

**Spencer Capital Management, LLC**

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This brochure provides information about the qualifications and business practices of Spencer Capital Management, LLC. If you have any questions about the contents of this brochure, please contact us at 646-546-5078, or by email at [dd@spencercapital.com](mailto:dd@spencercapital.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.

Spencer Capital Management, LLC is a registered investment adviser. Registration does not imply a certain level of skill or training.

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

03/28/2013

# Material Changes

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## Annual Update

Spencer Capital Management, LLC is providing this information as part of our annual Form ADV updating amendment, which contains material changes from our last annual update. This section discusses only material changes since the last annual update which most recently occurred on 03/31/2012.

## Material Changes since the Last Update

The Securities and Exchange Commission adopted amendments to Part 2 of Form ADV effective October 2010. The newly revised Part 2 consists of Part 2A (the "Brochure") and Part 2B (the "Brochure Supplement"). Each update of the Brochure must now include a summary of all material changes since the last annual update.

There are no material changes to Spencer Capital Management, LLC since the last annual update.

## Full Brochure Availability

The Firm Brochure for Spencer Capital Management, LLC is available by contacting Deena Dominguez at [dd@spencercapital.com](mailto:dd@spencercapital.com) or 646-546-5078.

# Table of Contents

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<b>Material Changes .....</b>	<b>2</b>
Annual Update.....	2
Material Changes since the Last Update .....	2
Full Brochure Availability .....	2
<b>Advisory Business .....</b>	<b>5</b>
Firm Description .....	5
Principal Owners .....	5
Types of Advisory Services .....	5
Tailored Relationships.....	6
Client Assets.....	6
<b>Fees and Compensation .....</b>	<b>6</b>
Description .....	6
Fee Billing .....	6
Other Fees .....	7
Fees Paid in Advance .....	7
Additional Compensation.....	7
<b>Performance-Based Fees &amp; Side-by-Side Management.....</b>	<b>7</b>
Sharing of Capital Gains or Capital Appreciation.....	7
<b>Types of Clients.....</b>	<b>7</b>
Description .....	7
Account Minimums .....	7
<b>Methods of Analysis, Investment Strategies and Risk of Loss .....</b>	<b>8</b>
Methods of Analysis .....	8
Investment Strategies.....	8
Risk of Loss .....	8
<b>Disciplinary Information.....</b>	<b>10</b>
<b>Other Financial Industry Activities and Affiliations.....</b>	<b>10</b>
<b>Code of Ethics, Participation or Interest in Client Transactions and Personal Trading .....</b>	<b>10</b>
Code of Ethics .....	10
Recommend Securities with Material Financial Interest .....	11
Invest in Same Securities Recommended to Clients.....	11
Personal Trading Policies .....	11

<b>Brokerage Practices .....</b>	<b>12</b>
Selecting Brokerage Firms .....	12
Research and Soft Dollars.....	12
Brokerage for Client Referrals .....	12
Order Aggregation .....	12
<b>Review of Accounts .....</b>	<b>13</b>
Periodic Reviews .....	13
Regular Reports .....	13
<b>Client Referrals and Other Compensation .....</b>	<b>14</b>
<b>Custody.....</b>	<b>14</b>
Account Statements .....	14
<b>Investment Discretion .....</b>	<b>15</b>
Discretionary Authority for Trading.....	15
Limited Power of Attorney .....	15
<b>Voting Client Securities.....</b>	<b>15</b>
Proxy Voting .....	15
<b>Financial Information .....</b>	<b>15</b>

# Advisory Business

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## Firm Description

Spencer Capital Management, LLC (the "Investment Adviser") is a Delaware limited liability company with its principal office in New York City that offers discretionary investment advisory services to individuals and other clients ("Clients") through separately managed accounts and private investment funds, organized as limited partnerships, limited liability companies or other legal entities in which most investors were accredited investors, qualified clients or qualified purchasers since 2002. The Investment Adviser offers separately managed discretionary and non-discretionary accounts with investment objectives on terms and conditions that may be agreed upon between the Investment Adviser and each such Client. Currently, the Investment Adviser provides discretionary advisory services to a private investment fund ("Fund"), and to an offshore insurance company. The Investment Adviser also offers discretionary and non-discretionary separately managed accounts ("SMAs") to other investors.

