

Peak Capital Management, LLC  
1465 Kelly Johnson Boulevard, Suite 350  
Colorado Springs, Colorado 80920  
(719) 528-8115  
[www.peakcapitalmanagement.com](http://www.peakcapitalmanagement.com)

March, 2012

This Brochure provides information about the qualifications and business practices of Peak Capital Management, hereinafter referred to throughout this brochure as PCM. If you have any questions about the contents of this Brochure, please contact us at (719) 528-8115 and/or [service@peakcapitalmanagement.com](mailto:service@peakcapitalmanagement.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.

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

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

## Material Changes

Pursuant to SEC Rules, this Disclosure Brochure, dated March 2012, serves as the annual update to the previous Disclosure Brochure, dated March 2011.

The summary of the changes to the Disclosure Brochure, dated March 2011 are as follows:

- A. There are material changes to the Advisory Business, item 4 on page 1 that include the addition of Brian Little and Christopher Setter as Investment Advisor Representatives (IAR's) of PCM.
- B. There are material changes to Items 10 and 11 on pages 7, 8, and 9 that include the addition of Investment Advisor Representatives (IAR's) when referencing the principals of PCM.

In the past we have offered or delivered information about our qualifications and business practices to clients on at least an annual basis. Pursuant to SEC Rules, we will ensure that you receive a summary of any material changes to this and subsequent Brochures within 120 days of the close of our business' fiscal year. We may further provide other ongoing disclosure information about material changes as necessary.

We will further provide you with a new Brochure as necessary based on changes or new information, at any time, without charge.

Currently, our Brochure may be requested by contacting Scott Arrasmith, Chief Compliance Officer at (719) 528-8115 or [scott@peakcapitalmanagement.com](mailto:scott@peakcapitalmanagement.com). Our Brochure is also available on our web site [www.peakcapitalmanagement.com](http://www.peakcapitalmanagement.com), also free of charge.

Additional information about Peak Capital Management is also available via the SEC's web site [www.advisorinfo.sec.gov](http://www.advisorinfo.sec.gov). The SEC's web site also provides information about any persons affiliated with PCM who are registered, or are required to be registered, as investment adviser representatives of PCM.

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## Advisory Business

PCM was formed in June, 2007 as a Limited Liability Company (LLC) and is registered as an investment advisor with the Securities and Exchange Commission. The principal owners are Scott E. Arrasmith and Brian D. Lockhart. The Investment Advisor Representatives (IAR's) are Brian Little and Christopher Setter.

PCM develops investment strategies designed to manage risk utilizing an absolute return philosophy. The basis of these strategies is to seek a smooth investment return independent of the returns in the stock and fixed income markets, while minimizing volatility.

As part of its services, PCM also offers financial planning with respect to estate, retirement, and tax plans. Clients are under no obligation to contract for a financial plan in order to receive investment management, and may contract for financial planning without utilizing investment management services.

Advisory services are tailored to meet the individual needs of clients with the use of a risk tolerance questionnaire and/or written notation from discussion with the client regarding investment objectives and risk tolerance. PCM then classifies each client into an *aggressive*, *moderate*, or *conservative* portfolio model. These models are structured around "core" holdings and are supplemented with "satellite" positions. The core holdings are generally represented by up to 10 diversified mutual funds that PCM has identified based on their long-term performance history and PCM's current assessment of economic and market conditions. The satellite positions are selected based on PCM's research and assessment of certain investment opportunities created through avenues such as sector rotation, and may include long/short equity mutual funds, equities, exchange traded funds, fixed income instruments and options.

Clients may impose restrictions on investing in certain securities or types of securities by providing in writing, and with 30 days advance notice, which restrictions they wish to impose.

All client assets are managed on a discretionary basis.

As of December 31, 2010 PCM's assets under management totaled:

Client Discretionary Managed Accounts..... 94,187,000.00

## **Fees and Compensation**

PCM's basic fees structure is as follows:

1.50% on the first \$750,000

1.25% from \$750,001 through \$3,000,000

1.00% on assets above \$3,000,001

All fees are subject to negotiation.

