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## DRW Investments, LLC

Financial Report  
December 31, 2009



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### Financial Statements

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# McGladrey & Pullen

Certified Public Accountants

FC026974

## Independent Auditor's Report

To the Member  
DRW Investments, LLC  
Chicago, Illinois

We have audited the accompanying statement of financial condition of DRW Investments, LLC as of December 31, 2009, and the related statements of operations, change in member's equity and cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of DRW Investments, LLC as of December 31, 2009, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

*McGladrey & Pullen, LLP*

Chicago, Illinois  
March 31, 2010

**DRW Investments, LLC**

FC026974

**Statement of Financial Condition  
December 31, 2009**

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**Assets**

|   |               |
|---|---------------|
| Cash  | \$ 838,908    |
| Securities purchased under agreements to resell             | 4,978,309,259 |
| Securities owned, at fair value                             | 5,088,088,327 |
| Receivable from clearing brokers, net                       | 13,299,335    |
| Memberships in exchanges, at cost (fair value \$11,435,143) | 5,118,285     |
| Subordinated loans receivable                               | 8,013,750     |
| Unsecured loans receivable                                  | 30,000,000    |
| Receivables from affiliates                                 | 7,408,710     |
| Other assets  | 3,257,397     |

|                     |                          |
|---------------------|--------------------------|
| <b>Total assets</b> | <b>\$ 10,134,333,971</b> |
|---------------------|--------------------------|

**Liabilities and Member's Equity**

**Liabilities**

|   |                  |
|---|------------------|
| Securities sold under agreements to repurchase    | \$ 3,326,650,840 |
| Securities sold, not yet purchased, at fair value | 6,470,176,857    |
| Payable to clearing brokers, net                  | 82,505,621       |
| Payable to affiliates                             | 48,325,943       |
| Accrued expenses                                  | 39,500,799       |

|                          |                      |
|--------------------------|----------------------|
| <b>Total liabilities</b> | <b>9,967,160,060</b> |
|--------------------------|----------------------|

|                        |                    |
|------------------------|--------------------|
| <b>Member's Equity</b> | <b>167,173,911</b> |
|------------------------|--------------------|

|  |                          |
|--|--------------------------|
| <b>Total liabilities and member's equity</b> | <b>\$ 10,134,333,971</b> |
|--|--------------------------|

The accompanying notes are an integral part of these financial statements

**DRW Investments, LLC**

**Statement of Operations**  
**Year Ended December 31, 2009**

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|   |                              |
|---|------------------------------|
| Revenue                                       |                              |
| Proprietary trading, net                      | \$ 308,350,000               |
| Interest and dividends                        | 91,977,042                   |
| Other   | <u>3,120,082</u>             |
| <b>Total revenue</b>                          | <b><u>403,447,124</u></b>    |
| Expenses                                      |                              |
| Trading expenses                              |                              |
| Commissions, trade execution and related fees | 60,801,569                   |
| Interest and dividends                        | 71,556,910                   |
| Other trading expenses                        | <u>748,918</u>               |
| <b>Total trading expenses</b>                 | <b><u>133,107,397</u></b>    |
| Operating expenses                            |                              |
| Employee compensation and benefits            | 78,836,631                   |
| Other operating expenses                      | <u>52,131,335</u>            |
| <b>Total operating expenses</b>               | <b><u>130,967,966</u></b>    |
| <b>Total expenses</b>                         | <b><u>264,075,363</u></b>    |
| <b>Net income</b>                             | <b><u>\$ 139,371,761</u></b> |

The accompanying notes are an integral part of these financial statements

**DRW Investments, LLC**

**Statement of Changes in Member's Equity  
Year Ended December 31, 2009**

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|                            |                              |
|----------------------------|------------------------------|
| Balance, December 31, 2008 | \$ 132,391,581               |
| Capital contributions      | 236,999,014                  |
| Capital withdrawals        | (341,588,445)                |
| Net income                 | <u>139,371,761</u>           |
| Balance, December 31, 2009 | <u><u>\$ 167,173,911</u></u> |