Investment decisions for discretionary accounts, private investment funds and recommendations for nondiscretionary accounts are made by Dr. Kenneth Shubin Stein, the Portfolio Manager of the Investment Adviser.

## Principal Owners

Kenneth Shubin Stein, MD, CFA – Manager

## Types of Advisory Services

The Investment Adviser offers investment management services to the Spencer Capital Fund, LLC ("Fund"), and to SMA Clients. The Investment Adviser seeks to provide the Fund and the SMA Clients with superior and sustainable returns combined with effective risk management. Although the strategy and asset allocation used for accounts are primarily centered on the purchase and sale of publicly traded securities, the Investment Adviser intends to follow a flexible approach in order to place the Fund and the SMA Clients in what, in our judgment, is the best position to capitalize on opportunities in the financial markets. Accordingly, the Investment Adviser may take advantage of opportunities in other asset classes if they meet the Investment Adviser's standards of investment merit. No assurance can be given that the Fund and/or Clients of the SMAs will achieve their investment objectives, and investment results may vary substantially over time and from period to period.

The investment objective for the Fund is to achieve long-term capital appreciation commensurate with moderate risk, primarily by investing in a concentrated portfolio of securities - 5 to 15 securities, possibly less. Typical investments take six months to three years to mature. Investment opportunities in which the Fund invests are often created by events that obscure a company's near-term earnings power but do not impact its three year forward economics, including: spin-offs, bankruptcies, recapitalizations, product or production problems, supply-chain problems, accounting scandals, market panics, extreme valuations and companies engaging in fraud or other deceitful accounting practices.

The SMAs may be either discretionary or non-discretionary, and they may or may not have the same goals and strategies as the Fund.

## Tailored Relationships

Certain SMA Clients may impose restrictions on investing in certain securities or types of securities, which must be mutually agreed upon by the Investment Adviser and the Client. Generally, the Investment Adviser does not tailor the advisory services to the individual needs of clients.

## Client Assets

2/28/2013 - \$76,226,000 - Discretionary Accounts (2 accounts)

# Fees and Compensation

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## Description

Fees are negotiable.

Generally, the Adviser and each Client enter into an agreement providing for mutually agreed upon fees, which may include either an annual management fee expressed as a percentage of assets under management or as a fixed annual fee ("Management Fee") or a performance fee expressed as a percentage of profits ("Performance Fee"), or both. However, Performance Fees will not be applied unless the Client is a "Qualified Client" as defined under Federal securities laws.

For example, the Adviser's fee agreement with Spencer Capital Fund, LLC ("Fund") provides for no Management Fee, and only a Performance Fee. The Fund's Performance Fee is calculated and payable yearly as 25% of any net profits above 6% (commonly referred to as a "hurdle"). The Performance Fee is also subject to a provision providing for a recovery of prior losses (commonly referred to as a "high water mark") before Performance Fees are imposed. Note that Investors in the Fund must be both Accredited Investors and Qualified Clients, as those terms are defined under Federal securities laws. Full details are set forth in the Fund's subscription documents.

## Fee Billing

Generally, for Client accounts subject to a Performance Fee, and for the Fund, the Performance Fee is calculated and paid as of the last day of each year. The Performance Fee is also calculated and payable upon any withdrawal of an investor in the Fund. Performance Fees are generally deducted from each Client's account. The full terms of, and conditions for, investment in the Fund, including provisions relating to Fees, are set out in its private offering materials.

Generally, if the Adviser and a Client agree to a Management Fee for advisory services, the Management Fee will be payable in quarterly installments in advance on the first business day of each quarter. In any partial calendar quarter, the Management Fee, calculated as a percentage of assets under management, will be pro-rated, based on the number of days during which the Accounts were open during the quarter. For Client accounts subject to an annual Management Fee the Adviser sends an invoice to the Client and the Client will pay such invoice promptly upon receipt.

