



# **Family Management Corporation**

## **Disclosure Brochure**

Part II of Form ADV: Uniform Application for Investment Advisor Registration

**March 30, 2012**

**Family Management Corporation**

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This brochure provides information about the qualification and business practices of Family Management Corporation. If you have any questions about the contents of this brochure, please contact us at (212) 872-9600 or by email at [customerservice@familymanage.com](mailto:customerservice@familymanage.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.

Family Management Corporation is an SEC Registered Investment Adviser; however registration does not imply a certain level of skill or training.

Additional information about Family Management Corporation is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

# Material Changes

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Family Management Corporation is providing this information as part of our annual updating amendment which contains material changes from our last annual update.

On August 12, 2010, the United States Securities and Exchange Commission published “Amendments to Form ADV” which requires us to provide clients with brochure and brochure supplements. This brochure dated March 30, 2012 is prepared according to the SEC’s new requirement and rules. As a result, this document is substantially different in form and content, and contains more information than our earlier disclosure documents.

Our brochure may be requested by contacting Philip T. Frank, General Counsel and Chief Compliance Officer at (212) 872-9637 or [pfrank@familymanage.com](mailto:pfrank@familymanage.com). A new brochure will be provided to you at any time without charge.

Since our last Form ADV filing, the following material changes have occurred:

- Family Management Corporation (“FMC”) became investment manager for FM Fifth Avenue Fund, LP and FM Fifth Avenue Fund, Ltd. The funds commenced operation on July 1, 2011.

Consistent with the new rules, we will ensure that you receive a summary of any material changes to our brochures within 120 days of the close of our fiscal year. Furthermore, we will provide you with other interim disclosures about material changes as necessary.

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# Advisory Business

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## Firm Description

Family Management Corporation (“FMC”), together with its affiliates (Family Management Securities, LLC and Forest Hill Capital Corporation), operates as a full-service wealth management firm providing families and individuals with highly personalized and comprehensive services.

We recognize that financial needs vary, and we also know that there is no "one-size-fits-all" approach. Rather, we provide each client with an unmatched blend of personalized services and an array of exclusive products tailored to their specific goals. Clients may hire us to provide discretionary investment management services. Clients may hire us because of our relationship with certain Third Party Managers (defined below). Clients may even have their own managers or investments that they want us to monitor. In addition, we can provide our clients with traditional brokerage services (through Family Management Securities, LLC) and complete life insurance solutions (through Forest Hill Capital Corporation). We coordinate and evaluate our clients' investments, their performance, and work to ensure that everything remains focused on their goals.

Our wealth management services are further enhanced with innovative and expert banking, legal, tax, and insurance providers. These services are delivered by third party specialists who look well beyond individual transactions. These specialists work with our clients to structure customized solutions responsive to each of their needs.

We take a deep, personal interest in our clients, and we continuously strive to meet and anticipate their needs by providing total wealth management services that are designed to complement the family enterprise by centralizing, coordinating, and streamlining all key functions.

FMC is registered with the U.S. Securities and Exchange Commission (“SEC”) as an investment adviser under the Investment Advisers Act of 1940, as amended and is 100% employee owned.

## Assets Under Management

As of December 31, 2011, FMC was actively managing \$1,128,657,000 in client assets. This total includes \$980,797,000 of client assets managed on a discretionary basis plus \$145,098,000 of client assets managed on a non-discretionary basis.

## Tailored Relationships

Our wealth management services are tailored to each client. However, in general, a client relationship begins with a discovery process that includes an in-depth dialogue to identify all the factors surrounding and defining our client's wealth. Information is gathered regarding the client's short and long-term goals and concerns, the structure and amount of all of the client's holdings, the client's exposure to, and tolerance for, risk, and an understanding of the client's life and disability coverage.

We then work with the client to construct and implement a long-term asset allocation and investment strategy. We engage in a detailed conversation with the client in the development of the asset allocation and investment strategy. The asset allocation and investment strategy will generally involve a third party manager and their investment vehicle as well as FMC's discretionary investment management services.

Once our recommendation of a long-term asset allocation and investment strategy is approved by the client, we begin the management process. During this process, we review the client's overall portfolio on an ongoing basis and evaluate possible adjustments in response to economic changes, market trends, and/or client needs.

Upon our recommendation, a client generally enters into an arrangement with a Third Party Manager pursuant to a separate agreement between the client and the Third Party Manager or its investment vehicle. The investment risks associated with a Third Party Manager and its investment vehicle are detailed in the disclosure documents and/or offering documentation that is provided to the client by the Third Party Manager. Clients should read the disclosure documents and/or offering documentation carefully prior to making any investment decision.

Discretionary authority with respect to securities to be bought or sold or the amount of securities to be bought or sold may be limited by conditions imposed by the client in their investment guidelines or objectives or in instructions otherwise provided to FMC.

## **Types of Advisory Services**

FMC predominately provides investment supervisory services to its clients, in addition to managing investment advisory accounts not involving investment supervisory services and furnishing advice to clients on matters not involving securities. FMC offers investment advisory services for a percentage of assets under management and fixed fees (not including subscription fees).

As noted above, a client may hire FMC to provide discretionary investment management services. In these instances, the client generally opens a brokerage account with FMS for the purchase and sale of securities (e.g., stocks, bonds, mutual-funds, etc.) which is done on a discretionary basis pursuant an advisory agreement.

We may also enter into a non-discretionary agreement with a client on a negotiated basis.

In addition to managing the purchase and sale of securities on a discretionary basis, we may recommend, in connection with a client's specific asset allocation and investment strategy, that the client engage a third party to provide certain specialized asset management services ("Third Party Manager") or to invest in a Third Party Manager's investment vehicle. These investments are not made on a discretionary basis by FMC.

The asset allocation and investment strategy developed by FMC typically involve a Third Party Manager as well as FMC's discretionary management services which may include related funds managed by FMC.

