

## **ADV PART 2 FIRM BROCHURE: CMBS**

**EXIGENT CAPITAL MANAGEMENT LLC**

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This brochure provides information about the qualifications and business practices of Exigent Capital Management LLC. If you have any questions about the contents of this brochure, please contact us at 646-506-9474 or [sglick@exigentcap.com](mailto:sglick@exigentcap.com). You can visit us at [www.exigentcap.com](http://www.exigentcap.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. Note that being a “registered investment adviser” does not imply a certain level of skill or training.

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

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### **Advisory Business**

Since 2009 Exigent Capital Management LLC (“Exigent”) has been providing investment advice, seeking unique investments that offer compelling risk/reward profiles with understated headline returns. Exigent currently performs investment supervisory services with respect to its interest-only strips investment strategy (the “IO Investment Strategy”) and is now introducing its commercial mortgage-backed securities investment strategy (the “CMBS Investment Strategy”). This brochure is a new and separate brochure with respect to Exigent’s CMBS Investment Strategy as discussed in this brochure. Unless specifically noted otherwise, this brochure discusses fees, services and other information related to the CMBS Investment Strategy only.

With respect to its IO Investment Strategy, Exigent provides the following advisory services:

Investment supervisory services on a discretionary basis and non-discretionary basis, including making and implementing investment decisions for the following Clients:

- Exigent IO Credit Opportunities Fund LLC and Exigent IO Credit Opportunities Fund II LP (the “IO Strip Funds”), which invest in interest-only strips of Small Business Administration 7(a) loans, that are related to Exigent through common majority ownership and control of the General Partner and Managing Member of the IO Strip Funds.
- One or more investment advisory accounts, by managing investments on a non-discretionary basis (together with the IO Strip Funds, the “IO Strip Clients”).

For more information related to Exigent’s IO Investment Strategy, please ask us for a copy of the separate Exigent brochure related to this strategy.

With respect to its CMBS Investment Strategy, Exigent provides the following advisory services:

Investment supervisory services on a non-discretionary basis for the following clients:

- One or more investment advisory account(s) (the “Managed Accounts” or “Clients”).

Exigent may in the future also provide investment supervisory services on a discretionary basis to Managed Accounts.

Exigent has engaged the services of a sub-advisor Aqua Investment Management, LLC (“Aqua” or “Subadvisor”) with respect to the CMBS Investment Strategy. For more information regarding the Subadvisor, see the “Methods of Analysis, Investment Strategies and Risk of Loss” discussion and the “Investment Discretion” discussion below.

We tailor our investment advice to the needs of each Client. We discuss investment objectives with our Clients and agree upon investment restrictions in each Client's investment advisory agreement. In addition, with respect to our non-discretionary clients, the Client needs to approve each investment recommendation.

As of July 31, 2012, the amount of client assets Exigent manages including with respect to the IO Investment Strategy is \$50,500,000 on a discretionary basis and \$7,600,000 on a non-discretionary basis.

Exigent is owned equally by Eliezer Brender and Eric Davis.

### **Fees and Compensation**

Exigent receives management fees as compensation for the above advisory services as follows:

- An annual fee based on a percentage of total account net asset value, as independently negotiated with each Client, payable monthly.

Each Client has a third-party custodian that is unrelated to Exigent. This custodian determines the net asset value of the Managed Account on a monthly basis. At the direction of each Client, either the custodian or Exigent calculates the fees to be paid to Exigent based on the NAV determined by the custodian. In either instance, Exigent does not deduct its fees directly from the Managed Account.

Each Client also bears expenses that are related to the Client's investment activities, which may include among other expenses:

- Custodial fees
- Financial audit and preparation of tax returns
- Brokerage and transaction costs
- Third-party valuation services
- Wire transfer fees
- Security registration costs
- Professional fees and expenses

Clients will not pay additional fees with respect to Subadvisor. Subadvisor will be paid by Exigent, generally as a percentage of the fees received by Exigent from the applicable Managed Account.

For more information on brokerage transactions, please see the "Brokerage Practices" discussion later in this brochure.