The accompanying notes are an integral part of these financial statements

**DRW Investments, LLC**

**Statement of Cash Flows**  
**Year Ended December 31, 2009**

|  |                      |
|--|----------------------|
| <b>Cash Flows from Operating Activities</b>  |                      |
| Net income   | \$ 139,371,761       |
| Adjustments to reconcile net income to net cash provided by operating activities   |                      |
| Gain on sale of membership in exchange   |                      |
| Changes in operating assets and liabilities  |                      |
| Securities purchased under agreements to resell  | (3,152,748,150)      |
| Securities owned   | (319,742,065)        |
| Receivable from clearing brokers, net  | 86,082,711           |
| Subordinated loans receivable  | (5,013,750)          |
| Unsecured loans receivable   | (30,000,000)         |
| Receivables from affiliates  | (54,235,233)         |
| Other assets   | (2,012,854)          |
| Securities sold under agreements to repurchase   | 1,556,308,078        |
| Securities sold, not yet purchased   | 1,925,243,700        |
| Payable to clearing brokers, net   | (50,379,726)         |
| Payable to affiliates  | 122,653,850          |
| Accrued expenses   | 6,434,988            |
| <b>Net cash provided by operating activities</b>   | <b>221,963,310</b>   |
| <b>Cash Flows from Financing Activities</b>  |                      |
| Capital contributions  | 72,010,000           |
| Capital withdrawals  | (294,761,922)        |
| <b>Net cash used in financing activities</b>   | <b>(222,751,922)</b> |
| <b>Net decrease in cash</b>  | <b>(788,612)</b>     |
| <b>Cash</b>  |                      |
| Beginning of year  | 1,627,520            |
| End of year  | \$ 838,908           |
| <b>Supplemental Disclosure of Cash Flow Information</b>  |                      |
| Cash payments for interest   | \$ 71,556,910        |
| <b>Supplemental Schedule of Noncash Financing Activity</b>   |                      |
| During the year, the Company's parent forgave certain amounts due for expenses paid on the Company's behalf. Such amounts were treated as capital contributions of the parent by the Company | \$ 164,989,014       |
| During the year, the Company incurred certain expenses on behalf of the parent. Such amounts were treated as capital withdrawals by the parent   | \$ 46,826,523        |

The accompanying notes are an integral part of these financial statements

## DRW Investments, LLC

### Notes to Financial Statements

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#### Note 1 Nature of Business and Significant Accounting Policies

DRW Investments, LLC, (the Company) is an Illinois limited liability company and wholly-owned subsidiary of DRW Holdings, LLC (DRWH) which operates primarily as a market maker in fixed income derivatives. The Company is a member of the Chicago Board of Trade (CBOT) and Chicago Mercantile Exchange (CME).

On August 31, 2006, the Company established DRW Investments, LLC (UK Branch) (the Branch), a branch of the Company registered in England and Wales. The Branch is regulated by the Financial Services Authority of the United Kingdom (FSA). The activities of the Branch are included with the Company for financial presentation.

The following is a summary of the Company's significant accounting policies.

**Accounting policies:** The Company follows accounting standards established by the Financial Accounting Standards Board (the FASB) to ensure consistent reporting of financial condition, results of operations, and cash flows. References to Generally Accepted Accounting Principles (GAAP) in these footnotes are to the *FASB Accounting Standards Codification*<sup>TM</sup>, sometimes referred to as the Codification or ASC. The Codification is effective for periods ending on or after September 15, 2009.

**Accounting estimates:** The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the period. Actual results could differ from those estimates.

**Foreign currency transactions:** The Company's functional currency is the U.S. dollar; however, it transacts business in currencies other than the U.S. dollar. Assets and liabilities denominated in currencies other than the U.S. dollar are translated into U.S. dollars at the rates in effect at the date of the statement of financial condition. Income and expense items denominated in currencies other than the U.S. dollar are translated into U.S. dollars at the rates in effect during the period. Gains and losses resulting from the translation of transactions denominated in foreign currencies to U.S. dollars are reported in income currently and gains and losses from translating the financial statements of foreign subsidiaries are included in Members' Equity. As of December 31, 2009, approximately \$231,286,000 of assets and \$176,529,000 of liabilities were attributable to the non-U.S. Branch of the Company.