It is important to understand that FMC does not supervise the assets that a client invests with a Third Party Manager or its investment vehicle other than to attempt to monitor performance and determine whether the allocation remains appropriate for the client. FMC conducts its own due diligence on the Third Party Manager and its investment vehicle, but FMC must rely on information that it receives from the Third Party Manager. FMC cannot make any representation as to the accuracy, timeliness or completeness of any information provided by the Third Party Manager. Moreover, FMC does not conduct due diligence on any underlying investments or securities held by Third Party Managers.

While FMC will attempt to monitor the performance of the Third Party Manager and its investment vehicle, as noted, FMC must ultimately rely on the Third Party Manager to operate in accordance with its investment strategy or guidelines and on the accuracy of the information provided by the Third Party Manager. If a third Party Manager or its investment vehicle does not operate in accordance with its investment strategy or guidelines, or if the information furnished by a third Party Manager is not accurate, a client's investment with a Third Party Manager and its investment vehicle may sustain losses. Moreover, FMC does not have any control over the decisions made by the Third Party Manager and FMC will not have any control over the institutions selected by the Third Party Manager for brokerage, clearing, custody or other services related to its investment vehicle.

Bankruptcy or fraud at one of these institutions could result in substantial losses to a client as there is always the risk that a Third Party Manager or its service providers could mishandle or convert the assets under their control. FMC has discussions and reviews with the Third Party Managers in connection with our clients' asset allocations and investment strategies. And, as part of our services, we advise our clients about increasing, decreasing or terminating any such relationships.

It is very important to understand that FMC's due diligence process: (i) applies only to Third Party Managers and investment vehicles sponsored by Third Party Managers that FMC has specifically recommended; (ii) FMC does not perform due diligence on any underlying funds, accounts or investments selected or recommended by a Third Party Manager, and (iii) FMC does not perform due diligence on any client investment (whether a fund, separate account, stock, or bond) that was not recommended by FMC, even though FMC's services may include consolidated reporting that includes information about these Investments.

FMC's due diligence process is intended to assist FMC in understanding the Third Party Manager's business and operations so that FMC can make appropriate determinations as to the Third Party Manager's ability to make investment decisions that are consistent with client needs and expectations.

FMC serves as the General Partner, and investment manager of FM Multi Strategy Appreciation Fund, L.P. ("FM Appreciation"), FM Real Estate Opportunities Fund, L.P. ("FM Real Estate"), and FM Real Estate Opportunities Fund II, L.P. ("FM Real Estate II"), and serves as investment manager of FM Fifth Avenue Fund, L.P. ("FM Fifth LP") and FM Fifth Avenue Fund, Ltd. ("FM Fifth Ltd."), (collectively, the "FM Funds").

Our wealth management services may also include estate and income tax planning, tax effective wealth management, liability monitoring, personal concierge services, and philanthropic planning, all of which are done in conjunction with the client's existing providers or with new providers (i.e., attorneys, accountants, etc.).

In conjunction with our advisory services, we provide our clients with quarterly financial reporting, and we may customize reports to their specific requests.

## Fees and Compensation

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### Description of Fees

Clients pay an annual advisory fee for our wealth management services based upon assets under management. Client assets that are managed by a Third Party Manager (or its investment vehicle) are included in calculating a client's annual advisory fee, as are assets managed by a Third Party Manager wrapped inside a private placement life insurance contract or annuity contract. Clients also pay fees directly to the Third Party Managers and/or their investment vehicles.

FMC does not control the fees or the billing arrangements of any selected Third Party Manager. For a complete description of the fee arrangement including billing practices, minimum account requirements and account termination provisions, clients should review the Third Party Manager's brochure or other disclosure document.



For common stocks, convertible preferred shares, and all other equity-type assets, whether managed by us or a Third Party Manager, the annual advisory fee (which is payable quarterly) is generally:

Assets	Annual Fee
First \$250,000	2.0%
Next \$250,000	1.5%
Next \$500,000	1.25%
Amounts in excess of \$1,000,000	1.00%

For fixed income securities, the annual advisory fee (which is payable quarterly) is generally:

Assets	Annual Fee
First \$250,000	0.75%
Next \$250,000	0.60%
Next \$5,000,000	0.50%
Next \$5,000,000	0.40%
Amounts in excess of \$10,500,000	0.35%

For cash, including money market funds or similar securities, the annual advisory fee (which is payable quarterly) is generally:

Assets	Annual Fee
First \$250,000	0.75%
Next \$250,000	0.60%
Next \$5,000,000	0.50%
Next \$5,000,000	0.40%
Amounts in excess of \$10,500,000	0.35%

For purposes of calculating our annual advisory fee, we categorize investment company securities (mutual funds) as either equity or fixed income based upon the mutual fund's investment objective.

The annual advisory fee and commission fee schedules differ among clients depending upon the date of commencement of a client's account, the size of a client's account, any related-party accounts, and certain other variables. Although FMC has established the aforementioned fee schedule(s), FMC may, at its discretion, negotiate alternative fees on a client-by-client basis. The combination of the annual advisory fee and the commission fee schedules may be higher than those available for similar combinations of services from other advisers.

Client assets in the FM Funds are not included under the fee schedules noted herein. Rather, with respect to FM Appreciation, FMC receives a fee computed at a rate of one percent (1%) per annum of the net value of the fund's assets, payable monthly in advance. In addition, FMC is

eligible to receive a yearly 10% profit participation from the fund as well as a 0.40% expense allowance. In connection with FM Real Estate and FM Real Estate II, FMC receives a management fee from each fund computed at a rate of one percent (1%) per annum of the aggregate capital commitments of the partners of each fund for five years, after which time its fee is reduced according to the terms of the offering documents. Also, after the partners' initial capital contributions have been returned, net gains from each fund are allocated 15% to FMC and 85% to the partners in proportion to their capital contributions. For FM Fifth LP and FM Fifth Ltd., FMC receives a quarterly fee, payable in advance, computed at a rate of one percent (1%) per annum of the net value of the fund assets on the first business day of such quarter.