A Client is responsible to pay for services rendered until the termination of its investment management agreement and in accordance with the terms of such agreement, which may provide that any advisory fee charged by Exigent will continue until the disposition of the investments acquired for the client. If an advisory contract with a Client is terminated and, if applicable, if investments are disposed of before the end of a billing period, Exigent refunds any overpayment of fees pro rata based on the number of days remaining in the billing period.

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

Exigent may receive performance-based fees from its Clients, as independently negotiated with each Client. If Exigent does receive a performance-based fee, it may create an incentive for Exigent or Subadvisor to make investments that are riskier or more speculative than would be the case if Exigent charged only a management fee or used an alternative fee arrangement. Exigent seeks to minimize this conflict by taking a disciplined approach to portfolio risk management.

Exigent does not directly receive performance-based fees from its IO Strips Clients. However, Exigent's affiliates New Opportunities Holdings LLC and New World Holdings LLC benefit from certain performance fees related to one or more of its IO Strip Clients through their role as general partner, managing member and/or investment advisor to various IO Strip Clients. These affiliates have common majority ownership and control with Exigent.

Although performance related fees may provide an incentive for Exigent to favor certain clients, we do not consider any client's fee structure in determining the suitability of an investment strategy for a current or prospective client, the allocation of time, efforts or investment opportunities to any current or prospective client or any restrictions on the nature or timing of investments for any current or prospective client.

### **Types of Clients**

We target the following kinds of clients for our CMBS Investment Strategy: financial institutions, family offices, corporations, trusts, foundations, endowments and other institutional investors.

We do not have a minimum size requirement for opening or maintaining an account but look for accounts to have an expected invested capital of at least \$10,000,000. We may in our sole discretion accept accounts for lesser amounts.

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

### ***Methods of Analysis***

To achieve its investment objectives, Exigent uses (i) a “top-down” approach to identify macroeconomic themes and investment opportunities and (ii) upon identifying appropriate investment opportunities, a “bottom-up” financial analysis of the underlying instrument. The top-down approach consists primarily of assessing underlying trends and perceptions that exist in the marketplace as a whole or specific sectors and looking for areas where market perceptions are mispricing assets. We strive to identify these mispriced assets through an enhanced understanding of the assets in questions as well as the cause and extent of the market misperceptions. The bottom-up approach consists of an intensive examination of the underlying collateral of the securities through an analysis of historical and projected financial performance. This is based on, among other factors, credit analysis, historical financial data, industry research and/or credit ratings.

It is important to note that investing in any securities involves risk of loss that investors should be prepared to bear. There can be no possibility of profit without risk of loss, including the risk of loss of one’s entire investment. A summary of Exigent’s CMBS Investment Strategy and certain associated risks are described below. In addition, these or other related materials may be discussed in the Investment Introduction or Investment Summary provided to prospective managed account clients.

### ***CMBS Investment Strategy and Risk of Loss***

Commercial mortgage-backed security bonds are bonds issued by special purpose entities that hold numerous mortgage loans on commercial properties. The bonds are issued in different series that provide varying degrees of credit protection including payment priority, different anticipated principal repayment dates and different anticipated yields. The bond series (also known as classes or tranches) are typically rated by one or more nationally recognized rating agencies.

Although Clients can indicate after consultation with Exigent how they would like to build their portfolio in particular with respect to duration, yield and credit risk, Exigent’s focus in this investment strategy is the acquisition of AAA-rated, short duration, First Pay or Second Pay class bonds that are in the upper levels of the capital structure. In addition, Exigent’s investment strategy is focused on acquiring what is commonly referred to as CMBS 1.0 – commercial mortgage backed securities issued during or prior to 2008. The CMBS Investment Strategy objective is to provide more favorable returns as compared to investments with similar risk profiles and similar duration. We seek to accomplish this by looking for market mispricing which enables us to purchase securities at prices that are discounted to value.

Exigent has engaged the services of Subadvisor with respect to the CMBS Investment Strategy. The Subadvisor's investment professionals are Karen B. Kulvin and Andrew K. Smith. The Subadvisor's Brochure will be provided upon request.

