a speculative practice and may present an even greater risk of loss than when used for hedging purposes. There is the possibility that derivative strategies will not be used or that ineffective implementation of derivative strategies or unusual market conditions could result in significant losses to a Fund.

*Distressed Securities Risk* – Distressed securities risk refers to the uncertainty of repayment of defaulted securities and obligations of distressed issuers. Because the issuer of such securities is likely to be in a distressed financial condition, repayment of distressed or defaulted securities (including insolvent issuers or issuers in payment or covenant default, in workout or restructuring or in bankruptcy or insolvency proceedings) is subject to significant uncertainties. Insolvency laws and practices in foreign jurisdictions are different than those in the U.S. and the effect of these laws and practices may be less favorable and predictable than in the U.S. Investments in defaulted securities and obligations of distressed issuers are considered highly speculative.

*Foreign Investing Risk* – Investing in foreign companies or ETFs which invest in foreign companies, may involve more risks than investing in U.S. companies and such investments may entail political, cultural, regulatory, legal and tax risks different from those associated with comparable transactions in the United States. These risks can increase the potential for losses in a Fund and may include, among others, currency devaluations, currency risks (fluctuations in currency exchange rates), country risks (political, diplomatic, regional conflicts, terrorism, war, social and economic instability and policies that have the effect of limiting or restricting foreign investment or the movement of assets) as well as different trading and settlement practices, less government supervision, less publicly available information, limited trading markets and greater volatility than comparable investments in U.S. companies.

Additionally, investments in securities denominated in foreign currencies are subject to the risk that those currencies will decline in value relative to the U.S. dollar. A decline in the values of foreign currencies relative to the U.S. dollar will reduce the values of securities held by a Fund and denominated in those currencies.

*Hedging Transactions Risk* – The success of a Fund’s hedging strategy, if used, will be subject to WCM’s ability to correctly assess the degree of correlation between the performance of the instruments used in the hedging strategy and the performance of the investments in the portfolio being hedged. Hedging transactions involve the risk of imperfect correlation. Imperfect correlation may prevent a Fund from achieving the intended hedge or expose the Fund to risk of loss. Hedging transactions also limit the opportunity for gain if the value of a hedged portfolio position should increase.

*Interest Rate Risk* – Prices of debt securities and preferred stocks tend to move inversely with changes in interest rates. When interest rates fall, the market value of the respective debt securities and preferred securities usually increase. Conversely, when interest rates rise, the market value of the respective debt securities and preferred securities usually declines. As such, a change in interest rates may affect prices of the Fund’s debt securities and preferred securities and, accordingly, the Fund’s share price.

*Large Shareholder Risk* – Certain account holders may from time to time own or control a significant percentage of the Fund’s shares. The Funds are subject to the risk that a redemption by large shareholders of all or a portion of their Fund shares or a purchase of Fund shares in large amounts and/or on a frequent basis, including as a result of asset allocation decisions made by WCM, will adversely affect the Fund’s performance if it is forced to sell portfolio securities or invest cash when WCM would not otherwise choose to do so. This risk will be particularly pronounced if one shareholder owns a substantial portion of the Fund. Redemptions of a large number of shares may affect the liquidity of a Fund’s portfolio, increase the Fund’s transaction costs and/or lead to the liquidation of the Fund. Such transactions also potentially limit the use of any capital loss carryforwards and certain other losses to offset future realized capital gains (if any).

*Legal and Regulatory Risk* – Legal, tax and regulatory changes could occur and may adversely affect a Fund, its investments and its ability to pursue its investment strategies and/or increase the costs of implementing such strategies. New (or revised) laws or regulations may be imposed by the U.S. Commodity Futures Trading Commission (“CFTC”), the Securities and Exchange Commission (“SEC”), the Internal Revenue Service (“IRS”), the U.S. Federal Reserve or other governmental regulatory authorities or self-regulatory organizations that could adversely affect a Fund. A Fund also may be adversely affected by changes in the enforcement or interpretation of existing statutes and rules by governmental regulatory authorities or self-regulatory organizations. Regulators around the globe have increasingly taken measures to seek to increase the stability of the financial markets, including by proposing rules that may curtail a Fund’s ability to use derivative and other instruments and that may require a Fund to change how it has been managed historically. WCM continues to evaluate these measures, and there can be no assurance that they will not adversely affect the Funds and their performance.

*Leveraging Risk* – If a Fund employs leverage, such as borrowing money to purchase securities, engaging in reverse repurchase agreements, lending portfolio securities and investing in derivative instruments, the value of a Fund’s shares could be expected to be more volatile. Unless profits and income on securities acquired with leverage exceed the costs of the leverage, the use of leverage will diminish the investment performance of a Fund compared with what it would have been without leverage, and the use of leverage will cause any losses the Fund incurs to be greater than they otherwise would have been had the Fund not employed leverage.

*Limited Operating History Risk* – Some of the Funds, such as CEF, are recently formed and have limited operating history for investors to evaluate. These Funds may not attract sufficient assets to achieve or maximize investment and operational efficiencies and remain viable. If such Funds fail to achieve sufficient scale, they may be liquidated.

*Liquidity Risk* – Some securities may have few market-makers and low trading volume, which tend to increase transaction costs and may make it impossible for a Fund to dispose of a security position at all or at a price which WCM believes represents current or fair market value.