**Securities transactions:** Securities owned and securities sold, not yet purchased are recorded on the trade-date basis and are recorded at fair value in accordance with generally accepted accounting principles, with unrealized gains and losses reflected in proprietary trading revenue.

Amounts receivable and payable for securities transactions that have not reached their contractual settlement date are recorded net on the statement of financial condition.

**Resale and repurchase agreements:** Transactions involving purchases of securities under agreements to resell or securities sold under agreements to repurchase, comprised primarily of U.S. Government obligations, are accounted for as collateralized financings except where the Company does not have an agreement to sell (or purchase) the same or substantially the same securities before maturity at a fixed or determinable price. It is the policy of the Company to obtain possession of collateral with a market value equal to or in excess of the principal amount loaned under resale agreements. Collateral is valued daily, and the Company may require counterparties to deposit additional collateral or return collateral pledged when appropriate.



**DRW Investments, LLC**

**Notes to Financial Statements**

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**Note 1 Nature of Business and Significant Accounting Policies (Continued)**

**Memberships in exchanges:** Memberships in exchanges required to be held by the Company for clearing privileges at certain clearing organizations are carried at cost, or if other than a temporary impairment in value has occurred, at a value that reflects management's estimate of the impairment. Management believes no such impairment in value occurred in 2009. Memberships in exchanges not held for operating purposes are carried at fair value and are included in securities owned. Fair value is based on the average of the bid, ask and last sale prices for the memberships. If there has been a sale within 30 days of the measurement date, management uses the average of the bid, offer and last sale prices. If there has not been a sale within 30 days of the measurement date, management uses the average of the bid and offer prices.

Gains and losses on memberships are computed based on specific identification and included in other revenue on the statement of operations.

**Interest and dividend revenue/expense:** The Company recognizes interest on securities owned and securities sold, not yet purchased on an accrual basis and dividend income is recognized on the ex-dividend date. The Company accounts for its secured financing activities on an accrual basis with related interest recorded as interest and dividend income and interest and dividend expense, as applicable.

**Fair value of financial instruments:** Substantially all of the Company's assets and liabilities are either reflected at fair value or contract amounts and are short-term or replaceable on demand. Therefore, their carrying amounts approximate fair value.

**Income taxes** As a limited liability company, the Company is not subject to federal income taxes. The Company's member separately accounts for its pro rata share of the Company's items of income, deductions, losses and credits. The Branch is subject to taxation in its respective jurisdiction and, accordingly, files a separate return.

For the year ended December 31, 2009, the Branch recorded a tax provision of approximately \$9,980,000 which is included in other operating expenses on the statement of operations and, accordingly, has recorded a corresponding accrued tax liability of approximately \$3,900,000 which is included in accounts payable and accrued expenses on the statement of financial condition. The liability consists of approximately \$2,975,000 due to HM Revenue and Customs (HMRC) and approximately \$925,000 due to an affiliated entity operating in the United Kingdom that incurred losses and allows the Branch to utilize such losses via group relief in accordance with HMRC rules.

FASB Accounting Standards Codification Topic 740, *Income Taxes*, provides guidance for how uncertain tax positions should be recognized, measured, disclosed and presented in the financial statements. This requires the evaluation of tax positions taken or expected to be taken in the course of preparing the Company's tax returns to determine whether the tax positions are "more-likely-than-not" of being sustained "when challenged" or "when examined" by the applicable tax authority. Tax positions not deemed to meet the more-likely-than-not threshold would be recorded as a tax expense and liability in the current year. For the year ended December 31, 2009, management has determined that there are no uncertain tax positions. The Company is not subject to examination by U.S. federal and state tax authorities for tax years before 2006. The Branch is not subject to examination by HMRC for tax years before 2006.

**Subsequent events:** FASB ASC 855, *Subsequent Events*, establishes general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued. The provisions of FASB ASC 855 were effective for interim and annual periods ending after June 15, 2009. The adoption of FASB ASC 855 did not have a material impact on the financial position, results of operations or cash flows of the Company.