Exigent manages the CMBS Investment Strategy for its Clients, subject to any restrictions agreed to by its Clients. Exigent or Subadvisor manages the selection of specific CMBS investments and Client portfolios, again subject to any restrictions agreed to by the Client. At present, Exigent has delegated the management of selection of specific CMBS investments and Client portfolios to Subadvisor but Exigent may participate in this investment management together with Subadvisor or terminate the Subadvisor's services each without prior notice to or consultation with its Clients.

Investing in CMBS bonds is subject to various risks including the risk of loss of all of one's invested principal. Many of these risks are beyond the control of Exigent or Subadvisor. Potential investors should carefully consider the following material risks associated with the CMBS Investment Strategy. Only sophisticated persons who can bear the risk of loss of their entire investment should invest in the CMBS Investment Strategy.

- Uncertain Prepayment Rates and Principal Collection Rates – The investment performance of a CMBS bond may vary materially and adversely from expectations should the rate of prepayments and other unscheduled principal collections on the underlying mortgage loans be faster or slower than expected.
  - If a bond is purchased at a premium, and if payments and other collections of principal on the pooled mortgage loans occur at a rate faster than anticipated at the time of purchase, then the actual yield to maturity and market value may be lower than had been assumed at the time of purchase. The investment term would also be shorter than expected. If principal collections are slower than expected, the actual yield to maturity and market value of the security may be greater than expected. The investment term would also be longer than expected.
  - If a bond is purchased at a discount, and if payments and other collections of principal on the pooled mortgage loans occur at a rate slower than anticipated at the time of purchase, then the actual yield to maturity and market value may be lower than had been assumed at the time of purchase and the investment term would be longer than expected. If principal collections are faster than expected, the yield to maturity and market values may be greater than expected and the investment term would be shorter than expected.

Prepayment rates are driven by a number of factors, some of which are not quantifiable and some which may be unknown, and can rise unexpectedly and without warning. Accordingly it is difficult to predict the ultimate performance of a CMBS bond. Historical prepayment rates do not guarantee future performance.

- Uncertain Yield to Maturity – The yield to maturity on a CMBS bond is not fixed and it is difficult to predict the yield to maturity of a bond. The yield will vary based on the price paid for the bond and the rate, timing and amount of payment on the bond. The rate, timing and amount of payments will in turn depend on a number of factors including but not limited to prepayments and defaults; the pass-through rate of the mortgage pool; the severity and allocation of any losses or shortfalls in the underlying pooled mortgage loans; servicing decisions with respect to the underlying pooled mortgage loans and other factors that cannot be predicted with any certainty. Accordingly, it is difficult to predict the effect that any of these factors may have on the yield to maturity of a bond.
- Interest Rate Risk – Like other fixed income securities, CMBS are subject to interest rate risk. The market value of a CMBS bond will generally decrease as interest rates rise and will generally increase as interest rates decrease. Interest rate risk is generally more pronounced for long-term instruments. Even though the CMBS Investment Strategy targets short duration investments, Client portfolios will be subject to interest rate risk. Other than general portfolio management, it is not anticipated that hedging or other investment tools will be employed to mitigate interest rate risk.
- Market Risk and Market Prices – The future market price of any CMBS bond or of the CMBS market in general is unknown. As with most capital market instruments, prices can change without notice or warning. The market value of bonds may be affected by many factors, including but not limited to the then-prevailing interest rates, reduced credit-ratings for CMBS bonds already held in a client portfolio, market perceptions of risks associated with commercial mortgage lending in general or with respect to particular regions or borrowers, and general economic and financial events. No representation is made by any person or entity as to what the market value of any bond will be at any time.
- Concentration Risk – All portfolios will be invested in CMBS. You will have greater exposure that the value of your investment may decline if CMBS suffer decreased value or liquidity compared to other asset types. In addition, you will have greater exposure that the value of your investment may decline if your account is heavily invested in particular CMBS bonds that suffer decreased value or liquidity compared to other CMBS bonds. You may agree with Exigent on certain restrictions related to your account such as the percentage of your account that can be invested in any one issue. These restrictions may reduce the concentration risks related to specific CMBS bonds but will not lessen your risk related to the CMBS market in general.
- Credit Risk – Each CMBS bond is subject to the credit risks that its issuer and the underlying mortgage borrowers will not meet their obligations to timely pay principal or interest or any other amounts they are required to pay pursuant to the relevant agreements. Failures to pay such amounts will reduce the value of the bond and may cause losses to the portfolio investment. You may agree with Exigent on certain restrictions related to your account such as the percentage of your account that can be invested in any one issue. These restrictions may reduce the credit risk risks related to a specific CMBS issuer but will not eliminate credit risk.