*Lower-Rated Securities Risk* – Securities rated below investment-grade (and unrated securities of comparable credit quality), commonly referred to as “high-yield” or “junk” bonds, have speculative characteristics and generally have more credit risk than higher-rated securities. Companies issuing high-yield fixed-income securities are not as strong financially as those issuing securities with higher credit ratings and are more likely to encounter financial difficulties. Lower rated issuers are more likely to default and their securities could become worthless.

*Management Risk* – The Funds are subject to management risk because they are actively managed investment portfolios. WCM will apply its investment techniques and risk analyses in making investment decisions for the Funds, but there is no guarantee that its decisions will produce the intended result or that its evaluation of the likelihood that a specific merger or reorganization will be completed as expected will prove correct.

With respect to the Funds, WCM has a conflict of interest in respect of the valuation of the Fund’s investments because WCM’s track record is calculated, in part, based on these valuations.

*Market Risk* – Investment markets can be volatile. Various market risks can affect the price or liquidity of an issuer’s securities in which a Fund may invest. The prices of investments can fall rapidly in response to developments affecting a specific company or industry, or to changing economic, political or market conditions. No hedging or other instrument exists that would allow a Fund to eliminate all of such Fund’s exposure to market volatility. During periods of significant market stress or volatility, the performance of a Fund may correlate to a greater extent with the overall equity markets than it has during periods of less stress and volatility. Unstable market conditions in the past have caused certain transactions to be canceled or deferred, resulting in significant losses to participants in merger arbitrage. Further, in recent years, U.S. and global financial markets and the broader current financial environment have been, and continue to be, characterized by uncertainty, volatility and instability. There can be no assurance that conditions in the financial markets will not worsen or materially and adversely affect transactions currently

pending or announced in the future. A Fund's investments may decline in value if markets perform poorly.

The global outbreak of the 2019 novel coronavirus ("COVID-19"), 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. COVID-19 has and may continue to have ongoing material adverse effects across many, if not all, aspects of the regional, national and global economy. In particular, the COVID-19 outbreak has already, and may continue to, adversely affect the value of investments across all asset classes and industries. Furthermore, WCM's ability to operate effectively, including the ability of its personnel or its service providers and other contractors to function, communicate and travel to the extent necessary to carry out WCM's business and to satisfy its obligations to its clients and pursuant to applicable law could be impaired. The spread of COVID-19 among WCM's personnel and its service providers may also significantly affect WCM's ability to properly oversee the affairs of its clients' accounts (particularly to the extent such impacted personnel include key investment professionals or other members of senior management). The full effects, duration and costs of the COVID-19 pandemic are impossible to predict, and the circumstances surrounding the COVID-19 pandemic will continue to evolve.

*Merger-Arbitrage and Event-Driven Risk* – Merger-arbitrage and event-driven investing involves the risk that WCM's evaluation of the outcome of a proposed event, whether it be a merger, reorganization, regulatory issue or other event, will prove incorrect and that a Fund's return on the investment will be negative. Even if WCM's judgment regarding the likelihood of a specific outcome proves correct, the expected event may be delayed or completed on terms other than those originally proposed, which may cause a Fund to lose money or fail to achieve a desired rate of return. The Funds expect to employ strategies that are not designed to benefit from general market appreciation or improved economic conditions in the global economy. Accordingly, the Funds have historically underperformed the broad equity markets under certain market conditions, such as some periods when there has been rapid appreciation in the equity markets, and may continue to do so in the future.

*Operational Risk* – In addition to the risks associated with WCM's implementation of the Fund's investment program, the Fund also is subject to operational risk associated with the provision of investment management and other services to the Fund by WCM and the Fund's other service providers. Operational risk is the risk that deficiencies in WCM's internal systems (including communications and information systems) or controls, or in those of a service provider to whom WCM has contractually delegated certain of its responsibilities, may cause losses for the Fund or hinder Fund operations. Operational risk results from inadequate procedures and controls, employee fraud, recordkeeping error, human error, and system failures by WCM or a service provider. For example, trading delays or errors caused by WCM prevent the Fund from purchasing a security that WCM expects will appreciate in value, thus reducing the Fund's opportunity to benefit from the security's appreciation. WCM is generally not contractually liable to the Fund for operational losses associated with operational risk.

*Options Risk* – A Fund may engage in a variety of options transactions. When a Fund purchases options, it risks the loss of the cash paid for the options if the options expire unexercised. When a Fund sells (writes) covered call options, it forgoes the opportunity to benefit from an increase in the value of the underlying stock above the exercise price, but it continues to bear the risk of a decline in the value of the underlying stock. In addition, a Fund may earn premiums from writing call options. For shareholders who hold Fund shares in a taxable account, profits from writing call options are generally treated as short-term capital gains for federal and state income tax purposes, taxable to shareholders as ordinary income when distributed to them.

*Portfolio Turnover Risk* – The frequency of a Fund’s transactions will vary from year to year, though merger-arbitrage portfolios typically have higher turnover rates than portfolios of typical long-only funds. Increased portfolio turnover will result in higher brokerage commissions, dealer mark-ups and other transaction costs and may result in increased distributions of taxable capital gains to Fund shareholders, including short-term capital gains taxable to shareholders at ordinary income rates, when Fund shares are held in a taxable account. Higher costs associated with increased portfolio turnover reduce a Fund’s performance. The Funds normally expect to engage in active and frequent trading and expects to have a high rate of portfolio turnover.

