

# Nine Thirty Capital Management, LLC

## Part 2A of Form ADV

### The Brochure

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**This brochure provides information about the qualifications and business practices of Nine Thirty Capital Management, LLC (“Nine Thirty Capital”). If you have any questions about the contents of this brochure, please contact us at 212-918-8930. 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. Registration with the United States Securities and Exchange Commission should not be assumed to imply a certain level of skill or training.**

**Additional information about Nine Thirty Capital is also available on the SEC’s website at: [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

## Material Changes

This brochure contains information about Nine Thirty Capital and there have been no material changes since its adoption.

## Table of Contents

Material Changes.....	2
Table of Contents .....	2
Advisory Business .....	2
Fees and Compensation .....	3
Performance-Based Fees and Side-by-Side Management.....	3
Types of Clients.....	3
Methods of Analysis, Investment Strategies and Risk of Loss .....	4
Disciplinary Information .....	5
Other Financial Industry Activities and Affiliations .....	6
Code of Ethics, Participation or Interest in Client Transactions and Personal Trading .....	6
Brokerage Practices .....	7
Review of Accounts .....	7
Client Referrals and Other Compensation.....	8
Custody .....	8
Investment Discretion.....	8
Voting Client Securities .....	8
Financial Information .....	9

## Advisory Business

Nine Thirty Capital Management, LLC ("Nine Thirty Capital") provides investment advisory services primarily focusing on asset allocation and the placement of capital with third party asset managers. Such managers may include hedge funds, fund-of-funds and other investment funds, and managers of managed accounts. Nine Thirty Capital may also provide discretionary management of clients' cash portfolios. In addition, Nine Thirty Capital may provide investment advisory services with respect to private equity and venture capital investments and may actively participate in certain of these investments. Advice is generally limited to the forgoing investments.

Nine Thirty Capital tailors its advisory services to the individual needs of its clients based upon its understanding of each client's financial situation, goals and objectives. Clients may impose restrictions on investing in certain securities or types of securities.

Nine Thirty Capital was founded in 2004 and is primarily owned by Nine Thirty Capital Management Holdings, LLC. Nine Thirty Management Holdings, LLC is primarily owned by Nine Thirty Capital's President and CEO, Stuart J. Rabin. As of January 31, 2011 Nine Thirty Capital managed \$204 million on a discretionary basis on behalf of approximately 9 clients.

## **Fees and Compensation**

Nine Thirty Capital generally advises clients through the creation of limited liability companies (the "LLCs") in which Nine Thirty Capital, or a related person, acts as managing member and one or more members of a family group (or entities created by such members) act as the other members. For non-US clients, Nine Thirty Capital advises through the creation of foreign domiciled vehicles, usually Cayman Island limited partnerships. Nine Thirty Capital's standard management fee is 1½% of assets under management per annum. Nine Thirty Capital's standard fee is generally payable quarterly in advance and upon deposit of any funds or securities in the account by the client. The first payment will be based on the opening market value of the account and will be pro-rated to cover the period from the date the account is opened through the end of that calendar quarter. Thereafter, the fee will be based on the account value on the last business day of the preceding calendar quarter. Nine Thirty Capital's fees are negotiable, at its discretion. The fee structure is explained and agreed with the clients in advance before any services are rendered. Fees will generally be deducted directly from the client's custodial account.

Generally, each LLC provides that the investment management contract cannot be terminated prior to its stated term which is generally multi-year. Typically, a member may withdraw its capital from the LLC at the end of each calendar year upon 95 days' notice; the management fee is nevertheless payable for the remainder of the term of the management agreement. A member's ability to withdraw capital from an LLC is subject to the lock-ups and liquidity provisions of the underlying managers to whom the LLC's capital has been allocated. The terms of the LLC's are negotiable and vary among clients.

As previously stated, Nine Thirty Capital primarily places client assets with third party asset managers through investments in hedge funds, fund-of-funds and other investment funds, and managed accounts. The third party managers of such investments generally charge management and incentive fees that are in addition to the fees payable to Nine Thirty Capital.

## **Performance-Based Fees and Side-by-Side Management**

Nine Thirty Capital charges a performance fee equal to 10% of annual net appreciation whether such appreciation is realized or unrealized, subject to a loss carry forward. As noted above, Nine Thirty Capital's fees are negotiable at its discretion. The performance fee, if any, is paid annually. Similar to management fees, performance-based fees will generally be deducted directly from the clients' custodial accounts.