**DRW Investments, LLC**

**Notes to Financial Statements**

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**Note 2      Receivable From and Payable To Clearing Brokers**

Receivable from clearing broker at December 31, 2009 consists of cash of \$13,299,335

Payable to clearing brokers, net at December 31, 2009 of \$82,505,621, represents an amount due for executed but unsettled transactions, net of interest receivable of \$1,240,133

**Note 3.      Fair Value of Financial Instruments**

FASB ASC 820, *Fair Value Measurements and Disclosures*, defines fair value, establishes a fair value hierarchy based on the quality of inputs used to measure fair value, and provides for disclosure requirements for fair value measurements. Fair value is the price that would be received to sell an asset and paid to transfer a liability in an orderly transaction between market participants at the measurement date. The Company utilizes valuation techniques to maximize the use of observable inputs and minimize the use of unobservable inputs. Assets and liabilities recorded at fair value are categorized based upon the level of judgment associated with the inputs used to measure their value. The fair value hierarchy gives the highest priority to quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3). Inputs are broadly defined as assumptions market participants would use in pricing an asset or liability. The three levels of the fair value hierarchy are described below:

Level 1. Unadjusted quoted prices in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date. The type of investments included in Level 1 include listed equities and listed derivatives.

Level 2. Inputs other than quoted prices within Level 1 that are observable for the asset or liability, either directly or indirectly, and fair value is determined through the use of models or other valuation methodologies. Investments which are generally included in this category include corporate bonds and loans, less liquid and restricted equity securities and certain over-the-counter derivatives. A significant adjustment to a Level 2 input could result in the Level 2 measurement becoming a Level 3 measurement.

Level 3. Inputs are unobservable for the asset or liability and include situations where there is little, if any, market activity for the asset or liability. The inputs into the determination of fair value are based upon the best information in the circumstances and may require significant management judgment or estimation. Investments that are included in this category generally include equity and debt positions in private companies.

In certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, an investment's level within the fair value hierarchy is based on the lowest level of input that is significant to the fair value measurement. The Company's assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment, and considers factors specific to the investment. The following section describes the valuation techniques used by the Company to measure different financial instruments at fair value and includes the level within the fair value hierarchy in which the financial instrument is categorized.

Equity securities, equity options, futures contracts, options on futures and U.S. Government obligations are recorded at fair value based on quoted market prices and included as Level 1 securities.

**DRW Investments, LLC**

**Notes to Financial Statements**

**Note 3. Fair Value of Financial Instruments (Continued)**

Interest rate swaps are valued by management using a methodology that initially considers the securities' relative conversion attributes, either fixed or variable, as well as conversion restrictions, if any. Variable conversion further considers, among other things, negotiated discounts and look-back structures. These financial instruments are classified as Level 2 in the fair value hierarchy.

The following table presents the Company's fair value hierarchy for those assets and liabilities measured at fair value on a recurring basis as of December 31, 2009.

|   |                         | Fair Value Measurements Using   |  |  |
|---|-------------------------|---|--|--|
|   | Total                   | Quoted Prices in<br>Active Markets for<br>Identical Assets<br>(Level 1) | Significant Other<br>Observable<br>Inputs<br>(Level 2) | Significant<br>Unobservable<br>Inputs<br>(Level 3) |
| <b>Assets</b>                             |                         |   |  |  |
| <b>Securities owned</b>                   |                         |   |  |  |
| Equity securities                         | \$ 35,000               | \$ 35,000   | \$ -   | \$ -   |
| Futures contracts                         | 79,607,168              | 79,607,168  | -  | -  |
| Options on futures contracts              | 1,774,161,512           | 1,774,161,512   | -  | -  |
| U S Government obligations                | 3,229,134,851           | 3,229,134,851   | -  | -  |
| Interest rate swaps                       | 5,149,796               | -   | 5,149,796  | -  |
|   | <u>\$ 5,088,088,327</u> | <u>\$ 5,082,938,531</u>   | <u>\$ 5,149,796</u>                                    | <u>\$ -</u>  |
| <b>Liabilities</b>                        |                         |   |  |  |
| <b>Securities sold, not yet purchased</b> |                         |   |  |  |
| Futures contracts                         | \$ 23,885,260           | \$ 23,885,260   | \$ -   | \$ -   |
| Options on futures contracts              | 1,604,911,895           | 1,604,911,895   | -  | -  |
| U S Government obligations                | 4,837,451,076           | 4,837,451,076   | -  | -  |
| Interest rate swaps                       | 3,928,626               | -   | 3,928,626  | -  |
|   | <u>\$ 6,470,176,857</u> | <u>\$ 6,466,248,231</u>   | <u>\$ 3,928,626</u>                                    | <u>\$ -</u>  |

U S Government obligations owned are pledged to either repurchase counterparties or the clearing brokers on terms which permit those parties to resell or pledge the securities subject to certain limitations.