*Short Selling Risk* – Generally, to the extent the price of a security sold short increases between the time of the short sale and the time a Fund covers its short position, the Fund will incur a loss. The amount of a potential loss on an uncovered short sale transaction is theoretically unlimited. Also, a Fund is required to deposit collateral in connection with such short sales and has to pay a fee to borrow particular securities and will often be obligated to pay to the lender of the security amounts equal to any dividends and accrued interest on the borrowed securities during the period of the short sale.

*Small and Medium Capitalization Risk* – A Fund’s investments in smaller and medium-sized companies carry more risks than investments in larger companies. Companies with small and medium size market capitalization often have narrower markets, fewer products or services to offer and more limited managerial and financial resources than do larger, more established companies.

*Special Purpose Acquisition Companies Risk* - A Fund may invest significantly in the common stock of and other interests (e.g., warrants) in special purpose acquisition companies or similar special purpose entities that pool funds to seek potential acquisition opportunities (collectively, “SPACs”). A SPAC investment typically represents an investment in a special purpose vehicle that seeks to identify and effect an acquisition of, or merger with, an operating company in a particular industry or sector. During the period when management of the SPAC seeks to identify a potential acquisition or merger target, typically most of the capital raised for that purpose (less a portion retained to cover expenses) is invested in income-producing investments. A Fund may invest in SPACs for a variety of investment purposes, including to achieve income. Some SPACs provide the opportunity for common shareholders to have some or all of their shares redeemed by the SPAC at or around the time a proposed merger or acquisition is expected to occur. A Fund may sell its investments in SPACs at any time, including before, at or after the time of a merger or acquisition.

*Other Risks* – Certain portfolio management techniques may be considered senior securities unless steps are taken to segregate a Fund’s assets or otherwise cover its obligations. To avoid having these instruments considered senior securities, each Fund intends to segregate liquid assets with a value equal (on a daily mark-to-market basis) to its obligations under these types of transactions, enter into offsetting transactions or otherwise cover such transactions. To the extent a Fund’s assets are segregated or committed as cover, it could limit the Fund’s investment flexibility. Segregating assets and covering positions will not limit or offset losses.

*Cyber Security Risk* – With the increased use of technologies, such as the Internet, and the dependence on computer systems to perform necessary business functions, the Funds and their service providers are susceptible to operational and information security risks. In general, cyber incidents can result from deliberate attacks or unintentional events. Cyber attacks include, but are not limited to, gaining unauthorized access to digital systems for purposes of misappropriating assets or sensitive information, corrupting data, or causing operational disruption. Cyber attacks may also be carried out in a manner that does not require gaining unauthorized access, such as causing denial-of-service attacks on websites. Cyber security failures or breaches of a Fund’s third party service provider (including, but not limited to, the administrator) or the issuers of securities in which such Fund invests, have the ability to cause disruptions and impact business operations, potentially resulting in financial losses, the inability of investors to transact business, violations of applicable privacy and other laws, regulatory fines, penalties, reputational damage, reimbursement or other compensation costs, and/or additional compliance costs. In addition, substantial costs may be incurred in attempting to prevent any cyber incidents in the future. The Funds and the investors could be negatively impacted as a result. The Funds’ service providers may have adopted business continuity plans and systems designed to prevent such cyber attacks. However, there are inherent limitations in such plans and systems, including the possibility that certain risks have not been identified. Furthermore, the Funds cannot control the cyber security plans and systems put in place by issuers in which the Funds invest.

*LIBOR Risk* - The London Interbank Offered Rate, or “LIBOR,” is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. LIBOR may be available for different durations (e.g., 1 month or 3 months) and for different currencies. The terms of many investments, financings or other transactions to which a Fund may have exposure have been historically tied to LIBOR. LIBOR may be a significant factor in determining a Fund’s payment obligations under a derivative investment, the cost of financing to the Fund or an investment’s value or return to the Fund, and may be used in other ways that affect the Fund’s investment performance. The regulatory authority that oversees financial services firms and financial markets in the U.K. has announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions for purposes of determining the LIBOR rate. On November 30, 2020, the administrator of LIBOR announced a delay in the phase out of a majority of the U.S. dollar LIBOR publications until June 30, 2023, with the remainder of LIBOR publications to still end at the end of 2021. As a result, it is possible that commencing in 2022, LIBOR may no longer be available or no longer deemed an appropriate reference rate upon which to determine the interest rate on or impacting certain investments of the Fund’s portfolio.



In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of LIBOR. However, there are obstacles to converting certain securities and transactions to a new reference rate. Transition planning is at an early stage, and neither the effect of the transition process nor its ultimate success can yet be known. The transition process might lead to increased volatility and illiquidity in markets for instruments whose terms currently include LIBOR. It could also lead to a reduction in the value of some LIBOR-based investments and reduce the effectiveness of new hedges placed against existing LIBOR-based investments. There is no assurance that the composition or characteristics of any such alternative reference rate will be similar to or produce the same value or economic equivalence as LIBOR or that it will have the same volume or liquidity as did LIBOR prior to its discontinuance or unavailability, which may affect the value or liquidity or return on certain investments of the Funds and result in costs incurred in connection with closing out positions and entering into new trades. These risks may also apply with respect to changes in connection with other interbank offering rates (e.g., Euribor) and a wide range of other index levels, rates and values that are treated as “benchmarks” and are the subject of recent regulatory reform. All of the aforementioned may adversely affect the Funds’ performance or NAV.