## **Fee Billing**

A client's annual advisory fee is due and payable at the end of each calendar quarter in arrears based on the market value of the client's account on the last business day of March, June, September and December (the "Computation Date"). At each Computation Date, each client's account is billed the applicable annual advisory fee rate for the quarterly period just ended.

For the purpose of calculating the annual advisory fee, the first quarter will commence during the first calendar quarter in which the client's advisory agreement becomes effective. Fees on additions and withdrawals to a client's account within a quarter are not pro-rated, except that fees for partial quarters at the commencement or termination of a client's advisory agreement are prorated (in the case of termination, such pro-ratio is based on the most recent quarterly period that has ended). FMC utilizes trade date (not settlement date) for calculating its fees.

In general, the market value of a client's account is computed by valuing a security listed on a national exchange at the latest sale price on the Computation Date. Client assets that are managed by Third Party Managers are valued according to the net asset value provided by the Third Party Manager. Investments in mutual funds are valued at the net asset value determined on the Computation Date.

The value of any policies, contracts, or other products issued by insurance companies, for which principals of FMC may act as agents, including premiums paid, are not subject to our fees except for private placement variable life insurance and variable annuity products.

## **Third Party Manager Fees**

FMC does not control the fees or the billing arrangements of any selected Third Party Manager. For a complete description of the fee arrangement including billing practices, minimum account requirements and account termination provisions, clients should review the independent investment adviser's Adviser Brochure or other disclosure document.

## Termination of Advisory Relationship

A client agreement may be cancelled at any time, by either party, for any reason upon 7 days written notice. Upon the termination of the agreement, FMC will not be under any obligation whatsoever to recommend any action with regard to, or to liquidate, the assets in the account covered by the agreement. FMC retains the right, however, to complete any transactions open as of the termination date and to retain amounts in the account sufficient to effect such completion. Upon termination, it will be Client's exclusive responsibility to issue written instructions regarding any assets held in the account.

For termination of any investment within the FM Funds (with the exception of FM Fifth LP and FM Fifth Ltd., see below), a client is required to provide 30 days written notice of their intention to withdraw capital from, or terminate their investment, with any of the FM Funds. Payment of withdrawals from any of the FM Funds is available on June 30th and December 31<sup>st</sup> of any given calendar year.

Client's investing in FM Fifth LP and FM Fifth Ltd., are subject to a one (1) year lock-up on their investment, after which a client is required to provide 100 days written notice of their intention to withdraw capital from, or terminate their investment. Payment of withdrawals from FM Fifth LP and FM Fifth Ltd. is available on March 31<sup>st</sup>, June 30<sup>th</sup>, September 30<sup>th</sup>, and December 31<sup>st</sup> of any given calendar year.

Additional information on the liquidation of investments from the FM Funds can be found in the offering documents for each fund.

## Brokerage Fees

Under FMC's standard advisory agreement, unless a client gives FMC specific directions to the contrary, a client directs FMC to effect all securities transactions for the client's account (except assets managed by Third Party Managers) through FMS, an affiliate of FMC, under a commission fee schedule attached to and made a part of the clients' advisory agreement. These commission charges are in addition to the other fees paid by clients listed herein. The standard commission fee schedule is listed below:

<b>Common and Preferred Stock</b>	
Number of Shares	Commission
1 to 299	\$50.00 flat
300-999	\$50.00 plus \$0.12 per share
1000 - 1999	\$50.00 plus \$0.10 per share
2000 or greater	\$50.00 plus \$0.08 per share

<b>Low Priced Securities (\$ 5.00 &amp; under)</b>	
Number of Shares	Commission per share
1 to 1999	\$50.00 flat
2000 or greater	\$0.05 per share

<b>Debt Securities (Per \$1,000 Principal Amount)</b>	
Maturity/Probable Call Date Rate	Per \$1,000 Principal Amount
Up to 1 Year	\$50.00 flat
1 - 2 Years	\$1.00 - \$2.00
2 - 3 Years	\$2.25 - \$3.00
3 - 4 Years	\$3.25 - \$4.00
4 - 5 Years	\$4.25 - \$4.75
5 Years and more	\$5.00
There is a minimum charge of \$50 for debt securities regardless of principal amount and maturity.	

<b>Mutual Funds</b>	
Amount	Per Trade Fee
\$25,000 or less	\$30.00
Above \$25,000	\$60.00
Exchanges	\$10.00 per exchange

<b>Options</b>
\$12.00 base fee plus \$2.00 per option contract

## Other Fees

Any client that signed an advisory agreement with us after December 31, 2003, also pays us an annual management fee on all of the client's assets that are managed by a Third Party Manager or in its investment vehicle. The annual management fee is 1.00% per annum, payable quarterly in arrears. The annual management fee is in respect to our introduction of the client to the Third Party Managers (including their investment vehicles). The annual management fee also covers our initial and continuing due diligence of the Third Party Managers (and their investment vehicles), and our negotiation with the Third Party Managers on the client's behalf. Please note that we waive the annual management fee as long as our client's advisory agreement is in effect. Upon termination of an advisory agreement, the client is obligated to pay the annual management fee to us for as long as the client has assets managed by a Third Party Manager or in its investment vehicle. The annual management fee may be higher or lower than the annual

advisory fee. The obligation to pay the annual management fees will survive the termination of the advisory agreement.

A client that invests in a mutual-fund pays us an advisory fee (see Description of Fees) and an indirect management fee to the adviser of the mutual fund in addition to the mutual fund's other fees and expenses.

Principals of FMC also may receive fees when acting as an executor to an estate.