- Counterparty Risk – Clients will engage in CMBS transactions that involve counterparties and Exigent has not placed counterparty exposure limits on these transactions. Under certain conditions, a transaction counterparty could default on a transaction or become bankrupt. Because commercial mortgage-backed securities trade on the over-the-counter market, Client transactions will not have the protections given to participants on some organized exchanges, such as performance guarantees of an exchange clearinghouse. In addition, a Client could suffer losses if other third parties were to default on contractual obligations or become bankrupt, including without limitation servicers or brokerage firms or banks which are custodial client assets.
- Illiquidity – CMBS bonds do not trade on an exchange or an automated quotation system but are traded on the over-the-counter markets. Although there currently is a liquid market for CMBS 1.0 bonds, there is no assurance that a liquid market will continue to exist for CMBS 1.0 bonds or that a liquid market will continue to exist for any specific CMBS bond. In the absence of a liquid market, you may not be able to sell CMBS bonds in your portfolio or may only be able to sell at a substantially lower price. As a result of the credit crisis of 2008, there was substantial disruption and illiquidity in the CMBS resale market for a prolonged period of time. There is no assurance this may not occur again.
- No Assurance of Investment Appreciation; No Guarantee Against Loss of Principal – There is no assurance that a Client's investment in the CMBS Investment Strategy will appreciate in value. In addition, even though the CMBS Investment Strategy targets First Pay or Second Pay class CMBS bonds that are in the upper levels of the capital structure (subject to any terms agreed upon with an individual Client), any structural capital protection provided is not a guarantee against loss of some or all of a tranche's or bond's principal. Each portfolio is exposed to the general risks associated with real estate investments, including but not limited to a complete or substantial loss of the value of a property due to among other reasons natural disasters or severe economic downturns, as well as the other risks discussed in this section. A Client could lose his, her or its entire investment.
- Commercial Mortgage-Backed Securities – Each CMBS bond is comprised of a number of underlying commercial real estate loans. The performance of each of these underlying mortgage loans may be subject to different commercial, regional and other risks. These risks include but are not limited to risks related to investing in the real estate market in general; risks related to the operations of the specific properties (for example, retail, industrial, healthcare, residential, self-storage, mixed-use); risks of environmental liabilities and compliance with related laws and regulations; risks of litigation against particular borrowers and managers of mortgaged properties; risks related to regional economic downturns or unemployment which may lead to relatively lower occupancy rates or higher tenant default rates in certain areas; risks related to non-standardized loan documentation, risks related to varying amortization schedules and risks related to prepayments of principal and interest of the underlying mortgage loans. These risks may make commercial mortgage-backed securities hard to value and less liquid. In addition,

CMBS are subject to general risk characteristics of fixed income securities, including but not limited to prepayment risk and interest rate risk.