*Possibility of Fraud and Other Misconduct of Employees and Service Providers* - Misconduct by employees of WCM, service providers to WCM or the Funds and/or their respective affiliates could cause significant losses to such Funds. Misconduct may include entering into transactions without authorization, the failure to comply with operational and risk procedures, including due diligence procedures, misrepresentations as to investments being considered by such Funds, the improper use or disclosure of confidential or material non-public information, which could result in litigation, regulatory enforcement or serious financial harm, including limiting the business prospects or future marketing activities of such Funds and noncompliance with applicable laws or regulations and the concealing of any of the foregoing. Such activities may result in reputational damage, litigation, business disruption and/or financial losses to such Funds. WCM has controls and procedures through which they seek to minimize the risk of such misconduct occurring. However, no assurances can be given that WCM will be able to identify or prevent such misconduct.

The above does not represent a complete discussion of all of the risks of investing in the Funds. Each Fund’s Fund Documents include a discussion of the Fund’s principal risks.

## **ITEM 9 - DISCIPLINARY INFORMATION**

We are required to disclose all material facts regarding legal or disciplinary events that would be material to your evaluation of WCM’s advisory business or the integrity of WCM’s management. WCM does not have any such legal or disciplinary events to report.

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

WCM has material relationships with its affiliates, as described below.

WCM is a wholly-owned subsidiary of Virtus Partners, Inc. (“VPI”), which is a wholly-owned subsidiary of Virtus Investment Partners, Inc. (“Virtus”). Virtus is a publicly traded company operating a multi-manager asset management business (NASDAQ: VRTS).

The following advisers are all subsidiaries of VPI and are affiliates of WCM:

- Ceredex Value Advisors LLC
- Duff & Phelps Investment Management Co.
- Kayne Anderson Rudnick Investment Management, LLC,
- Newfleet Asset Management, LLC
- NFJ INVESTMENT GROUP, LLC
- Seix CLO Management LLC
- Seix Investment Advisors LLC
- Silvant Capital Management, LLC
- Sustainable Growth Advisers, LP
- Virtus Alternative Investment Advisers, Inc.
- Virtus ETF Advisers LLC
- Virtus Fund Advisers, LLC
- Virtus Investment Advisers, Inc.
- Westchester Capital Partners, LLC

WCM has been engaged by VIA to provide subadvisory services with respect to certain open-end funds managed by VIA (such funds, “Virtus Funds”), and additional relationships of that nature may be entered into by WCM in the future. WCM’s compensation for such arrangements is typically structured as a percentage of the overall management fee paid by the fund to the affiliated investment adviser.

In providing services to its clients, WCM utilizes the personnel and/or services of one or more of its affiliates in the performance of its business, including, without limitation, back office operations, legal and compliance, finance and accounting, marketing, sales, information technology and human resources. These services may be provided through arrangements that take a variety of forms, including dual employee or delegation arrangements, formal sub-advisory or servicing agreements, or other formal and informal arrangements among WCM and its affiliates. When WCM uses the personnel or services of an affiliate to provide services to WCM’s clients, WCM remains responsible for the account from a legal and contractual perspective. No additional fees are charged to the client for such services except as set forth in the client’s applicable investment management or other agreement.

WCM is not registered, and does not have an application pending to register, as a broker-dealer. However, an affiliate of WCM, VP Distributors, LLC (“VPD”) is a registered broker-dealer. VPD is a limited purpose broker-dealer that serves as principal underwriter and distributor of certain open-end mutual funds and ETFs managed by VIA and/or its affiliated investment advisers. Certain WCM personnel are registered representatives of VPD and promote the products managed by WCM.

WCM is not registered, and does not have an application pending to register, as a futures commission merchant, a commodity pool operator, or a commodity trading advisor. Certain of WCM’s affiliated investment advisers are registered as commodity pool operators or commodity trading advisors in connection with their management activities.

Virtus and its affiliates, including WCM, are subject to information barriers that restrict prohibited communications and other information sharing between affiliates. WCM is aware of, and has procedures to manage its fiduciary duties and any potential conflicts that may arise related to providing services through affiliates.

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

### Code of Ethics

We endeavor to ensure that the investment management and overall business of the firm complies with both our firm and Virtus (parent) policies and applicable U.S. federal and state securities laws and regulations. We have adopted the Virtus Code of Conduct and Code of Ethics (the “Codes”) in accordance with Rule 204A-1 of the Investment Advisers Act of 1940, as amended, and Rule 17j-1 of the Investment Company Act of 1940, as amended. The Codes have been reasonably designed to prevent and detect possible conflicts of interest with client trades. Compliance with the Codes is a condition of employment. All of our supervised persons must acknowledge terms of the Codes, annually, or as amended. Any employee found to have engaged in improper or unlawful activity faces appropriate disciplinary action. Each employee is responsible for ensuring that they and those they manage, conduct business professionally and comply with our firm’s policies and procedures. Employees must immediately report (to their supervisor, a compliance officer or corporate legal counsel) their knowledge of any wrongdoing or improper conduct. Failure to do so may result in disciplinary action being taken against that individual. Our reporting procedures are supported by a telephone number and similar on-line reporting technology available 24-hours/day to any employee to confidentially report, or request assistance concerning possible violations of the Codes and other firm policies. This technology and reporting platform is administered by an independent, third-party.