## DRW Investments, LLC

### Notes to Financial Statements

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#### Note 4. Borrowings

The Company has entered into an agreement for a demand loan facility in the amount of \$30,000,000 with a financial institution which matures on February 28, 2010, and accrues interest at an annual rate of the Federal Funds effective rate plus 1 percent (1.05 percent at December 31, 2009). The borrowing is secured by the assets of the Company that are on deposit with the clearing broker. As of December 31, 2009, the Company had not drawn on this demand loan facility. The financial institution requires the Company to satisfy certain financial reporting and other covenants, as defined. Subsequent to year-end, the term of the agreement was extended through February 28, 2011.

Additionally, the Company has a demand loan facility in the amount of \$10,000,000 with a separate financial institution which matures on February 28, 2010, and accrues interest at an annual rate of the London Interbank Offered rate plus 55.5 percent (0.724 percent at December 31, 2009). The borrowing is secured by the assets of the Company that are on deposit with the clearing broker. As of December 31, 2009, the Company had not drawn on this demand loan facility. The financial institution requires the Company to satisfy certain financial reporting and other covenants, as defined. Subsequent to year-end, the term of the agreement was extended through January 31, 2011 and increased to \$60,000,000.

#### Note 5 Related Party Transactions

The Company pays all direct expenses associated with its trading activities. The Company has entered into an agreement with DRWH whereby all employee compensation and other operating expenses, \$131,824,107 for the year ended December 31, 2009, are paid by DRWH and charged to the Company based on a series of usage factors. At December 31, 2009, the payable to affiliates in the amount of \$48,325,943 is related to these activities. Amounts payable to affiliates are settled in the normal course of business.

At December 31, 2009, the receivable from an affiliate in the amount of \$7,408,710 primarily represents amounts due to the Company as a result of certain trading activities executed in the Company's accounts on behalf of the affiliate.

The Company has entered into subordinated loan agreements with affiliated entities as follows:

|  |                    |
|--|--------------------|
| Subordinated loan agreement, due March 15, 2010, interest at the Federal Funds Effective rate plus 0.625%          | <u>\$3,000,000</u> |
| Subordinated loan agreement, due May 1, 2010, interest at the 3-month Euro-London Interbank Offered Rate plus 0.6% | <u>\$5,013,750</u> |

To the extent that the affiliates require the subordinated loans for compliance with net capital requirements, they may not be repaid.

Additionally, the Company has unsecured promissory notes receivable from an affiliated entity totaling \$30,000,000. The notes are non-interest bearing, and are due at the earlier of demand or December 16, 2010. At December 31, 2009, the fair value of the unsecured promissory notes is approximately \$28,436,000.

## **DRW Investments, LLC**

### **Notes to Financial Statements**

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#### **Note 6. Off-Balance Sheet Risk and Concentration of Credit Risk**

In the normal course of business, the Company enters into transactions in financial instruments with varying degrees of market and credit risk. These financial instruments consist primarily of interest rate derivatives and U.S. Government obligations. Derivatives include options on futures contracts. Trading of these financial instruments is conducted on futures and securities exchanges located in the United States and abroad.

Settlement of these transactions takes place in the United States and abroad through clearing brokers utilized by the Company. These instruments involve elements of market and credit risk that may exceed the amounts reflected in the statement of financial condition.

Various factors affect the market risk of these transactions, among them are the size and composition of the positions held, the absolute and relative levels of interest rates and market volatility. Also, the time period in which options may be exercised, the market value of the underlying instruments, and the exercise price affect market risk. A significant factor influencing the Company's overall exposure to market risk is its use of hedging strategies.