- Unique Characteristics of Each CMBS – Because each CMBS bond is comprised of different underlying commercial mortgage loans, each CMBS bond may respond to similar situations or risks differently and its performance may generally vary from the performance of other mortgage loans included in the same pool or in other CMBS pools. Because of the highly specific nature of these assets, general pool data for other CMBS pools, even those involving the same asset types, may be misleading. These risks may make commercial mortgage-backed securities hard to value and less liquid.
- Lack of or Limited Information with respect to Specific CMBS Bonds to be Held in Client Portfolio – Neither Exigent nor Subadvisor has identified particular CMBS bonds which it will acquire for Clients or recommend to Clients. Non-discretionary Clients will have the opportunity to evaluate and approve or reject investment decisions; however, such Clients will receive summary data only and will have limited time to undertake their analysis and approve or reject any investment decision. Any future discretionary account Clients must fully rely on the ability of Exigent or Subadvisor to identify and make acquisitions consistent with the Client's objectives. Such investors will not have the opportunity to evaluate personally the relevant economic, financial and other information which will be utilized by Exigent or Subadvisor in deciding whether or not to make a particular investment or to dispose of any such investment.
- Risks Related to Servicers – CMBS are subject to risks related to master servicers as well as special servicers that are typically brought in to administer defaulted loans. In each case, the role of the servicer is to administer the mortgage loans for the benefit of the CMBS bond holders. Subject to the terms of the servicing agreement, the servicer's responsibilities may include, among other functions, collecting and transferring payments, providing mortgage performance reports, advancing late payments on delinquent loans, negotiating workouts and restructurings and/or taking defaulted properties through the foreclosure process. Among the servicer risks a CMBS portfolio is exposed to is that a servicer may become insolvent or not fulfill its contractual obligations, either of which could result in the collection or transfer of payments being delayed or reduced. A servicer could also fail to properly administer and service the loans in its portfolio. This failure could result in reduced performance results which would adversely effect the portfolio's investment. Although Exigent or Subadvisor considers the identity and performance of a servicer when making an investment analysis, portfolios typically do not contain investment restrictions limiting the percentage of an account that can be invested in bonds serviced by the same servicer or by a particular servicer.
- Continuing Eligibility of CMBS Pool to Have Pass-Through Tax Status as a REMIC – Commercial mortgage-backed securities are pooled into special purpose entities that are structured to qualify as real estate mortgage investment conduits (REMICs). The benefit of this status is that income from the entity will not be taxed at a corporate level at the entity and instead will be passed through to the bond holders untaxed. In order for the income to receive this tax treatment, the entity must meet the REMIC requirements not

just at its formation but throughout its existence. If a Client portfolio were to hold bonds of one or more issuers which loses its REMIC-status, the payments received by the Client would be significantly reduced and the performance of the bond and the portfolio would be materially adversely affected.

- Absence of Performance History – Although Exigent and its affiliates have experience in selecting and managing operating portfolios, Exigent does not have prior experience in investing and managing a CMBS portfolio. Accordingly, investors should not rely on our prior investment record in connection with entering into an advisory services agreement with Exigent with respect to our CMBS Investment Strategy. The past performance of our principals should not be deemed indicative of any future results.
- Dependence on Key Management Personnel – The success of Exigent will depend, in large part, upon the skill and expertise of management. In the event of the death, disability or departure of such individuals, the business and performance may be adversely affected.
- Dependence on Subadvisor – Exigent has contracted with Subadvisor to provide advisory services with respect to the CMBS Investment Strategy. The success of this investment strategy will depend, in large part, upon the skill and expertise of Aqua and its key management personnel. In the event of the death, disability, departure or termination, as applicable, of Aqua or its key management personnel, the business and performance may be adversely affected.
- Allocation of Time and Services; Conflict of Interest – Exigent serves as investment manager to the IO Strip Clients as well as the Clients invested in the CMBS Investment Strategy, and may in the future serve as investment manager or investment advisor to other client funds or accounts. In addition, entities that have common majority ownership and control with Exigent, New Opportunities Holdings LLC and New World Holdings LLC, serve as managing member or general partners of the IO Strip Funds. Subadvisor serves as investment manager to other client funds and managed accounts. Exigent and Subadvisor (and their principals, affiliates, agents and employees) may have conflicts of interest in allocating their time and activity between their various clients and investment strategies, including ones in which Exigent or Subadvisor, their affiliates, principals, agents or employees may have a greater financial interest. Exigent and Subadvisor and their principals, affiliates, agents or employees may have, manage and maintain investments in its or their own name or through other entities, may conduct any other business including any business within the securities industry, and may serve as an officer, director, consultant, partner or stockholder of any business including any business within the securities industry.
- Performance-Based Fee; Conflict of Interest – Exigent may receive a performance-based fee from certain Clients, as agreed upon with such Clients. A performance-based fee may create an incentive for Exigent or Subadvisor to make investments that are riskier or more speculative than would be the case if such arrangement were not in effect.