Our officers and employees are encouraged to invest in shares of investment products that we and/or our affiliates advise. Subject to limitations described herein and set forth by our Codes, our officers and/or associated personnel may buy, hold, or sell the same investments for their own accounts as are held or to be held or sold for a client account and they may engage in the following:

- Recommend that clients buy or sell securities or investment products in which we or a related person have some financial interest; and/or
- Buy or sell securities or investment products that our firm and/or our officers and associated personnel or a related person recommends to our clients.

Our Codes are designed to prevent and detect conflicts of interest in regard to the above.

None of our officers and Access or Advisory persons may buy or sell any security or any option to buy or sell such security, such that they hold or acquire any direct or indirect beneficial ownership as a result of the transaction, if they know at the time of such transaction that such a security or option is being bought, sold, or considered for purchase or sale for a client account, unless one or more of the following conditions exist:

- They have no influence or control over the transaction from which they will acquire a beneficial interest;
- The transaction is non-volitional on their part or the client's;
- The transaction is a purchase under an automatic dividend reinvestment plan or pursuant to the exercise of rights issues, pro-rata to them and other holders of the same class of the issuer's securities; or
- They have obtained, in advance, approval from someone authorized to grant such approval when circumstances indicate no reasonable likelihood of harm to the client or violation of applicable laws and regulations.

### *Code of Conduct*

The following highlights some of the provisions of the Virtus Code of Conduct:

- Compliance with Applicable Laws, Rules and Regulations
- Insider Trading
- Conflicts of Interest
- Corporate Opportunities
- Fair Dealing
- Protection and Proper Use of Company Assets
- Confidentiality
- Recordkeeping
- Interaction with Government Officials and Lobbying
- Contract Review and Execution
- Company Disclosures and Public Communications
- Information Protection Policies
- Human Resource Policies
- Use of Social Media
- Intellectual Property
- Designation of Compliance Officers
- Seeking Guidance About Requirement of the Code
- Reporting Violations
- Waivers, Discipline and Penalties

### *Code of Ethics*

Employees are categorized as either Supervised, Access or Advisory Persons under our Code of Ethics.

All Supervised Persons are required to comply with the following:

- Instruct their brokers to directly provide our Compliance Department with duplicate copies of brokerage statements and trade confirmations or the electronic equivalent.
- Provide Initial Holdings Reports, Quarterly Transaction Reports, and Annual Certification and Holdings Reports, which our Compliance Department reviews for trading activity.

- Conduct their personal transactions consistent with the Code of Ethics and in a manner that avoids any actual or potential conflict of interest.

In addition to the above, those employees classified as Access Persons are further required to comply with the following:

- Pre-clear all non-exempt transactions with respect to which an employee is beneficial owner in order to prevent the employee from buying or selling at the same time as the firm.
- Hold all covered securities no less than 30-days.

Employees classified as Advisory Persons are further prohibited from directly or indirectly acquiring or disposing of a security on the date of, and within seven calendar days before and after the portfolio(s) associated with that person's portfolio management activities.

Any covered employee not in observance of the above may be subject to a variety of disciplinary actions.

#### *Other Related Policies and Procedures*

We have adopted the Insider Trading Policy and Procedures designed to mitigate the risks of our firm and its employees misusing and misappropriating any material non-public information that they become aware of, either on behalf of our clients or for their own benefit. Personnel are not to divulge or act upon any material, non-public information, as defined under relevant securities laws and in our Insider Trading Policy and Procedures. The policy applies to each of our Supervised, Access and Advisory Persons and extends to activities both within and outside their duties to our firm, including for an employee's personal account.

In addition to the above, our policies set limitations on and require reporting of gifts, entertainment, business meals, sponsorships, business building and charitable donations, whether given or received. Generally, our employees are prohibited from accepting or providing gifts or other gratuities from clients or individuals seeking to conduct business with us in excess of \$100.

Our personnel may, under certain conditions, be granted permission to serve as directors, trustees, or officers of outside organizations. Prior to doing so, approval must be provided by Compliance.

A complete copy of our Code of Conduct and/or our Code of Ethics is available by sending a written request to Westchester Capital Management, LLC, Attn: Chief Compliance Officer, 100 Summit Lake Drive, Valhalla, NY 10595 or by contacting us at 914-741-5600.

#### Participation or Interest in Client Transactions

WCM and its affiliates act as investment adviser and/or subadviser to numerous client accounts, including Virtus Funds. WCM may invest in securities it also recommends to clients and may give advice and take action with respect to any Funds or accounts it manages that may differ from action taken by WCM on behalf of other Funds or accounts. As these situations may represent a potential conflict of interest, WCM has adopted restrictive policies and procedures, wherever deemed appropriate, to seek to detect and mitigate or prevent potential conflicts of interest. WCM is not

obligated to recommend, buy or sell, or to refrain from recommending, buying or selling, any security that WCM, its affiliates or their respective Access Persons, as defined by the 1940 Act and by the Advisers Act, may buy or sell for its or their own account or for the accounts of any other client. WCM is not obligated to refrain from investing in securities held by Funds or accounts that it manages except to the extent that such investments violate the Code adopted by WCM. From time to time, WCM, its officers and employees may have interests in securities owned by or recommended to WCM's clients. This includes interests in Funds that may invest directly or indirectly, in securities of issuers which WCM or its affiliates may purchase. As these situations may represent a potential conflict of interest, WCM has adopted procedures relating to personal securities transactions and insider trading, that are reasonably designed to prevent actual conflicts of interest.