As further discussed below (see Other Financial Industry Activities and Affiliations), FMC has entered into two arrangements with AGL Life Assurance Company ("AGL"). First, FMC has entered into an asset allocator agreement with AGL. Under this agreement, FMC receives a fee from AGL for clients that invest in accounts of privately placed variable annuity and life insurance contracts underwritten by AGL. FMC may allocate assets to Millennium Global Estate LP ("MGE") or other investment vehicles. The fee is disclosed in the AGL private offering memorandum to the client, and is in addition to any fee paid by clients of FMC to it and its affiliates as described herein. Second, a wholly owned subsidiary of FMC, Family Management Allocation Services, Inc. ("FMAS"), has entered into an Investment Management Asset Allocation agreement with AGL. Under this FMAS receives an asset based fee of 1% of the value of any privately placed variable annuity and life insurance contract underwritten by AGL that is invested by an FMC client in a private investment company other than MGE. Fees paid by AGL are calculated as an annual percentage of the average account value of the contracts as determined by averaging the previous quarter's month-ending values, and are collected quarterly in arrears. For these clients, FMC does not charge its standard advisory fee.

All of these brokerage and insurance commissions/fees are in addition to amounts payable to FMC by a client pursuant to the fees set forth above. Each of these brokerage and insurance commissions/fees creates conflicts of interest between FMC and clients because of the compensation to FMC or FMS.

### **Additional Compensation**

FMS' clearing firm, Pershing LLC, an affiliate of the Bank of New York Mellon, pays FMS between 0 and 0.40% (depending on the money-market fund) on the aggregate amount of client assets held in money-market funds. FMC's decision to invest client assets in a money-market fund and to move client assets among money-market funds, which may occur from time to time, is based on many factors, including, but not limited to, market issues, defensive reasons, and liquidity concerns. FMC does not invest money from client IRA or ERISA accounts into any of these money-market funds.

Pershing LLC also pays FMS up to 1.5% annually for client funds held as collateral for Non-Purpose Loan Accounts.

FMS has entered into an agreement (FundVest) with Pershing LLC under which clearance fees are waived for all transactions in FundVest eligible mutual funds. FMS can share in revenues with Pershing LLC when the collective level of FMC client assets in FundVest eligible mutual funds exceeds \$10 million. Client assets become FundVest assets by the purchase of a FundVest eligible mutual fund or when a client transfers eligible mutual funds to FMS (this presents a conflict between a client and FMC because the purchase or recommendation of FundVest eligible mutual funds earns additional compensation for FMS (an affiliate of FMC)). A list of FundVest eligible funds is available upon request.

Principals of FMC may receive commissions or service fees (so called “12b-1 fees”) from mutual funds in which FMC has invested a client's assets or in which a client has invested based upon FMC's recommendation.

Principals of FMC may receive commissions or other compensation through FHCC on the sale of an insurance product (including variable life or annuity policies) to a client.

## Performance-Based Fees & Side-by-Side Management

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### Sharing of Capital Gains or Capital Appreciation

As the general partner of FM Appreciation, FMC receives an annual fee computed at a rate of one percent (1%) per annum of the net value of the fund's assets payable monthly in advance. In addition, FMC is eligible to receive a yearly 10% profit participation from the fund as well as a 0.40% expense allowance.

In addition, as the General Partner of FM Real Estate and from FM Real Estate II, FMC receives a fee of one percent (1%) per annum of the aggregate capital commitments. Also, after the partners' initial capital contributions have been returned, net gains from each fund are allocated 15% to FMC and 85% to the partners in proportion to their capital contributions.

To qualify for a performance-based fee arrangement, a fund investor must either demonstrate a net worth of at least \$2,000,000 or must have at least \$1,000,000 under management immediately after entering into an advisory agreement with us.

Clients should be aware that performance-based fee arrangement may create an incentive for us to recommend investments which may be riskier or more speculative than those which would be recommended under a different fee arrangement.

Furthermore, as we also have clients who do not pay performance-based fees, we have an

incentive to favor accounts that do pay such fees because compensation we receive from these clients is more directly tied to the performance of their accounts.

## Types of Clients

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### Description

FMC generally provides investment advice to individuals, pension and profit sharing plans, trusts, estates, or charitable organizations and corporations or business entities.

### Account Minimums

There are no minimum investment requirements to open an advisory account with FMC; however, the type of investments utilized may differ depending on the size of a client's portfolio. As the general partner and/or investment manager of the FM Funds, FMC imposes a minimum initial subscription of \$250,000. Subsequent investments must be in the amount of at least \$100,000. Both the initial and subsequent investment minimums are subject to modification at FMC's discretion.

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

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### Methods of Analysis

FMC's security analysis methods predominantly include fundamental, technical and cyclical analysis. The main sources of information used by FMC includes financial newspapers and magazines, inspections of corporate activities, research materials prepared by others, corporate rating services, annual reports, prospectuses, filings with the Securities and Exchange Commission and company press releases. Additionally, FMC will perform on-site due diligence of Third Party Mangers including discussions with company management and visits to company offices. The investment strategies used to implement any investment advice given to clients include long term purchases (securities held at least a year), short term purchases (securities sold within a year), trading (securities sold within 30 days), short sales, margin transactions and option writing, including covered options, uncovered options or spreading strategies.

### Investment Strategies

Clients may hire FMC to provide discretionary investment management services. FMC will invest for a client on a discretionary basis pursuant an advisory agreement. During the management of clients' assets FMC offers advice on, including but not limited to, stocks, bonds,

mutual-funds, options, limited partnership interests in real estate, oil and gas interests, and pooled investment vehicles (hedge funds).

In addition to managing the purchase and sale of securities on a discretionary basis, we may recommend a Third Party Manager. These investments are not made on a discretionary basis by FMC and a client will enter into a separate agreement with the Third Party Manager (see Types of Advisory Services).

Further, FMC advises clients whether they should invest in the FM Funds and in vehicles managed by Third-Party Managers. FMC has a conflict of interest with its clients in connection with these recommendations because FMC may receive higher fees from investments in the FM Funds than in Third-Party Managers.