## **Types of Clients**

Nine Thirty Capital typically advises high net worth families, including their trusts, charitable trusts and private foundations and other affiliates, investing through special purpose investment vehicles.

Nine Thirty Capital has a minimum account size of \$50,000,000, which amount may be waived at its discretion, such as if the account is part of a larger relationship.

## **Methods of Analysis, Investment Strategies and Risk of Loss**

Nine Thirty Capital utilizes a disciplined and long-term oriented approach in the management of client capital. Diversified and customized portfolios are created for each client and investment managers are selected. Nine Thirty Capital relies on its own independent research, due diligence and referrals for its selection of managers.

It is Nine Thirty Capital's responsibility to research and identify asset managers to satisfy itself as to the terms and conditions of such investment vehicles (or, where relevant, negotiate the respective investment advisory agreements with such managers) and to allocate and reallocate the client's assets among selected managers. Nine Thirty Capital allocates the LLC's assets among multiple managers using its knowledge and experience to assess the capabilities of portfolio managers and to determine the appropriate allocation mix among managers and strategies.

Nine Thirty Capital applies qualitative and quantitative analyses to the evaluation and selection of asset managers and strategies. In addition to a portfolio and performance based analysis, Nine Thirty Capital, through a related entity, conducts initial and ongoing operational and investigative due-diligence of asset managers. This three-phase due diligence approach incorporates the following:

- ***Identity, Background and Reputational Due Diligence***

A comprehensive due diligence examination designed to review the company's/individuals complete background history and associations, to include criminal and civil litigation, liens and bankruptcies, licensing status, credit history and personal assets and holdings, among numerous other background and reputational items.

- ***Operational Due Diligence***

A robust operational review to assess, among other things, the controls and procedures of the selected fund as well as counter-party and other relationships, to ensure that all relevant items are well understood and adhere to at least industry best practices. This will include stringent on-site compliance visits, testing, and independent verification.

- ***On-Going Due Diligence***

An ongoing review and assessment whereby the key data, the due diligence and the risk management efforts are periodically evaluated and updated to ensure the expected practices and protocols remain in place and that no recent negative events or other material changes have occurred with respect to the fund or its key managers.

Nine Thirty Capital employs a multi-manager investment strategy in giving investment advice to its clients. The asset managers with whom the clients invest utilize a variety of investment tactics to seek to achieve their investment objectives. No assurance can be given, however, that clients will achieve their objective, and investment results may vary substantially over time and from period to period. All investing involves a risk of loss and the investment strategy of multi-manager investments offered by Nine Thirty Capital could lose money over short or even long periods. The summary provided below is a brief overview of market and investment risks and is not intended to be complete.

- **Stock Market Risk** - There is a chance that stock prices overall will decline. Stock markets tend to move in cycles, with periods of rising prices and periods of falling prices.
- **Non-Diversification Risk** - There is a chance that the performance may be hurt disproportionately by the poor performance of relatively few stocks and/or other securities. The investment strategy tends to be considered non-diversified, which means that it may invest a greater percentage of its assets in the securities of particular issuers.
- **Use of Third Party Asset Managers** - Generally, access to information regarding the actual investments made by managers will not be conveyed, as such information is considered proprietary. Because limited transparency is provided by managers, determining whether large accumulations of certain positions, which could reduce diversification in the portfolios as a whole, have taken place proves difficult. In addition, managers that invest in a particular sector may be subjected to differing or increased risks relating to such sector. Further, while Nine Thirty Capital applies a portfolio, investigative and operational due diligence program to third party asset managers, it may not ultimately mitigate the client from the risk of fraud, willful misconduct or gross negligence on part of the third party asset manager.
- **Illiquid Investments** - Third party asset managers may impose lock-up periods and/or gates which restrict large client redemptions from the fund. In turn, the manager may invest in securities of portfolio companies that may from time to time be illiquid, including as a result of limited transferability of the underlying investment. As a result, clients may be required to hold their investments for an indefinite period of time.
- **Reliance on information that turns out to be wrong** - Investments are selected based, in part, on information provided by issuers to regulators or made directly available by the issuers or other sources. Confirmation of the completeness or accuracy of such information is not always attainable, and in some cases, complete and accurate information is not available. Incorrect or incomplete information increases risk and a result in losses.
- **Leverage of Investments** - Third party asset managers may employ leverage from time to time. Such leverage will increase a manager's exposure to adverse economic factors such as rising interest rates, downturns in the economy or further deteriorations in the financial condition of the company or its industry. There can be no assurance that managers will be able to maintain adequate financing arrangements under all market circumstances.
- **Short Selling and Use of Derivative Instruments** - Third party asset manager's investment activities expose it to various types of risk which are associated with the financial instruments in which it invests, including but not limited to, securities sold short, derivative financial instruments, etc. This type of trading may carry an off-balance-sheet market risk.