Options written obligate the Company to deliver or to take delivery of the asset underlying the options contract at contract price, and in the event the option is exercised by the holder, it may result in market risk not reflected in the statement of financial condition to the extent that the Company is obligated to purchase or sell the underlying futures contracts in the open market. To minimize these risks, the Company generally holds or sells short the underlying instruments which can be used to settle these transactions.

Securities sold, not yet purchased represent obligations of the Company to deliver securities sold at the contracted prices and thereby create a liability to purchase these instruments in the open market at prevailing prices. These transactions may result in market risk not reflected in the statement of financial condition as the Company's ultimate obligation to satisfy its obligation for trading liabilities may exceed the amount reflected in the statement of financial condition. To minimize this risk, the Company may hold futures contracts or other derivatives which can be used to settle or offset the risk of these obligations.

Since the Company does not clear its own securities and futures transactions, it has established accounts with certain clearing brokers for this purpose. This can and often does result in concentrations of credit risk with one or more of these firms. Such risk, however, is mitigated by the clearing brokers' obligation to comply with rules and regulations governing brokers in the United States and abroad.

The Company maintains its cash deposits with a financial institution. On occasion, these deposits will exceed the maximum insurance level provided by the Federal Deposit Insurance Corporation.

#### **Note 7. Derivative Instruments and Hedging Activities**

The Company adopted the provisions of FASB ASC 815, *Derivatives and Hedging*, effective January 1, 2009. FASB ASC 815 is intended to improve transparency in financial reporting by requiring enhanced disclosures of an entity's derivative instruments and hedging activities and their effects on the entity's financial position, financial performance and cash flows.

## DRW Investments, LLC

### Notes to Financial Statements

#### Note 7. Derivative Instruments and Hedging Activities (Continued)

The Company's derivative activities consist primarily of trading of futures contracts and options on futures contracts traded and/or cleared on exchanges. These derivative contracts are recorded on the statement of financial condition as assets and liabilities measured at fair value, and the related realized and unrealized gain (loss) associated with these derivatives are recorded in the statement of operations. The Company employs a variety of proprietary trading strategies using these instruments. The notional value of open derivative positions of the Company is not representative of market risk as measured by standard value-at-risk models. The Company does not consider any derivatives to be hedging instruments, as those terms are generally understood.

| Contract Type | Gross Asset Derivatives<br>at Fair Value<br>December 31, 2009 | Gross Liability Derivatives<br>at Fair Value<br>December 31, 2009 | Gains/(Losses) on<br>Derivatives for the Year Ended<br>December 31, 2009 |
|---------------|---|---|--|
| Fixed income  | \$ 1,523,733,149  | \$ 1,293,816,512  | \$ 354,585,210   |
| Equity index  | 208,946,183   | 177,317,548   | 24,205,601   |
| Agriculture   | 123,006,895   | 157,205,628   | 29,756,965   |
| Currency      | 3,232,250   | 2,153,080   | 8,328,001  |
| Energy        | -   | 2,233,013   | (9,451,021)  |
|               | <u>\$ 1,858,918,477</u> (1)                                   | <u>\$ 1,632,725,781</u> (2)                                       | <u>\$ 407,424,756</u> (3)  |

(1) - Included in Securities owned, at fair value on the statement of financial condition

(2) - Included in Securities sold, not yet purchased, at fair value on the statement of financial condition

(3) - Included in Proprietary trading, net on the statement of operations

#### Note 8 Commitments, Contingencies and Guarantees

The Company conducts its operations in leased office space. This lease expires in 2024 and provides for payment of base rent plus adjustments for real estate taxes and operating expenses. At December 31, 2009, future minimum lease payments under the noncancelable lease are as follows:

|             | Total<br>Commitment  |
|-------------|----------------------|
| December 31 |                      |
| 2010        | \$ 2,064,039         |
| 2011        | 3,259,630            |
| 2012        | 3,341,021            |
| 2013        | 3,423,710            |
| 2014        | 3,510,163            |
| Thereafter  | 40,301,001           |
|             | <u>\$ 55,899,564</u> |

Facility rent expense for the year ended December 31, 2009, was approximately \$406,000. During the same period, the Company allocated rent expense in the amount of approximately \$2,302,000 to affiliates.