In general, FM Appreciation is a "Hedge Fund-of-Funds." FMC seeks to diversify the assets in the fund by allocating a portion of the assets to other investment advisers for management, including commingled investment funds and hedge fund-of-funds. In addition, FMC may directly manage up to 60% of the assets in fund. The offering documents FM Appreciation should be carefully read prior to making any investment decisions.

FM Appreciation has an objective to seek to maximize total returns by allocating assets among collective investment vehicles and individually managed accounts that are managed by various investment advisers, each of whom has an individual trading strategy, based upon FMC's evaluation of such investment advisers' strategy and relevant market conditions. Unlike FM Investment, the majority of investment advisers utilized by FM Appreciation will employ a variety of long-only strategies, short-only strategies, and/or long-short strategies. The assets of this fund are invested with investment advisers that invest generally in a portfolio of marketable debt and equity securities of U.S. issuers and of issuers in global and emerging markets. Other types of securities and/or contracts will be utilized by the investment advisers. FMC seeks to diversify this fund by allocating assets to no fewer than three investment advisers. The portion of the fund's assets allocated to any single investment adviser will be limited to no more than 33 1/3% of the portfolio. FMC may, in its discretion, manage up to 60% of the fund's assets directly, which management may or may not include using short positions. In addition, FMC may from time to time in its sole discretion reallocate assets among investment advisers, select new investment advisers, and terminate arrangements with existing investment advisers. There are no assurances that the Fund's objectives will be achieved. The strategies employed by this Fund and its investment advisers involve a high degree of risk.

The strategies and investments that FM Appreciation may use include, but are not limited to: (i) statistical arbitrage, (ii) short selling, (iii) government bond trading, (iv) investing in distressed securities of issuers in bankruptcy, reorganizations, and workouts, (v) investing in high-yield securities, (vi) hot issue investing, (vii) risk arbitrage, (viii) investing in foreign securities, and (ix) investing in securities of small-capitalization companies. The fund may leverage its



investments in such instruments and may hedge against risk, if deemed necessary or desirable. Vehicles managed by Third-Party Managers will invest in similar strategies, if not the same strategies, and may transact in the same or similar securities as noted above.

In connection with FM Real Estate and FM Real Estate II, investors in the funds subscribe for a capital commitment. At the closing of each fund, an investor is required to make an initial payment equal to a certain percentage of its total capital commitment. In addition, FMC will make calls for payment from the investors to fund a portion of their total capital contribution until their total capital commitment is satisfied.

The purpose of FM Real Estate and FM Real Estate II is for each fund to acquire a limited partnership interest in a specific commercial real estate fund organized to originate, acquire, hold, finance, manage and dispose of investments in the following real estate and real estate-related asset classes: (a) office properties located in metropolitan areas, primarily on the East Coast of the United States and (b) non-office real estate-related assets, such as multi-family properties, that may offer risk-return fundamentals comparable to those of the office properties. There are no assurances that the funds' objective will be achieved. The strategies employed by these funds and their advisers involve a high degree of risk.

FM Fifth LP and FM Fifth Ltd. are hedge fund-of-funds. The purpose of the funds is to invest in various private investment funds. Initially, FM Fifth LP will invest in Millennium USA LP and FM Fifth Ltd. will invest in Millennium International, Ltd. (collectively the "Millennium Funds"). FMC has full discretion to invest the assets of the FM Fifth LP and FM Fifth Ltd. FMC may in the future withdraw a portion, or all, of its assets from the Millennium Fund and invest directly in other securities, including, without limitation, investment funds (including investment funds that invest in other funds), corporations, limited partnerships, joint ventures, offshore companies and similar entities and accounts. In the event that it does so, FMC will provide notice of such change to fund investors and offer them the opportunity to withdraw from the relevant fund prior to such change being implemented.

## **Risk of Loss**

Securities investments are not guaranteed and you may lose money on your investments.

## **Disciplinary Information**

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FMC is required to disclose any legal or disciplinary events that are material to a client's or prospective client's evaluation of our advisory business or the integrity of our management.

FMC and our management personnel have no disciplinary events to report. FMC, and certain of its management personnel, are subject to civil litigation; however, since FMC deems these events

as immaterial to its advisory business, they have not been disclosed in this section. For further disclosure, please see the SEC's public disclosure website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## Other Financial Industry Activities and Affiliations

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### Affiliated Entities

FMC has two affiliated companies: Family Management Securities, LLC ("FMS"), and Forest Hill Capital Corporation ("FHCC"). FHCC is registered as a New York State Insurance Agent and is utilized in connection with the sale of life insurance products. FMS is registered with the SEC as a broker-dealer under the Securities Exchange Act of 1934, as amended, and is a member firm of the Financial Industry Regulatory Authority ("FINRA") and the Municipal Securities Rulemaking Board ("MSRB"). All management personnel of FMC are separately licensed as registered representatives of FMS. FMC directs substantially all trades on behalf of its clients through FMS.

FMC serves as the General Partner of FM Appreciation, "FM Real Estate, and FM Real Estate II. FM Fifth Avenue (GP) LLC, which is under common control with FMC, serves as General Partner of FM Fifth LP, and certain related person(s) serve as director(s) for FM Fifth Ltd. In addition, FMC serves as General Partner of FM Multi-Strategy Investment Fund, L.P. and FM Low Volatility Fund, L.P., which are currently in liquidation and will subsequently be dissolved. The FM Funds are not registered as investment companies with the SEC under the Investment Company Act of 1940, as amended, and interests in the FM Funds are not registered as securities with the SEC under the Securities Act of 1933, as amended. FMC may serve as a general partner to other investment funds from time to time.

All of these entities are under common control and share many of the same personnel. The principal office and place of business for all of the above listed entities is 485 Madison Avenue, 19th Floor, New York, N.Y. 10022.