This is not intended to serve as an exhaustive list or a comprehensive description of all risks and conflicts that may arise in connection with the management and operation of the LLC. Clients should review the risk disclosures in the LLC's Confidential Information Memorandum and other governing documents to further understand the risks and potential conflicts of interest.

## **Disciplinary Information**

Nine Thirty Capital and its management persons have not been involved in any legal or disciplinary events in the past 10 years that would be material to a client's evaluation of the company or its management persons.

## **Other Financial Industry Activities and Affiliations**

Nine Thirty Capital generally organizes limited liability companies or similar vehicles for holding and investing client assets. Nine Thirty Capital Partners, LLC generally acts as the managing member to vehicles established for US clients and Nine Thirty Capital Partners Offshore, Ltd. (a Cayman Island Exempted Company) generally acts as a general partner for vehicles established for non-US clients. Accordingly, Nine Thirty Capital is a related person to such companies.

## **Code of Ethics, Participation or Interest in Client Transactions and Personal Trading**

Pursuant to SEC Rule 204A-1, Nine Thirty Capital has established a Code of Ethics for the manner in which the business or its employees conduct themselves. A copy of the Code of Ethics policy and procedures are available to any client or prospective client upon request.

Nine Thirty Capital may, from time to time, recommend to its clients securities in which it or its interest holders (or their affiliates or other related parties) own interests. In addition, such persons may own interests in the general partner, investment adviser, manager or other money managers with which client assets are invested. The management fee and performance fee charged by Nine Thirty Capital to any client will be reduced by an amount equal to Nine Thirty Capital's (and its related parties') net earnings, if any, from management fees and performance fees charged by these money managers with respect to such client's assets, as determined in good faith by Nine Thirty Capital.

Nine Thirty Capital has adopted certain restrictions on personal trading by employees. Generally, Nine Thirty Capital requires personal trading reporting and review and insider trading policies and procedures. Through its procedures, Nine Thirty Capital requires, among other things, that employees:

- Place the interests of our clients first;
- Bring forward any conflict of interests that may arise with providing investment advice to clients;
- Adhere to the fundamental standard that employees should not take inappropriate advantage of their position;
- Conduct all personal securities transactions in a manner consistent with the adopted policy;
- Maintain the confidentiality of information concerning the identity of securities and financial circumstances of clients;
- Maintain independence in the investment decision-making process at all times; and
- Comply with applicable provisions of the federal securities laws.

As described above, Nine Thirty Capital requires that the personal investment transactions of its members and employees be carried out in a way that is not detrimental to the interests of clients. Nonetheless, Nine Thirty Capital believes that, in the event investment goals are similar for its clients and for members or employees of Nine Thirty Capital, it may be logical or desirable that there be a common ownership of some securities. As stated earlier, clients may invest in securities that are owned by Nine Thirty Capital or its related persons. In the event that an investment opportunity arises which would be suitable for both clients and for Nine Thirty Capital or its

related persons (who are not also clients), the investment opportunity will be given to clients (including those clients that are also related persons) first and to Nine Thirty Capital and/or its related persons (who are not also clients) only after client demand is satisfied. If there is a conflict between a member's, employee's or related person's (in each case, that are not also clients) desired transaction and a client's desired transaction, the conflict will be resolved in favor of the client. In the event that an investment opportunity arises which would be suitable for more than one client (including those clients that are also related persons), Nine Thirty Capital will generally allocate that investment opportunity on a pro rata basis based upon the capital of the clients that would otherwise be allocated to such investment opportunity (assuming no limitations on such allocation) or as may be otherwise deemed equitable by Nine Thirty Capital.

Occasionally, an investment opportunity is made available to Nine Thirty Capital by a client (including a client that is also a related person). In such circumstance, Nine Thirty Capital will allocate the investment opportunity first to the client without whom there would be no access to the investment and thereafter to other clients in the manner described above.