- Credit Rating and Other Third Party Information – Our analysis relies, in part, on the assumption that the rating agencies that review CMBS bonds and other publicly-available sources of information about these securities are providing accurate and unbiased data. If any of this third-party information is inaccurate or misleading, our analysis may be impaired.
- Governmental monetary and fiscal policies – Monetary and fiscal policies of various governmental and regulatory agencies, in particular the Federal Reserve Board, affect the financial services industry. Changes in such policies, including changes in interest rates, will influence the cost of funds for lending and investment and the return that can be earned on such loans and investments. Changes in such policies are difficult to predict and could materially adversely impact portfolio performance.
- Adverse Effects Resulting from Economic, Geopolitical or Other Events – Conditions such as inflation, recession, unemployment, volatile interest rates, international conflicts and other factors, such as real estate values, energy costs, fuel prices, state and local municipal budget deficits, the European debt crisis and government spending and the U.S. national debt, all of which are outside the control of Exigent or Subadvisor may, directly and indirectly, adversely affect the performance results. As has been the case with the impact of recent economic conditions, economic downturns could result in the delinquency of outstanding loans and the constriction of financial and capital markets, which could have a material adverse impact on an investment in CMBS bonds. In addition, with the increasing interconnectedness of global economic and financial systems, a financial crisis, natural disaster, geopolitical crisis, or other significant event in one area of the world can have an immediate and devastating impact on markets around the world. Concerns persist regarding the debt burden of certain of the countries that have adopted the euro currency (“Euro area countries”) and the ability of these countries to meet future financial obligations, as well as concerns regarding the overall stability of the euro and the suitability of the euro as single currency given the diverse economic and political circumstances of individual Euro area countries. If a country within the Euro zone were to default on its debt or withdraw from the euro currency, or – in a more extreme circumstance – the euro currency were to be dissolved entirely, the impact of markets around the world could be immediate and significant. Such a development could cause financial and capital markets within and outside Europe to constrict, and also could cause a substantial dip in consumer confidence and spending. Any one of these impacts could have a substantial adverse effect on investment results.
- Availability of Suitable Investments – There can be no assurance that attractive investments will continue to be available or that available investments will meet investment criteria. There is no assurance that Exigent or Subadvisor will be able to locate and acquire suitable investments or that it will be able to invest on attractive terms. Competition for investment opportunities could adversely affect the pricing at which your account invests, the timing of investments and the timing of disposition of investments, or otherwise lead to investments that are less attractive than preferred by Exigent or Subadvisor.

PROSPECTIVE CLIENTS SHOULD CONSULT THEIR OWN TAX ADVISORS IN EVALUATING THE TAX CONSEQUENCES OF TRANSACTIONS IN CMBS AND AN INVESTMENT IN THE CMBS INVESTMENT STRATEGY. NO REPRESENTATION OR WARRANTY OF ANY KIND IS MADE WITH RESPECT TO THE TREATMENT OF ANY ITEM FOR TAX PURPOSES.

Limits of Risk Disclosure - The above discussion addresses certain risks associated with an investment in the CMBS Investment Strategy but is not a complete list or discussion of all of the risks involved. PROSPECTIVE CLIENTS SHOULD CONSULT THEIR OWN ADVISERS BEFORE MAKING AN INVESTMENT WITH EXIGENT.

### **Disciplinary Information**

There have been no disciplinary actions taken against Exigent or any members of its management team.

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

F.D.N. Lexington Management Ltd ("Lexington") is a related party that is wholly owned by one of the principals of Exigent. Lexington provides consulting and certain administrative services to Exigent with regards to its Clients and its operations. Exigent does not believe its relationship with Lexington will create conflicts of interest with its Clients but, if such a conflict of interest were to arise, Exigent believes it could resolve such conflict of interest in a fair and equitable manner.

Exigent serves as investment manager to the IO Strip Clients as well as the Clients invested in the CMBS Investment Strategy, and may in the future serve as investment manager or investment advisor to other client funds or accounts. In addition, entities that have common majority ownership and control with Exigent, New Opportunities Holdings LLC and New World Holdings LLC, serve as managing member, general partner and/or investment advisor of the IO Strip Clients. Exigent (and its principals, affiliates, agents and employees) may have conflicts of interest in allocating their time and activity between their various clients and investment strategies, including ones in which Exigent, its affiliates and their principals may have a greater financial interest. Exigent will use its best efforts in connection with the purposes and objectives of each client and will devote as much of its time and efforts to the affairs of each client as may, in its judgment, be necessary and appropriate. Exigent and its principals, affiliates, agents or employees may have, manage and maintain investments in its own name or through other entities, may conduct any other business including any business within the securities industry, and may serve as an officer, director, consultant, partner or stockholder of any business including any business within the securities industry.