The fees for financial planning are billed under a flat rate based on the extent and nature of the plan. These services are provided under a separate agreement outlining the scope of the services and fees agreed upon. Where the client has not received PCM's brochure at least 48 hours prior to engagement, the client may terminate the financial planning agreement within five business days of the date of acceptance without penalty to the client. After the five day period, the financial planning agreement may be terminated in writing before the completion of the plan. The fee will be determined by the percentage of the plan that has been completed. Typically, fees for financial planning range from \$500 to \$15,000 based on the complexity of the plan.

The specific manner in which fees are charged by PCM is established in a client's written Investment Management and Fee Agreement with PCM which continues in effect until terminated by either party, without penalty, upon thirty days written notice.

In order to effectively execute its investment strategies PCM requires a minimum investment of \$250,000. In certain situations, PCM may waive this minimum.

PCM is compensated for its services with an asset based fee, paid quarterly in advance. Fees are automatically deducted from account balances on the first business day of each quarter, billed in advance, based on the assets under management on the last trading day of

the prior quarter per written authorization in the Investment Management and Fee Agreement. Fees are prorated for periods that represent less than a full quarter, such as opening an account or terminating the Investment Management and Fee Agreement during the quarter services are provided. PCM will refund to the client any unearned fees upon the termination of the Investment Management and Fee Agreement. Where the client has not received PCM's form ADV Part II at least 48 hours prior to engagement, the client may terminate the Investment Management and Fee Agreement without penalty within five business days of signing the Agreement. PCM reserves the right to negotiate fees different than its basic fee structure. PCM will send clients a copy of the invoice provided by the custodian. Clients will receive, at least quarterly, statements from the custodian showing all disbursements and advisory fees.

PCM's fees are exclusive of brokerage commissions, transaction fees, and other related costs and expenses which shall be incurred by the client. Clients may incur certain charges imposed by custodians, brokers, third party investments and other third parties such as fees charged by managers, custodial fees, deferred sales charges, odd-lot differentials, transfer taxes, wire transfer and electronic fund fees, and other fees and taxes on brokerage accounts and securities transactions. Mutual funds and exchange traded funds also charge internal management fees, which are disclosed in a fund's prospectus. Such charges, fees and commissions are exclusive of and in addition to PCM's fee, and PCM shall not receive any portion of these commissions, fees, and costs.

Advice offered by PCM may involve investment in mutual funds. Load and no-load mutual funds may pay annual distribution charges, sometimes referred to as 12b-1 fees, after the statutory section authorizing such payments. These 12b-1 fees may be initially paid to Cambridge and a portion allocated to the advisory affiliates of PCM who are also Registered Representatives of Cambridge. The receipt of these fees could represent an incentive for PCM to recommend funds with 12b-1 fees over funds with no 12b-1 fees or lower fees. Recommendations made by PCM and its Advisory Representatives will always be consistent with the best interest of the client.

Item 12 further describes the factors that PCM considers in selecting or recommending broker-dealers for *client* transactions and determining the reasonableness of their compensation (*e.g.*, commissions).

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

PCM does not charge any performance-based fees (fees are based on a share of capital gains or on capital appreciation of the assets of a client).

## **Types of Clients**

PCM provides portfolio management services to individuals, high net worth individuals, corporate pension and profit-sharing plans, charitable institutions, foundations, endowments and trust programs. In order to effectively execute its investment strategies, PCM requires a minimum investment of \$250,000. In certain situations PCM may waive this minimum.

The following shall apply if the managed account(s) is for (1) a pension or other qualified employee benefit plan, including a 401K plan, governed by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”); (2) a tax-qualified retirement plan under section 401(a) of the Internal Revenue Code of 1986, as amended (the “Code”), and not covered by ERISA; or (3) an Individual Retirement Account (“IRA”) under section 408 of the Code.