Nine Thirty Capital and its related persons (including related persons that are also clients) may, from time to time, participate in certain private equity investment opportunities. Nine Thirty Capital may also seed or create investment vehicles for the purpose of investing in such opportunities. These opportunities are offered to Nine Thirty Capital's clients, but are not currently portfolio assets of any client account.

Generally, a reduced fee (or no fee) is applied to accounts held by employees or members and their respective affiliates.

## **Brokerage Practices**

Due to the nature of the services it provides, Nine Thirty Capital does not generally conduct client transactions through broker-dealers. However, where Nine Thirty Capital is in a position to place client transactions through broker-dealers, Nine Thirty Capital uses brokers that are selected on the basis of their general expertise and their ability to execute a particular trade in a timely and cost-effective manner.

## **Review of Accounts**

Portfolios managed by Nine Thirty Capital will be reviewed at least quarterly by the President and Chief Executive Officer, the Chief Financial Officer / Chief Compliance Officer and professional staff members to determine that the investments held by each client account are consistent with their stated investment objectives. In addition, more frequent reviews may be performed based on investment performance, market conditions, liquidity considerations and other factors.

Clients generally will receive monthly reports summarizing the activity in their accounts and the return on their investments, as well as relevant reporting and market benchmarks. These reports are in addition to the quarterly statements clients will receive directly from their custodian and annual audited financial statements. Clients should carefully review these statements, and should compare these statements to any account information provided by Nine Thirty Capital.

The nature and frequency of reports are determined primarily by the particular needs of the client. Clients are also kept informed through written communications, telephone calls or in-person

meetings. In special circumstances, such as market disruptions or material deviation of agreed investment policy guidelines clients would be informed on an ad-hoc basis outside of the regular review cycle.

## **Client Referrals and Other Compensation**

Nine Thirty Capital may compensate a third party solicitor and internal marketers for a successful referral. Before any compensation is paid, however, there must be a written agreement between the solicitor and Nine Thirty Capital. In addition, for third party solicitors there must be a written disclosure document signed by the referred client. Nine Thirty Capital does not currently pay any person for client referrals.

The agent's compensation generally does not increase the referred client's fees beyond that which Nine Thirty Capital would otherwise charge the referred client for its investment management services.

Certain of Nine Thirty Capital's employees who refer or help solicit investment advisory clients may be compensated on the basis of a percentage of the advisory fees paid by such referred client to Nine Thirty Capital.

## **Custody**

Due to the nature of its relationship to the LLCs and ability to withdraw fees from client accounts, Nine Thirty Capital is deemed to have custody of client funds and securities. In order to comply with regulations regarding custody of funds and securities by investment advisers, each of the LLCs is audited annually and clients receive copies of audited financial statements within 180 days of the LLC's fiscal year end.

## **Investment Discretion**

Nine Thirty Capital accounts are generally managed on a discretionary basis where all decisions as to which securities are bought or sold and the total amount bought or sold is generally determined by Nine Thirty Capital or their selected managers, as applicable. However, as each LLC is customized to tailor the clients investment and risk profile, clients participate in providing parameters regarding position size, manager or strategy exposure and liquidity guidelines. Nine Thirty Capital generally reviews its recommendations with clients prior to making investments and changes related to portfolio rebalancing.

## **Voting Client Securities**

Due to the nature of the services it provides, Nine Thirty Capital is not generally in a position to vote client securities. However, Nine Thirty Capital has adopted procedures for voting securities held on behalf of each Client, for which clients have directed Nine Thirty Capital to vote proxies on their behalf, and Nine Thirty Capital has the discretionary authority to vote, to ensure that such securities are voted for the benefit of and in the best interest of the Client. The objective of voting a security in each case under the policy is to seek to enhance the value of the investment which the security represents or to reduce the potential for a decline in the value of the investment which the security represents. Clients may obtain a copy of these proxy voting policies as well as information about how Nine Thirty Capital has voted the client's proxies by contacting Nine

Thirty Capital. Nine Thirty Capital does not vote on assets maintained by other managers or brokers when they have discretionary authority over the investment process.

## **Financial Information**

Nine Thirty Capital has never filed for bankruptcy and is not aware of any financial condition that is expected to affect its ability to manage client accounts.