### **Other Fees**

Clients may incur brokerage and other transaction costs – see section on brokerage. The fees charged to the Client by the Custodian are exclusive of, and in addition to, the Management Fee and/or Performance Fee and other charges discussed herein.

### **Fees Paid in Advance**

All Clients who pay a Management Fee must pay the Management Fee in advance. The Management Fee for the first and last calendar quarters is calculated on a pro rata basis on the actual number of days during the quarter that the assets are under the management of the Investment Adviser. If assets are withdrawn from an account after the inception of a calendar quarter, Fees will be calculated and paid as of the date of such withdrawal with respect to such withdrawn assets. Any unearned fees will be rebated to the client.

### **Additional Compensation**

The Investment Adviser does not accept compensation for the sale of securities or other investment products.

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

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### **Sharing of Capital Gains or Capital Appreciation**

The Fund is subject to the Performance Fee, described above, while the SMA Clients incur management fees and/or performance fees. There is a potential conflict of interest due to the incentive to favor the performance-based fee accounts. This potential conflict is addressed by having similar accounts share the same strategy and the same investments, where possible and where in the best interest of each client regardless of the fee structure.

## **Types of Clients**

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### **Description**

Generally, the Investment Adviser offers investment advice to individuals, high net worth individuals, corporations or pooled investment vehicles. Currently, the Investment Adviser provides investment advice to an offshore insurance company and a fund.

### **Account Minimums**

The SMA Clients and the Fund are governed by provisions negotiated with each account holder.

Generally, unless otherwise agreed with the Investment Adviser, the minimum initial contribution for the Fund is \$50,000.

There is no minimum investment for the SMA Clients.

# Methods of Analysis, Investment Strategies and Risk of Loss

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## Methods of Analysis

The Investment Adviser believes that to generate consistent and verifiable results a good research process should be measurable, repeatable, and improvable. The Investment Adviser's standard operating procedures are a research process that consists of formal steps, procedures and confirmations; is flexible enough to handle different types of ideas; seeks continuous improvement through review of investment processes and considerations; and has a formal review of mistakes to identify additional areas of improvement in analysis and process.

In terms of idea generation, the Investment Adviser internally selects ideas and has developed qualitative and quantitative screens to identify companies undergoing events, which appear to obscure near term earnings. After the thesis is developed, the Investment Adviser works on defining the thesis by identifying specific dislocations and events that may obscure near-term earnings but may not inhibit long-term value. A strategy is then developed to support or refute this by identifying the events or opportunities that might exacerbate or mitigate the current situation. Data is collected by rigorous bottom-up fundamental analysis, data-driven, balance sheet focus, and comprehensive industry reviews. The data is then analyzed and the thesis is tested based on risk/return profile, by focusing on entire capital structure, with built-in checks to attempt to minimize the effect of cognitive bias.

## Investment Strategies

The Investment Adviser invests in opportunities that are often created by events that obscure a company's near-term earnings power but do not impact its three year forward economics, including: spin-offs, bankruptcies, recapitalizations, product, production or supply-chain problems and accounting scandals. The Investment Adviser attempts to identify catalysts that we expect will resolve the problems and generate a twofold or greater return within three years or that may generate a 50% return within one year, although there can be no guarantee that these results can be achieved. We strive to invest in ideas for which the realistic low-case outcome will result in a return of capital, and we only invest in our best ideas, which are typically 5-15 securities.

The Investment Adviser's multi-year time horizon looks out longer than most of Wall Street, and we only invest in companies we know very well through extensive research and due diligence. Using our significant experience analyzing complex companies and situations, process-oriented analysis and strategy, we continually monitor the companies and seek data contrary to our investment strategy. The Investment Adviser focuses on capital preservation by not using margin and is willing to take an active role in portfolio companies when necessary.

## Risk of Loss

The Investment Adviser cannot guarantee future performance, the success of any investment decision or strategy used, including the Investment Strategy, or the success of the overall management of the account or fund. Investments are subject to risks that each Client should be prepared to bear, including the risk of illiquidity and the risk of loss of part or all of the investment. The Fund or SMAs are subject to various market, currency, economic, political and business risks, and investment decisions will not always be profitable.