The client represents that PCM, as applicable, has been furnished complete copies of all documents that establish and govern the plan and evidencing client’s authority to retain PCM. The client shall promptly furnish to PCM any amendments to the plan, and the client agrees that, if any amendment affects the rights of obligations of PCM, such amendment will be binding on PCM only when agreed to by PCM in writing.

The client agrees to maintain appropriate ERISA bonding for the managed account(s) and to include within the coverage of the bond PCM and their personnel and representatives as may be required by law. If the client is a pension or other qualified plan subject to ERISA, the client appoints PCM or the Portfolio Manager(s), and the Portfolio Manager(s) accept the appointment of the “Investment Manager” for the purposes of ERISA, and the Code. The Portfolio Manager(s) acknowledges that their firm is a “fiduciary” within the meaning of

Section 3(21) of ERISA and Section 4975(E) (3) of the Code (but only with respect to the provision of services normally associated with a Portfolio Manager(s)).

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

Investing in securities involves risk of loss that *clients* should be prepared to bear.

PCM's security analysis methods include charting, fundamental, technical and cyclical analyses.

Our advisory services are designed to build long-term wealth while maintaining risk tolerance levels acceptable to clients. We combine investment objectives, time horizon and risk tolerance to yield an effective investment allocation strategy and then match the strategy with our investment programs. Our program investments are typically made in open-end mutual funds, exchange traded funds ("ETF's"), individual equities, options and individual bonds.

In analyzing and executing our various programs' strategies, we use a technical approach to guide our buy/sell decisions within our allocation process. Technical analysis utilizes current and historical pricing information to help us identify trends in the broader domestic and foreign equity and fixed income markets, and in the underlying assets themselves. This may involve the use of various technical indicators, such as moving averages and trend lines, among others.

We are not bound to a specific investment strategy of ideology for the management of investment portfolios except for how such strategy might affect the pre-designed risk tolerance levels. However, our investment strategies generally incorporate these methodologies:

Core & Satellite Portfolio Management is an investment strategy that incorporates absolute return mutual funds, known as the "core" portion of the portfolio, with a percentage of selected individual securities, ETF's, individual bonds known as the "satellite" portion.

The "Core" is made of absolute return mutual funds. Because of the holdings passive nature and the belief that this structure is essential to long term planning and growth,



these "core" holdings are generally not swapped for another type in this class style and are rarely sold unless the client either needs cash for personal use, the allocation is out of bounds within the constraints of the portfolio's plan, or the clients mix of fixed income/equities ratio is modified based on premeditated or unforeseen client events.

The "Satellite" portion, by contrast, comprises holdings that the advisor expects will add alpha, the financial term for returns exceeding systematic risk. Holdings may include: [1] actively managed stocks, [2] mutual funds, and [3] separate account managers with a particular sector, region of positions, or Micro or Mega Cap Company Holdings, or [4] passively managed assets with a particular style that is counter to, or even enhances the core. Short holding periods and tax-inefficient positions may result in short-term capital gains or losses.

If the entire allotment of the satellite portion is not deemed worthy of inclusion, that portion will either be reallocated across "core" positions or in a "satellite holder" -- a position that mirrors some aspect of the core.

This satellite allocation may be implemented into 100% equity allocations and/or allocations that blend with fixed-income or non-equity positions. The satellite portfolio may be used occasionally for fixed-income investing, but generally it is dedicated to: [1] equities and [2] alternative assets such as: ETF's, hedge funds, REITs, commodities, options, and foreign currencies. Principal Protected Structured Notes may also be used; these investments are truly hybrid in that they provide a guaranteed return of principal while providing upside participation in a number of equity and alternative-investments asset classes.

PCM, in certain situations may recommend investments in selected hedge funds or commodity pools. These types of investments may present unique risks due to the use of leverage and potential lack of liquidity. In addition, such recommendations may be limited only to those clients that are termed as "Qualified Buyers" as defined in Rule 205-3 of the Investment Advisors Act of 1940. These types of investments also have varied and unique fee structures of their own. Upon the utilization of these investments, the value of a client's assets invested in them will be removed from the asset based upon which PCM's fees are calculated and billed; however, in some circumstances PCM may receive a referral fee. Due to the unique and complex nature of these investments, clients will receive a separate disclosure prior to any investments being made.