### Material Relationships or Arrangements with Financial Industry

FMC may, in certain instances, introduce a client to Signature Bank as a prospective banking client. FMC receives a fee from Signature Bank based on a predetermined schedule for certain banking activities undertaken by the referred client. The terms of these referrals are fully disclosed to the client.

FMC has entered into an asset allocator agreement with AGL. Under this agreement, FMC receives a fee from AGL for clients that invest in accounts of privately placed variable annuity and life insurance contracts underwritten by AGL. FMC may allocate assets to MGE or other

investment vehicles. The fee is disclosed in the AGL private offering memorandum to the client, and is in addition to any fee paid by clients of FMC to it and its affiliates as described herein. Fees paid by AGL are calculated as an annual percentage of the average net assets of the investment account value of the contracts as determined by averaging the previous quarter's month-ending values, and are collected quarterly in arrears as per the following table:

<u>Years</u>	<u>Up to \$1,000,000</u>	<u>\$1,000,000- \$4,999,999</u>	<u>\$5,000,000 - \$9,999,999</u>	<u>Over \$10,000,000</u>
1-10	0.125%	0.100%	0.075%	0.050%
11-20	0.125%	0.100%	0.075%	0.035%
21+	0.125%	0.100%	0.075%	0.025%

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

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### Code of Ethics

FMC has adopted a Code of Ethics with which all FMC personnel are required to comply. The Code of Ethics is designed to cover, among other things, personal securities transactions, reporting and pre-clearance obligations relating to personal securities transactions, avoidance of conflicts of interest, prohibitions against disclosure of non-public information relating to clients and client transactions, and rules governing and penalties for violations of provisions of the Code of Ethics.

The Code of Ethics requires all employees to notify and obtain consent from FMC prior to opening a securities account or from placing self-directed orders with a broker or dealer for their own account or for a related account. Employee accounts and related accounts are not subject to the fees noted herein. Employees are also required to arrange for duplicate monthly account statements and confirmations to be sent to FMC's Chief Compliance Officer with respect to such accounts.

The Code of Ethics also provides that each security purchased by an employee must be held for thirty one (31) days, subject to certain exceptions (i.e., options, ETFs) and those that may be granted from time to time.

The Code of Ethics prohibits employees from investing “side-by-side” with any client of FMC unless the employee executes the trade through FMS and received the same average price as the client.

Trades for employees done away from FMS are made after all client trades in the particular security are completed.

The Code of Ethics prohibits employees from acting upon material non-public information, from purchasing securities of companies in which principals of FMC have access to material non-public information, or from otherwise purchasing securities of any company that is on a restricted list maintained by FMC, which is updated periodically.

In compliance with the Insider Trading and Securities Fraud Enforcement Act of 1998, FMC, through its affiliation with FMS, has established, maintains, and enforces written policies reasonably designed to prevent the misuse of material, non-public information by FMC, or any persons employed by FMC.

A copy of FMC's Code of Ethics is available without cost, by calling Philip T. Frank at 212-872-9637 or by writing to FMC at 485 Madison Avenue, 19th Floor, New York, NY 10022.

### **Recommend Securities with Material Financial or Other Interest**

FMC may recommend allocating a portion of a client's assets to Third Party Managers or their investment vehicles. Although there is no understanding to the effect, Third Party Managers may place trades through FMS. This can present a conflict between a client and FMC in that FMS may receive commissions from Third Party Managers.

Principals of FMC may recommend that certain clients purchase interests in the FM Funds. Principals of FMC may purchase interests in these funds also.

FMC may recommend the purchase of a particular mutual fund in which a principal of FMC is related to the chairman of the board of directors of the fund's holding company. While FMC invests in the mutual fund on the same terms as all other investors, a conflict of interest could arise if FMC were to allocate an inordinate percentage of assets to the fund due to the relationship.

For more information concerning the above, please contact Philip Frank at (212) 872-9637 or [pfrank@familymanage.com](mailto:pfrank@familymanage.com).

### **Invest in Same Securities Recommended to Clients**

From time to time, employees of FMC may purchase or sell the same securities as are purchased or sold for, or recommended to, a client. FMC has adopted restrictions applicable to all of its personnel with respect to transactions in securities that are purchased or sold for a client's account or recommended to a client.

These policies apply to transactions in any account in which the employee has a direct or indirect beneficial interest, unless the employee has no direct or indirect influence or control over the account.

## **Personal Trading Policies**

FMC employees who seek to purchase or sell securities for their own account must maintain a brokerage account with FMS or with another broker-dealer that is disclosed to FMC. FMC employees must obtain pre-clearance prior to executing self-directed transactions. FMC employees do not need to obtain pre-clearance for transactions executed in accounts managed by FMC on a discretionary basis. All employees must provide FMC with periodic reports of their personal securities transactions in accordance with the requirements of the Investment Advisers Act of 1940, as amended, and the rules thereunder.

If an employee of FMC who maintains a brokerage account with FMS purchases or sells a security on the same day that FMC exercises its discretion to engage in the same transaction with respect to the same security on behalf of one or more of its clients, that employee will not be permitted to obtain a more favorable price than a client. Rather, the employee (as well as each affected client) will receive the "average price" of such security, based on all transactions in such security executed through FMS on such day by FMC on behalf of clients and by FMC employees. Inclusion of FMC's employees in the aggregated order could adversely affect the price at which clients trades are executed.

In general, bunched trades are allocated pro-rata in accordance with relative holdings in the particular security (subject to rounding). When partial fills occur, FMC has an obligation to fill the clients' allocations prior to those of employees.

Employees of FMC are prohibited from purchasing or selling a security (other than through a brokerage account with FMS as set forth above) on the same day that FMC exercises its discretion to purchase or sell the same security on behalf of one or more of its clients.

While FMC employees may engage in transactions for personal accounts that are similar to those of FMC clients, employees may also take positions that are different from, and possibly inconsistent with, client transactions or recommendations. For example, an employee may have a more aggressive strategy for personal investments than is generally used for clients, or may for personal reasons determine to sell a security that is generally being purchased for, or recommended for purchase by, clients.