Our clients may incur losses or suffer illiquidity due to the following risks:

- (i) Concentration/Non-Diversification Risks: The Investment Adviser may invest in a small number of positions, issuers, industries, foreign currencies, and types of securities, and that may increase risks, including, but not limited to risks associated with a single economic, political or regulatory occurrence that may lead to substantial liquidity, credit or other risks.
- (ii) Hedge Fund Risks: In comparison to other investment options, hedge funds such as the Investment Adviser may have, have higher levels of risks, including derivatives risk, leveraging risks, counterparty/credit risks, illiquidity, and other risks. Hedge funds can employ strategies that involve, but are not limited to the following: limited liquidity; limited disclosure of underlying investments and investment strategies; higher management fees; high performance fees that can lead to higher risk taking; higher use of leveraging and derivatives. Hedge funds are also generally granted a large amount of control in their documents that can lead to increased illiquidity.
- (iii) Market Risks: The risk that the price of underlying funds and securities may go up and down, sometimes rapidly and unpredictably, due to factors affecting the financial and securities markets generally or factors affecting particular industries.
- (iv) Counterparty/Credit Risks: The risk that the issuer or guarantor of a security, or the counterparty to a contract, including but not limited to a derivatives contract, repurchase agreement, or the borrower of securities, is unable or unwilling to make timely principal and/or interest payments, or to otherwise honor its obligations. Litigation, legislation or other political events, local business or economic conditions, or the bankruptcy of the issuer could have a significant effect on an issuer's ability to make payments of principal and/or interest.
- (v) Derivatives Risks: The risks of investments in derivatives, including liquidity risks, interest and currency rate risks, credit and counterparty risks, and the risk that losses could exceed the amount of the investment.
- (vi) Asset Backed Security Risks: The risks of investments in asset backed securities, including securities backed by mortgages, credit cards and other loans, including liquidity risks and credit and counterparty risks.
- (vii) Commodities Risks: The risks of investments in commodities, including rapid and unpredictable fluctuations in value due to Market and other risks.
- (viii) Foreign Market Risk: The risks of investments in foreign and emerging market securities, including rapid and unpredictable fluctuations in value due to Market and other risks.
- (ix) Exchange Traded Fund/Index Fund Risk: The risk of investments in exchange traded funds and index funds, which are subject to market and other risks, and including the risk the net asset value of the funds is different than the value of underlying assets and securities.
- (x) Liquidity Risks: The risk that underlying funds or securities are or may become difficult to purchase or sell. Investments in illiquid securities may cause losses because it may be difficult or impossible to sell the illiquid securities at an advantageous time or price and the market for certain investments may become illiquid under adverse market or economic conditions.
- (xi) Leveraging Risks: The risks incurred by leveraging and borrowing, including but not limited to causing the Investment Adviser to liquidate portfolio positions to satisfy obligations or to meet segregation requirements when it may not be advantageous to do so. In addition, leveraging and borrowing may cause an investment to be more volatile than if the investment had not been leveraged, because it tends to exaggerate the effect of any increase or decrease in the value of an investment or portfolio of securities.
- (xii) Regulatory Risks: The risk that legislative, regulatory, or tax developments may affect the investment techniques available to the Investment Adviser, and the underlying fund or separate account, and may adversely affect the client's investments' liquidity and investment objectives.

(xiii) Fraud Risks: The risk that even if the Investment Adviser attempts to minimize fraud risks and use prudent business practices and may or may not hire third-party specialists to perform due diligence, that there is no way to guarantee that the companies and securities in which it invests will not have any exposure to fraud or malfeasance.

(xiv) Reliance on Data Provided By Third Parties: The risk of reliance on data provided by third-parties, including auditors, administrators, custodians, and data and research providers, and others, which although believed to be reliable, may not be independently verified, and its accuracy and completeness is not guaranteed and losses may result from reliance on such information and data.

(xv) Other Risks: The foregoing list of risk factors does not purport to be a complete enumeration or explanation of all of the risks involved in retaining the Investment Adviser to provide investment advisory services.