The universe of mutual funds available to PCM is limited as a result of trading restrictions placed by many mutual fund companies, which discourage active trading. Due to these restrictions, PCM often utilizes mutual fund companies that are designed for active trading. Due to the nature of the mutual fund marketplace the time to confirm a trade and place correcting trades can often be in excess of 24 hours. Therefore, PCM has adopted a Trade Error Policy to take measures as warranted or necessary, with respect to each client account, to assure that trading errors with respect to an account are identified, analyzed and resolved in a timely basis and in a manner that is fair and equitable with respect to a client's interests. Included in this policy are trading errors identified as a result of a mutual fund trade where correcting actions have been made within a three (3) day period, beginning with the initial trading error. For those correcting actions, PCM shall have no further liability of responsibility for financial compensation. Further, to the extent any detriment to the client, as a result of a trading error, is the fault of other parties, such as custodians or brokers, the Advisor will contact them and as may be appropriate, and seek to recover compensation of behalf of the client.

## **Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of PCM or the integrity of PCM's management. There are no legal or disciplinary events to report at this time that are material to your evaluation of our advisory business.

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

The principals and IAR's of PCM are licensed to sell life, health, and disability insurance with several companies and may recommend certain of these products to its clients as a result of its financial planning services. Clients are not under any obligation to purchase

insurance products recommended through a financial plan from the principals and/or IAR's, however, if they choose to do so, the principals and/or IAR's will receive commissions on those products which will be disclosed at the time of purchase. Any assets placed in insurance products for which the principal(s) and/or IAR's of PCM receive commissions will not be included in the assets upon which the investment advisory fees are calculated. The principals and IAR's of PCM are associated with Cambridge Investment Research, Inc. ("Cambridge") as Registered Representatives. Cambridge is a general securities broker/dealer having membership in the Financial Industry Regulatory Authority ("FINRA") and the Securities Investors Protection Corporation ("SIPC"). The brokerage and advisory services of Cambridge are entirely separate and distinct from the advisory services of PCM. In their separate capacities as registered representatives of Cambridge, PCM's principals and IAR's may recommend securities, asset management, or insurance products offered through Cambridge or its affiliates to their brokerage clients. These brokerage clients are generally clients who do not meet the minimum asset requirements of PCM, therefore reducing the ability to fully participate in the investment strategies utilized by PCM, or they may only require limited transaction based services. If brokerage clients purchased products through PCM's principals and/or IAR's in their separate capacities as registered representatives of Cambridge, these brokerage clients will pay separate and typical commissions. PCM recommends Cambridge as a broker/dealer to its clients. Under the rules and regulations of FINRA, Cambridge has the obligation to perform certain supervisory functions regarding certain aspects of the advisory activities of Advisory Representatives who are also Registered Representatives of Cambridge. For such supervisory functions, PCM may pay Cambridge a supervisory fee. PCM acknowledges the potential for conflicts of interest that can arise from varying methods of compensation and will always act in the best interest of the client.

PCM and Cambridge are not affiliated. The principals of PCM are officers of Legacy Advisors, Inc. and Legacy Advisors, LLC. Consulting firms that provide practice management consultation and marketing services. Legacy Advisors, Inc. and Legacy Advisors, LLC do not provide investment advice or share in any commissions derived by principals of PCM.

The Investment Advisor Representatives (IAR's) of PCM are Brian Little and Christopher Setter. They are officers of Ascent Capital Group, LLC. Consulting firms that provide practice management consultation and marketing services. Ascent Capital Group, LLC do not provide investment advice or share in any commissions derived by IAR's of PCM.