Principals and employees of FMC may invest with Third Party Managers on the same terms as FMC clients and, in accordance with the terms herein. In addition, Third Party Managers and their principals and employees may utilize the services of FMC.

# Brokerage Practices

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## Selecting Brokerage Firms

Clients generally direct us to execute all securities transactions for their accounts through FMS under a commission fee schedule attached to and made a part of the clients' advisory agreement. This relationship creates a conflict of interest between a client and us, because FMS (an affiliate of FMC) receives compensation for the transactions. Clients may direct us not to execute securities transactions through FMS. We may also accept instructions from a client to direct specific amounts of brokerage to a particular broker-dealer other than FMS.

Directing all securities transactions through FMS presents a conflict of interest between a client and FMC. As a fiduciary, FMC has a duty to seek best execution for a client's securities transactions. This duty requires FMC to execute securities transactions for clients so that the total cost or proceeds in each transaction are the most favorable under the circumstances.

Best price, giving effect to commissions and commission equivalents, if any, and other transaction costs, is an important factor in the decision making process for best execution. The decision making process also takes into account the quality of brokerage services, including, but not limited to, such factors as execution capability, speed of execution, anonymity of the parties that enter transactions, opportunities for price improvements, willingness to commit capital, creditworthiness and financial stability, and clearance and settlement capability. Accordingly, transactions will not always be executed at the lowest available price or commission.

Securities transactions (including debt securities) executed by FMS are effected on an agency basis. The total cost to a client reflects the price charged on the exchange or by the market maker plus FMS' commission. This practice may result in a higher total cost to a client than if the client had purchased the security directly from the market maker (reflecting an additional markup, but no broker commission).

FMC believes that the combination of the price available through FMS plus FMS' commission will be in the range of the total cost if the security had been purchased by clients directly from the market maker and included the markup. FMC has established a Best Execution Committee that meets quarterly to review its best execution practices, and FMC conducts periodic reviews of its equity and fixed income trading for best execution.

FMS receives commissions for executing trades on behalf of FMC's clients. A portion of the commissions charged to FMC's clients are paid to principals of FMS. FMS and FMC are under common control and share many of the same personnel. Accordingly, the commissions paid by clients of FMC are in addition to amounts payable to FMC by the client under the advisory

agreement. No payment is made to principals of FMC on trades executed through any other broker-dealer.

In their capacity as representatives of FMS, principals of FMC may act as broker for individuals who are not advisory clients of FMC. In doing so, FMC's principals may provide investment advice that is solely incidental to FMS' broker-dealer services. Neither FMC, FMS, nor their principals receive special compensation for this incidental advice.

## **Directed Brokerage**

Transactions for clients with directed brokerage arrangements other than with FMS generally will be executed through the broker-dealer selected by the client unless FMC reasonably believes that effecting the transaction through the directed broker may result in a breach of FMC's duties as a fiduciary.

If a client directs FMC to use a particular broker or dealer other than FMS, trades for that client's account will generally be placed by FMC after trades for other clients in similar securities have been executed through FMS. This order of execution may significantly affect the price that the client may obtain for such transactions. FMC has no obligation to renegotiate commission rates with such brokers or dealers, and directed brokerage arrangements may result in the client's account paying higher brokerage commissions or receiving less favorable prices than might otherwise be possible.

## **Research and Soft Dollars**

FMC does not use client commissions ("soft dollars") to pay for (i) computer hardware or software, or other electronic communication facilities; (ii) publications, both paper based or electronic that are available to the general public, and/or (iii) third-party research services. If FMC determines to purchase such services, FMC pays for them using its own resources.

## **Order Aggregation**

In certain instances, orders for publicly traded securities will be combined, or "bunched," for purposes of execution among various accounts. FMC believes that larger orders generally receive greater attention from traders and should, on average, slightly reduce execution costs. FMC will generally seek to aggregate orders to ensure equitable treatment among clients and/or when FMC believes such aggregation may result in better execution (including better execution prices) for clients.

Bunched purchases are generally allocated among client accounts pro-rata in accordance with relative net assets under our management. Exceptions include, but are not limited to, situations where: (i) the client already holds a position in a particular security, and FMC does not believe it is appropriate to add to that position; (ii) the client has investment restrictions that prohibit the



purchase/sale of a particular type of investment; (iii) the client's cash position is disproportionately small, so that assets available for investing are limited, or disproportionately large, so that it is appropriate to take large positions; or (iv) strict pro-rata allocation would result in odd lots, in which case FMC would round the allocations to eliminate the odd lot.

The number of shares constituting a round lot varies depending on a number of factors including, among others, the price of the security, the relative size of the transaction, and the size of a client's existing position in the security. In general, bunched trades are allocated pro-rata in accordance with relative holdings in the particular security (subject to rounding), except where tax considerations for a particular account dictate that the account participate to a greater or lesser extent. In the case of partial fills, the allocation amount is based upon a client's investment objectives and/or tax considerations.

Although FMC clients receive an average execution price on bunched trades, commissions on bunched trades are individually assessed based on the commission schedule attached to a client's advisory agreement. Consequently, FMC clients pay materially disparate commissions for bunched trades.

## Trading Errors

In the course of managing client accounts, it is possible that trading errors may occur from time to time. FMC has adopted a policy and procedures for trade errors. The policy is designed to place an FMC client in the same position it would have been had there been no error. The procedures call for trade errors to be corrected as soon as reasonably practicable after discovery, and all error corrections are to be made using an error account. For instance, when a security is erroneously purchased for a client account, the error is to be corrected by transferring the security from the client's account to the error account. When a security is erroneously sold from a client's account, the transaction is to be resolved in the error account.