## **DRW Investments, LLC**

### **Notes to Financial Statements**

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#### **Note 8. Commitments, Contingencies and Guarantees (Continued)**

FASB ASC 460, *Guarantees*, requires the Company to disclose information about its obligations under certain guarantee arrangements. FASB ASC 460 defines guarantees as contracts and indemnification agreements that contingently require a guarantor to make payments to the guaranteed party based on changes in an underlying interest or foreign exchange rate, security or commodity price, an index or the occurrence or nonoccurrence of a specified event related to an asset, liability or equity security of a guaranteed party. FASB ASC 460 also defines guarantees as contracts that contingently require the guarantor to make payments to the guaranteed party based on another entity's failure to perform under an agreement as well as indirect guarantees of the indebtedness of others.

The Company trades and holds certain fair-valued derivative contracts, which may constitute guarantees under FASB ASC 460. As of December 31, 2009, the maximum payouts for these contracts are limited to the notional amounts of each contract. Maximum payouts do not represent the expected future cash requirements as the Company's written options positions may be liquidated or expire without being exercised by the holder. In addition, maximum payout amounts are frequently decreased by offsetting positions taken by the Company as part of its hedging activities. The fair values of all written option contracts as of December 31, 2009, are included as liabilities in securities owned and securities sold, not yet purchased on the statement of financial condition.

#### **Note 9. Collateral**

In the normal course of business, the Company obtains securities under resale agreements on terms which permit it to repledge or resell the securities to others. At December 31, 2009, the Company obtained approximately \$3,229,000,000 of securities on such terms, all of which have been either pledged or otherwise transferred to others in connection with the Company's financing activities, or to satisfy its commitments under proprietary transactions for securities sold, not yet purchased.

#### **Note 10. Indemnifications**

In the normal course of its business, the Company indemnifies and guarantees certain service providers, such as clearing brokers, against specified potential losses in connection with their acting as an agent of, or providing services to, the Company. The maximum potential amount of future payments that the Company could be required to make under these indemnifications cannot be estimated. However, the Company believes that it is unlikely it will have to make material payments under these arrangements and has not recorded any contingent liability in the financial statements for these indemnifications.

Additionally, the Company enters into contracts and agreements that contain a variety of representations and warranties and which provide general indemnifications. The Company's maximum exposure under these arrangements is unknown, as this would involve future claims that may be made against the Company that have not yet occurred. The Company expects the risk of any future obligations under these indemnifications to be remote.

#### **Note 11 Subsequent Events**

The Company has evaluated subsequent events for potential recognition and/or disclosure through March 31, 2010, the date the financial statements were available to be issued. Subsequent to year end, the Company issued unsecured promissory notes to an affiliate totaling \$11,000,000. The notes bear no interest and are due on demand or no later than January 9, 2011. There were no other subsequent events to disclose.

- (6) A certificate in writing signed by a Voting Director or a Secretary stating that a document was sent to a member by post or by fax or electronic transmission on a particular date is prima facie evidence that the document was so sent on that date

**88.** Notice of every general meeting shall be given in the manner authorised by Article 87 and in accordance with the Corporations Act to persons entitled to receive that notice

**89. WINDING UP**

- (1) If the Company is wound up the liquidator may, with the sanction of a special resolution, divide among the members in kind the whole or any part of the property of the Company and may for that purpose set such value as he considers fair upon any property to be so divided and may determine how the division is to be carried out as between the members or different classes of members
- (2) The liquidator may, with the sanction of a special resolution, vest the whole or any part of any such property in trustees upon such trusts for the benefit of the contributors as the liquidator thinks fit but so that no member is compelled to accept any shares or other securities in respect of which there is any liability

**90 INDEMNITY AND INSURANCE**

**Indemnity of officers**

- (1) Every person who is or has been
  - (a) a director of the Company or of a wholly-owned subsidiary of the Company, or
  - (b) a secretary of the Company or of a wholly-owned subsidiary of the Company,is entitled to be indemnified out of the property of the Company against
  - (c) any liability incurred by the person in that capacity (except a liability for legal costs), and
  - (d) legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity, and
  - (e) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the Company or of a wholly-owned subsidiary of the Company, if that expenditure has been approved in accordance with the Company's policy,