## Code of Ethics

The principals, IAR's, and employees of PCM are allowed to maintain outside security accounts or participate in PCM programs and therefore may buy or sell securities that PCM is recommending to its clients. In order to monitor such investments PCM has adopted a Code of Ethics to set ethical standards for employees of PCM. Employees of PCM who have access to non-public information regarding clients' purchases or sales of securities, are involved in making securities recommendations to clients or who have access to such recommendations that are non-public are considered "access persons". Access persons are required to report transactions and holding for non-exempt investments held outside of a PCM program. Purchases of non-exempt securities and private placements require pre-approval and purchases of initial public offerings are prohibited. Cambridge, as part of its supervisory services, also reviews the personal security transactions of the principals and IAR's.

In all capacities, the principals and IAR's of PCM will act in the best interests of their clients.

Certain affiliated accounts may trade in the same securities with client accounts on an aggregated basis when consistent with PCM's obligation of best execution. In such circumstances, the affiliated and client accounts will share commission costs equally and receive securities at a total average price. PCM will retain records of the trade order (specifying each participating account) and its allocation, which will be completed prior to the entry of the aggregated order. Completed orders will be allocated as specified in the initial trade order. Partially filled orders will be allocated on a pro rata basis. Any exceptions will be explained on the Order.

PCM has a fiduciary duty to ensure that your welfare is not subordinated to any interests of ours or any of our personnel. Therefore, it is against our policies for any of our employees to invest with you or with a group of clients, or to advise you or a group of clients to invest in a private business interest or other non-marketable investment.

The Code of Ethics includes provisions reminding employees of their obligations to clients including being objective, disclosing conflicts of interest, confidentiality of client information, a prohibition on insider trading, a prohibition of rumor mongering, restrictions on the acceptance of significant gifts and the reporting of certain gifts and business entertainment items, and personal securities trading procedures, among other

things. All supervised persons at PCM must acknowledge the terms of the Code of Ethics annually, or as amended.

PCM's clients or prospective clients may request a copy of the firm's Code of Ethics by contacting [service@peakcapitalmanagement.com](mailto:service@peakcapitalmanagement.com) or Scott Arrasmith.

## Brokerage Practices

Soft dollar benefits are not limited to those clients who may have generated a particular benefit although certain soft dollar allocations are connected to particular clients or groups of clients.

On occasion, PCM places trades with mutual fund companies who in return provide research information that can be used in developing investment strategies.

PCM recommends Cambridge Investment Research, Inc. ("Cambridge") as broker/dealer to its clients for execution. No client is obligated to use Cambridge for execution of services; however, if a client designates the use of a broker/dealer other than the recommended broker/dealer, PCM retains the right to decline to enter into a relationship with the client if PCM believes that the use of the designated trust company or broker/dealer would inhibit PCM's ability to provide asset management to the client. In directing PCM to use a particular broker/dealer or trust company, the client should recognize that PCM will not have the ability to guarantee best execution. In addition, under these circumstances, a disparity in fee charges (if any) may exist between the fees and commissions charged to other clients.

PCM recommends Cambridge as they provide execution services and access to securities and funds that compliment the investment strategies of PCM. In addition, Cambridge provides confirmation of transactions and statements, not less than quarterly, which includes all transactions in the client's account as well as performance reporting. Further, Cambridge and its affiliates perform "due diligence" on securities and insurance products and maintain an "approved products list". Therefore, recommendations may be limited to those products reviewed by Cambridge.

Clients that utilize Cambridge as executed broker/dealer for their accounts may pay transaction fees charged by Cambridge that are fair and reasonable when compared to similar broker/dealers. However, there can be no assurance that the fees charged by Cambridge are the lowest available.

PCM receives no compensation from Cambridge based on its recommendation. However, in certain circumstances PCM may recommend mutual fund investments, which have agreed to pay Cambridge a service fee. Such recommendations will only be made if PCM believes it is in the clients' best interest.

Associated persons of PCM are separately registered as representatives of Cambridge. Cambridge is required to supervise the trading activities of its representatives. Therefore, if a client directs the use of a broker/dealer who Cambridge believes would hinder Cambridge in its ability to meet these obligations, PCM will not be able to accept the account.