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

Exigent has adopted a Code of Ethics, which includes a Personal Securities Transaction Policy and an Insider Trading Policy. Our Code of Ethics, which is available and will be furnished upon request, requires among other things that all employees of Exigent and Lexington:

- Act with integrity, competence, diligence and respect, and in an ethical manner with respect to the public, Clients, prospective Clients, investor, colleagues in the investment profession and other participants in the global capital markets;
- Place the integrity of the investment profession, the interests of Clients and investors, and the interest of Exigent above one's own personal interest;
- Avoid any actual or potential conflict of interest;
- Disclose and obtain approval for outside business activities;
- Adhere to advertising and marketing policies;
- Maintain and improve professional competence and strive to maintain and improve the competence of other investment professionals; and
- Comply with applicable provisions of the federal securities laws.

Exigent's Personal Security Transaction Policy requires employees of Exigent and Lexington to:

- Pre-clear certain personal securities transactions, including all transactions for securities traded for any Exigent client;
- Report personal securities transactions (other than with respect to certain exempt transactions) on at least a quarterly basis; and
- Provide a detailed summary of certain holdings (both initially upon commencement of employment and annually thereafter) over which such persons have a direct or indirect beneficial interest.

### **Brokerage Practices**

Brokers are selected after Exigent has reviewed a number of relevant factors to obtain best execution. Those factors include but are not limited to the broker's ability to provide prompt and reliable execution, the financial stability and integrity of the broker, the quality of research provided, if any, and the competitiveness of the transaction costs.

Exigent does not consider client referrals from broker-dealers when making brokerage allocation decisions.

Exigent does not have any directed brokerage arrangements with its Managed Accounts.

Exigent may aggregate client trades when such aggregation is expected to be in the best interest of all participating clients. Exigent will seek to allocate trades in a manner that is fair to all clients and will never allocate trades based on an account's performance or fee structure.



Exigent does not currently utilize soft dollar benefits. If we decide to enter into soft dollar arrangements in the future, we will effect them only after considering any potential conflicts of interest.

#### **Review of Accounts**

Exigent reviews Client accounts continuously. Formal account reviews are conducted at least quarterly by the Portfolio Manager to ensure compliance with Client investment objectives and any investment restrictions. The Chief Compliance Officer works with investment personnel to determine whether any issues warrant changes to Exigent's policies or procedures.

On a monthly basis, Exigent will provide our Clients with written monthly holdings reports. Exigent will also provide additional statements as may be agreed upon individually with each Client.

#### **Client Referrals and Other Compensation**

Exigent does not have fee based arrangements with third parties that refer Clients to Exigent.

#### **Custody**

Exigent does not custody the assets of its non-discretionary Clients. If Exigent does provide investment advisory services on a discretionary basis in the future, it will most likely be deemed to custody the assets of one or more of those Clients. The funds and securities of all CMBS Clients are custodied with a qualified custodian that may be selected by the CMBS Client.

Exigent delivers to its Clients written monthly holding reports and expects Clients will receive certain reports directly from their custodians, as agreed upon between each client and its custodian. Clients should carefully review any reports sent by their custodians. We urge our Clients to compare any reports received from Exigent with reports received from their custodians.

#### **Investment Discretion**

We discuss investment objectives with our Clients and agree upon investment restrictions in the investment advisory agreement. For our non-discretionary accounts, the Client must approve each transaction before it is executed. If we accept any discretionary accounts in the future, we will agree with each Client in its investment advisory agreement on the scope of our discretionary authority. This authority may include the authority to buy or sell CMBS bonds in an amount and at a time as decided upon in our discretion and without prior consultation with or notice to the Client.