In addition, the existence of business relationships and investment practices creates the potential for conflicts of interest. WCM has adopted restrictive policies and procedures wherever deemed appropriate, to seek to detect and mitigate or prevent potential conflicts of interest. Certain known conflicts and WCM's handling of such conflicts are disclosed below.

WCM, directly or through VIA, may manage simultaneously parallel accounts in some cases with the same portfolio managers, with similar objectives, but with differing fees to VIA or WCM. WCM's policy is to manage each account independently and fairly, and recognizes and seeks to control the conflicts of interests inherent in such practices.

Virtus Shared Services, who provide administrative services to WCM, also will have information about WCM investments. Some WCM officers also have officer titles at other WCM affiliates.

WCM has a policy of not purchasing or recommending the purchase of securities issued by its parent company, Virtus.

To the best of its abilities, WCM reviews and monitors each individual situation to ensure that all clients are adequately protected against conflicts of interest. With respect to voting proxies for any such companies, WCM follows the conflicts provisions described in its Proxy Voting policy designed to eliminate or minimize any such conflict. For more information, see *Item 17 – Voting Client Securities*.

## **ITEM 12 - BROKERAGE PRACTICES**

In selecting a broker-dealer to execute any given transaction, WCM will seek “best execution” of the transaction except to the extent it may be permitted to pay higher brokerage commissions in exchange for brokerage and research services (as discussed below).

Best execution is not limited solely to the consideration of the best available commission rate. In determining whether a particular broker or dealer is likely to provide best execution in a particular transaction, WCM may take the following factors, among other things, into consideration: the best net price available; the reliability, integrity and financial condition of the broker or dealer; the size of and difficulty in executing the order; and the value of the expected contribution of the broker or dealer to the investment performance of each Fund on a continuing basis.

WCM's Chief Compliance Officer, or his or her designee, meets periodically with investment personnel to review the performance of each selected broker-dealer, the services being provided by the broker-dealer, and the fees being paid for those services to evaluate whether WCM is satisfying its best execution obligations.

#### Research and Other Soft-Dollar Benefits

WCM and WCP may receive research or brokerage services other than execution from a broker-dealer or third party in connection with client securities transactions. These are known as "soft dollar" benefits. WCM may cause the Funds to pay commissions higher than those charged by other broker-dealers in return for soft dollar benefits if WCM determines in good faith that such commissions are reasonable in relation to the value of brokerage, research and other services provided, either in terms of the particular transaction or WCM's overall responsibilities for accounts over which WCM exercises investment discretion.

When WCM uses client brokerage commissions to obtain research or other products or services, WCM receives a benefit because it does not have to produce or pay for the research, products or services. WCM may have an incentive to select or recommend a broker-dealer based on WCM's interest in receiving the research or other products or services, rather than on WCM's clients' interest in receiving most favorable execution. WCM typically advises Funds that pursue merger arbitrage and other event-driven investment strategies and often aggregate their trading activities. Accordingly, soft dollar benefits often are useful in managing all or a number of WCM-advised Funds or other accounts. It is, therefore, typically not practicable for WCM to allocate soft dollar benefits proportionately to the soft dollar credits each account generates. Some of the services received as a result of Fund transactions may benefit accounts other than the Fund that generated the credits.

Brokerage and research services provided by brokers falling within the Section 28(e) safe harbor during the current year and last fiscal year includes, but is not limited to, proprietary research and research created or developed by a third-party that provides information regarding the economy, industries, sectors of securities, individual companies, federal and state legislative and regulatory developments and other developments that could affect the value of companies in which WCM has invested or may consider investing, statistical information, technical market action, pricing and appraisal services, risk-measurement analysis and performance analytics. Such research services are received primarily in the form of written reports, telephone contact and personal meetings with securities analysts, industry experts, law firms or company management. In addition, such research and brokerage services can be provided in the form of access to various computer-generated data and access to investment-related conferences and seminars. Brokerage and research services received also include quotation equipment and services and software to assist WCM to initiate and execute orders.

Some research or other products or services received from a broker-dealer or third party may be only partially eligible for soft dollar payments (a "mixed-use" product or service). In these cases, WCM makes a reasonable allocation of the cost between that portion which is eligible and that portion which is ineligible. The eligible portion may be paid for with soft dollars and the ineligible portion will be paid for with WCM's own funds (hard dollars). This allocation decision may

present a conflict of interest to WCM because it is deciding how much it will pay out of its own pocket.

Additionally, in allocating portfolio brokerage, WCM may select broker-dealers who also provide brokerage, research and other services that may be useful to other accounts over which WCM or WCP exercises investment discretion. WCM may have an incentive to select or recommend a broker-dealer based on WCM's interest in receiving client referrals, rather than on WCM's clients' interest in receiving most favorable execution.