PCM will process block trades of securities where possible and when advantageous to the client. Block trading of assets from multiple client accounts may decrease costs and allows PCM to execute trades in a timely manner. The transaction costs are shared equally on a prorated basis between all accounts included in any block.

As a result of these arrangements, clients should evaluate the fees and services provided by PCM to determine whether the client's needs may be more economically served by utilizing the brokerage services offered.

## **Review of Accounts**

Brian D. Lockhart, Chief Investment Officer, and Scott E. Arrasmith, Chief Compliance Officer, principals of Peak Capital Management, LLC, are responsible for the formulation and implementation of investment strategies. As a result, they review accounts on a regular and continuous basis, including the confirmation of executed transactions. Each individual account is reviewed no less than quarterly as to its position in relation to the overall strategy. In addition, significant deposits and/or withdrawals of assets from accounts will trigger a review to confirm the security weightings within the overall

strategy. At least annually, each client's financial position is reviewed to insure that the investment strategy being pursued is accurate.

PCM will only deal with custodians and broker/dealers that provide client statements, no less than quarterly and provide a complete transaction history during the reporting period, including all deposits, withdrawals, purchases and sales. Regular meetings and consultations with clients, in person or by telephone may be held as needed.

## **Client Referrals and Other Compensation**

In accordance with SEC 206-4-3 Advisor's Act, PCM may pay a solicitor fee, at a rate to be negotiated, to registered broker/dealers, investment advisors or sales representatives in accordance with the terms of a written Solicitor Agreement and after execution of a written Solicitor Disclosure Statement by each client of such persons. The solicitor fees paid by PCM are done so from the investment advisory fee paid by the client. The payment of a solicitor fee will not increase the investment advisory fee paid by the client, nor will the absence of paying a solicitor fee decrease the investment advisory fee paid by the client. Solicitors are only authorized to work with potential clients in an impersonal fashion. The information on disciplinary history (if any) and registration of PCM and associated persons may be obtained through Broker Check at [www.finra.org](http://www.finra.org) and also on the investor's public disclosure website at [www.sec.gov](http://www.sec.gov) or by inquiry to PCM's Compliance Department.

## **Custody**

We do not take possession of, or maintain custody of, your funds or securities, but will simply monitor the holdings within your portfolio and exchange funds within your account based on stated investment objectives and risk tolerance.

Clients should receive at least quarterly statements from the broker dealer, bank or other qualified custodian that holds and maintains client's investment assets. PCM urges you to

carefully review such statements and compare such official custodial records to the account statements that we may provide to you. Our statements may vary from custodial statements based on accounting procedures, reporting dates, or valuation methodologies of certain securities.

### **Investment Discretion**

Generally clients provide written authorization to PCM and its Advisory Representative to grant discretionary authority over the securities and the amount of securities bought or sold on the client's behalf. In all cases, such discretion is to be exercised in a manner consistent with the stated investment objectives for the particular client account. PCM does allow clients to impose restrictions on the management of their assets. Investment guidelines and restrictions must be provided to PCM in writing.

### **Voting Client Securities**

As a matter of firm policy and practice, PCM does not have any authority to and does not vote proxies on behalf of advisory clients. Clients retain the responsibility for receiving and voting proxies for any and all securities maintained in client portfolios. Any ownership communications will be forwarded to the client for review and/or voting. PCM may provide advice to clients regarding the clients' voting of proxies.



## **Financial Information**

Registered Investment Advisers are required in this Item to provide you with certain financial information or disclosures about PCM's financial condition. PCM has no financial commitment that impairs its ability to meet contractual and fiduciary commitments to clients, and has not been the subject of a bankruptcy proceeding.

PCM is not required to include financial information in our Disclosure Brochure since we will not take custody of client funds or securities or bill client accounts six (6) months or more in advance for more than \$1200.00.

## **Requirements for State-Registered Advisers**

Information of each of our principal executive officers and supervised persons can be found in the attached "Brochure Supplements".

**END OF DISCLOSURE BROCHURE**