Exigent has engaged the services of Subadvisor with respect to the CMBS Investment Strategy. Either Exigent or Subadvisor may make recommendations to non-discretionary Clients and either Exigent or Subadvisor may

carry out the scope of discretionary powers agreed to by any future discretionary accounts in its investment advisory agreement. For more information regarding Subadvisor, see the “Advisory Business” and “Methods of Analysis, Investment Strategies and Risk of Loss” discussions above.

#### **Voting Client Securities**

Due to the nature of the securities in the CMBS Investment Strategy, there are no proxies to vote. Exigent does not vote proxies with respect to non-discretionary accounts.

Exigent's complete proxy voting policy and procedures are memorialized in writing and are available for review upon request. In addition, Exigent's complete proxy voting record for the past twelve months is available to Clients and investors upon request. For further information, contact Exigent at the phone number listed on the front of this brochure.

#### **Financial Information**

Exigent does not require or solicit prepayments of fees six months or more in advance. Exigent does not foresee any conditions that would impair its ability to meet its contractual commitments. Exigent has never been the subject of a bankruptcy petition. Exigent is not required to include financial statements in this brochure.

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

Exigent is not registered with any State as an investment adviser.



**Part 2B of Form ADV: Brochure Supplement 1**

**Eliezer Brender  
Exigent Capital Management LLC  
250 Park Ave  
New York, New York 10177  
Tel. 646-506-9495  
July 31, 2012**

**This brochure supplement provides information about Eliezer Brender that supplements the Exigent Capital Management LLC (“Exigent”) brochure. You should have received a copy of that brochure. Please contact Shanah Glick, Exigent’s Chief Compliance Officer, if you did not receive Exigent’s brochure or if you have any questions about the contents of this supplement.**

### **Educational Background and Business Experience**

#### **Eliezer Brender**

Year of Birth: 1977  
Education: Yeshiva University Sy Syms School of Business, 1995-1999  
Business Experience: Exigent Capital Management LLC, Principal and Chief Investment Officer  
Poal Capital Partners (private equity firm), Director  
Elite Hosts Inc., Owner  
JP Morgan, spot-fx

### **Disciplinary Information**

There have been no disciplinary actions taken against Eliezer Brender.

### **Other Business Activities**

F.D.N Lexington Management LTD ("Lexington") is a related party that is wholly owned by Eliezer Brender. Lexington provides consulting and certain administrative services to Exigent with regards to its Clients and its operations.

### **Supervision**

All Supervised Persons are held at the same standard and must comply with all policies and procedures as indicated in Exigent's compliance manual. In addition, all advisory activities are monitored by the Executive Committee, which is comprised of Eric Davis, Chief Operating Officer, Eliezer Brender, Chief Investment Officer and Shanah Glick, Chief Compliance Officer. These persons may be reached at 646-506-9450.

**Part 2B of Form ADV: Brochure Supplement 2**

**Eric Davis**

**Exigent Capital Management LLC**

**250 Park Ave**

**New York, New York 10177**

**Tel. 646-506-9472**

**July 31, 2012**

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### **Educational Background and Business Experience**

#### **Eric Davis**

Year of Birth: 1970  
Education: Yeshiva University, 1987-1991  
Rutgers University School of Law, 1991-1994  
Business Experience: Exigent Capital Management LLC, Principal and Chief Operating Officer  
Outside Counsel Solutions Inc.  
Paul Hastings Janofsky & Walker LLP

### **Professional Designations:**

Member, New York Bar

Below is a list of what the New York State Board of Law Examiners requires in order to become eligible to practice law and maintain licensure:

1. obtain an undergraduate college degree;
2. graduate from an American Bar Association approved law school;
3. pass the New York Bar Exam; and
4. to maintain licensure, complete 24 continuing professional education credits every two years

### **Disciplinary Information**

There have been no disciplinary actions taken against Eric Davis.

### **Other Business Activities**

Not Applicable.

### **Supervision**

All Supervised Persons are held at the same standard and must comply with all policies and procedures as indicated in Exigent's compliance manual. In addition, all advisory activities are monitored by the Executive Committee, which is comprised of Eric Davis, Chief Operating Officer, Eliezer Brender, Chief Investment Officer and Shanah Glick, Chief Compliance Officer. These persons may be reached at 646-506-9450.