### Trade Aggregation

When a Fund and the other accounts over which WCM or WCP exercises investment discretion are engaged in the simultaneous purchase or sale of the same securities, WCM and WCP may aggregate the orders. WCM believes that such bunching generally facilitates the timely and efficient execution of trades. Moreover, WCM may be able to execute bunched orders at more favorable prices than would be realized when effecting a number of individual, sequential purchase or sale transactions. As a result of the practice of bunching orders, however, WCM and WCP often must allocate purchases and sales of securities among different client accounts following the execution of a bunched purchase or sale order. WCM maintains a policy of allocating the executions in a manner which seeks to treat all the accounts involved fairly and equitably over time. *See Allocations of Investment Opportunities Among Funds below.*

### Allocation of Investment Opportunities Among Funds

In connection with its investment activities, WCM may encounter situations in which it must determine how to allocate investment opportunities among various Funds and other persons, which may include, but are not limited to, the Funds, individuals and entities that are also investors in one or more Funds or other funds affiliated with WCM ("Adviser Investors") and/or individuals and entities that are not investors in any Funds or affiliated funds ("Third Parties"). In recognition of its fiduciary duties, it is the policy of WCM to allocate such investment opportunities on an equitable basis and in accordance with the written policies and procedures relating to the allocation of investment opportunities WCM has adopted. Typically, in order to address potential conflicts of interest associated with the aggregation of trades for multiple Funds or accounts, WCM, in conjunction with WCP, where applicable, will determine how an aggregated trade will be allocated among eligible Funds and/or accounts either (i) before or (ii) at the time the trade order is entered, where practicable. The pre-allocation of trades may not be practical or possible, for instance, due to the type of trade or the multiple legs involved in creating a certain position. In those situations, WCM and WCP will use certain regular methods of order allocation ("Default Methodologies") to allocate the investment opportunity. The Default Methodologies include allocating the investment opportunity pro rata among eligible Funds based on each eligible Fund's (i) total assets, (ii) existing position in the relevant security (or securities, as the case may be), or (iii) for forward currency contract trades, pro-rata based on the allocation of the corresponding trade(s) that the forward currency contract trade is hedging. However, the application of the Default Methodologies, may result in allocation on a non-pro rata basis and there can be no assurance that a Fund will participate in all investment opportunities that fall within its investment objectives. In addition, WCM may also allocate an investment opportunity in any manner it reasonably believes is fair and equitable to the Funds. Allocation determinations are inherently subjective and give rise



to conflicts of interest due to the inherent biases in the process. WCM makes allocation determinations based solely on WCM's expectations at the time such investments are made, however investments and their characteristics may change and there can be no assurance that an investment may prove to have been more suitable for another Fund in hindsight.

There can be no assurances that an investment opportunity that comes to the attention of WCM and WCP will be allocated wholly or primarily to certain funds advised or sub-advised by them, with one or more Funds potentially being unable to participate in such investment opportunity or participating only on a limited basis. If, in the discretion of WCM, the Funds should not participate in a particular investment opportunity for tax, regulatory or other reasons, such investment opportunity will not be allocated to such Funds.

In addition, where more than one client of WCM (or its affiliates), including a Fund, invests in the same investments, there can be no assurance that such parties will dispose of investments at the same time and on the same terms. Investments of different clients disposed of at different times will likely be disposed of at different valuations and, as a result, a Fund may realize different returns as compared to the same investment held by another client. These variations in timing may be detrimental to a Fund. At the same time, if WCM determines it is advisable for a Fund to exit an investment at the same time as another client of WCM or its affiliates, the term of which may expire sooner than the Fund's, such Fund may dispose of its interest earlier than it ordinarily would have and may, as a result, experience lower returns than it otherwise may have earned on such investments.

#### Initial Public Offerings (IPOs)

WCM and WCP may be offered the opportunity to purchase securities offered in initial public offerings (also referred to as "new issue" securities) on behalf of the Funds or the Master Fund and based on, among other things, the trading activities or business relationships of the Funds or the Master Fund. Due to regulatory issues relating to the allocation of such offerings to pooled vehicles with certain investors, WCP does not expect to allocate any of those investment opportunities to the Master Fund with the exception of security types that are exempt from the new issue rules.

#### Cross Transactions

Where appropriate, WCM engages in cross transactions with eligible advisory accounts and, when it does so, it seeks to comply with applicable disclosure and consent requirements associated with such transactions under the Investment Advisers Act of 1940. To reduce transaction costs and promote trading efficiency for its mutual fund clients, WCM can engage in cross transactions consistent with procedures adopted pursuant to Rule 17a-7 under the Investment Company Act of 1940.

#### Error Correction

Although WCM takes all reasonable steps to avoid errors in our trading process, occasionally errors do occur. It is our policy that trade errors be identified and resolved promptly and in a manner consistent with WCM's fiduciary duty to its clients. Consistent with this duty, the overriding goal in trade-error resolution is to seek to place the client in the same position that the

client would have been in had the error not occurred. There is no single method of calculating gains, losses or compensation due as a result of a trade error. The determination of the method is highly dependent on the facts and circumstances of the error in question. WCM will determine the most appropriate calculation methodology on a case-by-case basis in light of the specific facts and circumstances of each trade error.

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

Portfolio managers for each investment discipline determine the specific securities purchased or sold within a portfolio based on the investment discipline's philosophy and process, as well as the client's investment policy guidelines. Portfolio managers are thoroughly familiar with the client's organization, philosophy, investment guidelines and objectives and continually evaluate all client relationships and verify portfolios are continuously serviced, monitored and supervised.

Virtus' Investment Oversight Committee also provides investment oversight and analysis of WCM activities, including performance attribution evaluation and analysis.

Specific client guidelines and restrictions are coded into the compliance guideline system (Bloomberg) upon account opening and periodically reviewed and updated as appropriate. The compliance guideline system is designed to screen individual transactions to prevent trade allocations to accounts that do not comply with specific client or Firm guidelines.