# Review of Accounts

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## Periodic Reviews

Account reviews are generally conducted quarterly or more frequently if requested by a client or if FMC believes market values indicate. Seymour Zises, Andrea Tessler, or an appropriate delegate of FMC conducts the account review. Account reviews are performed to ascertain that the securities in an account are consistent with the investment strategy selected by the client, client instructions, and that the investment strategy and asset allocation continues to be suitable for the client.



## Regular Reports

Quarterly reports regarding holdings, deposits and withdrawals, purchases, sales and general account performance are provided to clients. FMC may also provide more information or reports to clients on a more frequent basis upon request. The limited partners of private investment funds of which FMC is the general partner will receive unaudited capital account valuations after each of the first three fiscal quarters and audited year-end financial statements as well as necessary information for K-1 tax returns.

## Client Referrals and Other Compensation

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### Third Party Solicitors

FMC has entered into agreements that may compensate persons for referring a client to FMC in accordance with Rule 206(4)-3 under the Investment Advisers Act of 1940, as amended. These persons may include FMC employees who may receive a portion of the advisory fees paid by the referred client in addition to other compensation.

As a matter of practice, the advisory fees paid to FMC by clients referred by solicitors are not increased as a result of any referral.

## Custody

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### Account Statements

FMC directly debits advisory fees from client accounts. As part of this billing process, the client's custodian is advised of the amount of the fee to be deducted from that client's account. On at least a quarterly basis, the custodian is required to send to the client a statement showing all transactions within the account during the reporting period.

Because the custodian does not calculate the amount of the fee to be deducted, it is important for clients to carefully review their custodial statements to verify the accuracy of the calculation, among other things. Clients should contact us directly if they believe that there may be an error in their statement.

In addition to the periodic statements that clients receive directly from their custodians, we also send quarterly account statements directly to our clients. We urge our clients to carefully compare the information provided on these statements to ensure that all account transactions, holdings and values are correct and current.

Since FMC serves as general partner to the FM Funds, and due to the fact that certain related persons may serve as trustee to client trust accounts, FMC is deemed to have custody of client

assets. Given this fact, we are required under the Investment Advisors Act of 1940, to retain a PCAOB registered accounting firm to perform a surprise independent audit of FMC. Once performed, the results of the surprise audit will be available on the SEC's public disclosure website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## Investment Discretion

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### Discretionary Authority for Trading

Clients may hire us to provide discretionary asset management services, in which case we place trades in a client's account without contacting the client prior to each trade to obtain the client's permission.

Our discretionary authority includes the ability to do the following without contacting the client:

- determine the security to buy or sell; and/or
- determine the amount of the security to buy or sell

Clients give us discretionary authority when they sign an advisory agreement with our firm, and may limit this authority by giving us written instructions. Clients may also change/amend such limitations by once again providing us with written instructions.

Although we may recommend a Third Party Managers to a client, we do not have the authority to engage the Third Party Manager on behalf of the client. The client enters in to a separate management agreement with the Third Party Manager.

## Voting Client Securities

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### Proxy Voting

The services FMC provides to a client includes, but is not limited to, the voting of proxies for securities directly managed by FMC (i.e., securities held by Third Party Managers are not voted by FMC) and for only those clients that use Pershing LLC as their custodian.

In carrying out its proxy voting responsibilities, FMC has contracted with an independent third party (currently, Glass Lewis & Co, the "Third Party Administrator") to provide issue analysis and vote recommendations. It is important to note that the policy employed by the Third Party Administrator does not address all proxy proposals, but rather focuses on particular matters and is intended to give a general indication of how proxies will be voted.

The Third Party Administrator offers a U.S. policy, an International policy, a Canadian policy as well as specialty policies such as a Socially Responsible policy, a Faith -Based policy, a Taft-Hartley policy and a Public Fund policy, along with custom policies defined by its clients. FMC

utilizes the U.S. Policy. A copy of all policies can be found at [www.glasslewis.com](http://www.glasslewis.com). Each year, the Third Party Administrator undertakes an extensive process to update the policies that inform its proxy voting recommendations. The Third Party Administrator has a bottom-up policy formulation process that collects feedback from a diverse range of market participants through multiple channels: an annual Policy Survey of institutional investors and corporate issuers, roundtables with industry groups, and ongoing feedback during proxy season. The Third Party Administrator uses this input to develop draft policy updates on important governance issues, which are then published for open review and comment.

While it is FMC's policy to follow the vote recommendations of the Third Party Administrator, FMC retains the authority to vote differently than the recommendation on any proxy proposal. Such a decision, however, is subject to a review and approval process, which includes a determination that the decision is not influenced by any conflicts of interest. In addition, in each and every instance in which FMC favors voting in a manner that is inconsistent with the vote recommendation of the Third Party Administrator, FMC shall disclose to its clients conflicts of interest information and obtain client consent prior to the vote.

Because the Third Party Administrator makes recommendations based on its independent, objective analysis of the economic interests of shareholders, the proxy voting process is designed so that FMC votes proxies in the best interests of its clients and insulates FMC's voting decision from any potential conflicts of interest.

In instances in which the Third Party Administrator is unable to make a proxy vote recommendation, FMC's Proxy Voting Committee will, based on such advice as it deems necessary, determine the manner in which to vote such proxy. Such instances do not require disclosure or client consent.

If a client's securities are not custodied at Pershing LLC, the client's custodian will send proxies and related materials to the client, and the client may, at its option, inquire about FMC's position concerning a proxy issue.

Each client may obtain information about how FMC voted their proxies and/or request a copy of the Proxy Voting Policy, without cost, by calling 212-872-9637 or by writing to FMC at 485 Madison Avenue, 19th Floor, New York, NY 10022.

# Financial Information

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FMC is required to provide you with certain financial information or disclosures about our financial condition. We have no financial commitment that impairs our ability to meet contractual and fiduciary commitments to you and we have not been the subject of a bankruptcy proceeding. We do not require or solicit pre-payment of any type of client fees in advance.