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

While WCM currently does not compensate any unaffiliated third parties for client referrals, WCM may have relationships with certain consulting firms and other intermediaries. For example, WCM may, from time to time, purchase products or services, such as investment management performance data, from consulting firms. WCM may, from time to time, pay a fee for inclusion of information about the firm in databases maintained by certain unaffiliated third party data providers that in turn make such information available to their investment consultant clients. The payments and benefits described in this paragraph could give the firms receiving them and their personnel an incentive to favor WCM's investment advisory services over those of firms that do not provide the same payments and benefits.

WCM or an affiliate may from time to time pay event attendance or participation fees, underwrite charitable or industry events or provide gifts of value to, or at the request of, an organization or individual that offers or includes products or services of WCM or an affiliate in a particular program or refers or has referred a Client to WCM. All such activities will be done in compliance with applicable law and WCM's Gifts and Entertainment policy.

In addition, WCM or any of its affiliates may enter into arrangements with, and/or make payments from their own assets to, certain intermediaries to enable access to Virtus Funds on platforms made available by such intermediaries or to assist such intermediaries to upgrade existing technology systems or implement new technology systems or programs in order to improve the methods through which the intermediary provides services to WCM and its affiliates and/or their clients. Such arrangements or payments may establish contractual obligations on the part of such intermediary to provide WCM's or an affiliate's fund clients with certain exclusive or preferred

access to the use of the subject technology or programs or preferable placement on platforms operated by such intermediary. The services, arrangements and payments described in this paragraph present conflicts of interest because they provide incentives for intermediaries, customers or clients of intermediaries, or such customers' or clients' service providers to recommend, or otherwise make available, WCM's or its affiliates' strategies or Virtus Funds to their clients in order to receive or continue to benefit from these arrangements from WCM or its affiliates. The provision of these services, arrangements and payments described above by WCM or its affiliates is only to the extent permitted by applicable law and guidance and is not dependent on the amount of Virtus Funds or strategies sold or recommended by such intermediaries, customers or clients of intermediaries, or such customers' or clients' service providers.

#### **ITEM 15 - CUSTODY**

WCM does not have custody of client funds or securities.

#### **ITEM 16 - INVESTMENT DISCRETION**

WCM has discretionary authority to manage securities accounts on behalf of clients. Each Fund's Fund Documents include a description of certain investment limitations applicable to the Fund. Prior to assuming discretion in managing clients' assets, WCM enters into an investment management agreement, subadvisory agreement or other agreement that explains the scope of WCM's discretionary authority.

#### **ITEM 17 - VOTING CLIENT SECURITIES**

WCM has authority to vote client securities. WCM has adopted Proxy and Corporate-Action Voting Policies and Procedures that govern the voting of proxies for securities held by the Funds. Clients cannot direct WCM how to vote in a particular solicitation. WCM has full authority to vote proxies or act with respect to other shareholder actions on behalf of the Funds. WCM's primary consideration in voting proxies is the best interest of the Funds. The proxy-voting procedures address the resolution of potential conflicts of interest and circumstances under which WCM will limit its role in voting proxies. Where a proxy proposal raises a material conflict between WCM's interests and a Fund's interests, WCM will resolve the conflict by following the policy guidelines.

The proxy-voting guidelines describe WCM's general position on proposals. WCM manages Funds that pursue event-driven and/or merger arbitrage strategies, which are generally designed to profit upon the completion of a merger, reorganization or other corporate event. When WCM determines that a proposal affects its investment thesis or a Fund's investment objectives or strategies, WCM will vote proxies in a manner consistent with its investment thesis and to seek to maximize the economic value of the investment for the Fund. WCM may retain third-party services to provide research, summary information and/or recommendations with respect to proposals on which WCM must vote on behalf of its Fund clients. WCM utilizes a third-party service provider to assist with the ministerial act of voting proxies and reporting WCM's or a Fund's proxy voting record.

When securities are out on loan, they are transferred into the borrower's name and are voted by the borrower, in its discretion. However, if WCM has knowledge that an event will occur having

a material effect on a Fund's investment in a loaned security, WCM may seek to call the loan in time to vote the securities or WCM may seek to enter into an arrangement which ensures that the proxies for such material events may be voted as WCM believes is in the Fund's best interests. There can be no assurance that WCM will be able to call a loan in a manner that will allow WCM to vote on the related proposal in a timely manner.

Information regarding how WCM voted proxies with respect to securities held by each of TMF, VL, EDF, JNL, CEF, JARB and GMS, and a copy of WCM's Proxy and Corporate-Action Voting Policies and Procedures are available upon request by calling (914) 741-5600 or sending an e-mail to [compliance@mergerfund.com](mailto:compliance@mergerfund.com).

Virtus Mutual Fund shareholders:

Information regarding how the Funds voted proxies relating to portfolio securities during the most recent 12-month period ending June 30 will be available free of charge by calling, toll-free, 888-784-3863, or on the SEC's Web site at [www.sec.gov](http://www.sec.gov).

#### **ITEM 18 - FINANCIAL INFORMATION**

Registered investment advisers are required in this Item to provide you with certain financial information or disclosures about their financial condition. WCM has no financial commitment that impairs its ability to meet contractual and fiduciary commitments to clients. WCM does not require or solicit prepayment of advisory fees six months or more in advance. WCM does not act as custodian for any client account. WCM has not been the subject of a bankruptcy proceeding.