## Disciplinary Information

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NA

## Other Financial Industry Activities and Affiliations

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NA

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

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### Code of Ethics

The Investment Adviser has adopted a code of ethics imposing on each employee a duty to place the interests of the Fund and the SMA Clients first and to report to the Investment Adviser any actual or potential conflict of interest. The Code of Ethics requires each officer and employee of the Investment Adviser with access to nonpublic information about the securities and portfolio holdings of the Fund or SMAs (each an “Access Person”) to report certain accounts, securities holdings and transactions to the Company’s Chief Compliance Officer. The rule is designed to ensure that employees with access to information that is not public do not use that information for their personal benefit. The Code of Ethics also imposes restrictions and

safeguards on the use of material nonpublic information. In addition, each Access Person must pre-clear any personal trades with the CCO and/or Portfolio Manager. A copy of the Code of Ethics may be obtained by writing to the Investment Adviser or calling 646-546-5078.

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

Investment Adviser may recommend that the Fund or SMA Clients buy or sell securities in which related persons and entities have some financial interest. However, related persons and entities are prohibited from profiting at the Client's expense.

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

The same recommendations may be made for the Fund and SMA Clients; related persons and entities, including officers, employees, owners and affiliates of the Investment Adviser may buy or sell securities that the Investment Adviser recommends to the Fund or SMA Clients; and, officers, employees, owners and affiliates of the Investment Adviser may also be permitted to invest in the Fund.

Employees are prohibited from "front running" (i.e. purchasing a security for a personal account while knowing that the Fund or a SMA Client is about to purchase the same security, and then selling the security at a profit upon the rise in the market price following the purchase by the Fund or SMA Client). Employees are similarly prohibited from engaging in short selling when they have access to the confidential information that the Fund or a SMA Client is about to sell a particular security. Employees are prohibited from "intermarket front running" (e.g., trading in an option for personal account when the Fund or a SMA Client is trading in the underlying security and vice versa). When applicable, restrictions with regard to securities are also considered to extend to options, rights or warrants relating to those securities and any securities convertible into those securities.

The Investment Adviser also reserves the right to require the disgorgement of any profits from a transaction deemed after the event to conflict with the interests of the Fund or SMA Clients.

### **Personal Trading Policies**

Personal investments in any customer or supplier of goods or services which has a credit or other relationships with the Investment Adviser (for example, its advisory clients) should not be made by an employee except for investments in securities which are actively traded on recognized markets, or upon approval of the CCO and/or Portfolio Manager.

Even if an investment in a customer or supplier has been approved, an employee may not take part in a company decision or attempt to influence a decision about that customer or supplier's relationship with the Investment Adviser.

The Investment Adviser reserves the right to prevent employee purchases of sales or a security for any reason it deems appropriate. In the event that the Investment Adviser's procedures and policies are not complied with, the Investment Adviser may break the applicable trade and charge the employee with all relevant costs relating to the applicable transaction (trades of 100 shares or less or for \$5,000 or less will be presumed not to require breaking).

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# Brokerage Practices

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## Selecting Brokerage Firms

The Investment Adviser is responsible for the placement of portfolio transactions, selection of brokers and the negotiation of any commissions. Portfolio securities normally are purchased through brokers on securities' exchanges or directly from the issuer or from an underwriter or market maker for the securities. Purchases of portfolio instruments through brokers involve a commission to the broker. Purchases of portfolio securities from dealers serving as market makers include the spread between the bid and the ask price. The Investment Adviser will not commit to provide any level of brokerage business to any broker. The Investment Adviser may use the services of one or more introducing brokers who will execute brokerage transactions through the broker and custodian who will clear transactions.

In placing portfolio transactions, the Investment Adviser will seek to obtain the best execution, considering a wide range of criteria including the ability to effect prompt and reliable executions at favorable prices (including the applicable dealer spread or commission, if any); the operational efficiency with which transactions are effected, taking into account the size of order and difficulty of execution; positioning and distribution capabilities; the Investment Adviser's risk in positioning a block of securities; the broker's ability to handle difficult trades; the financial strength, integrity and stability of the broker; the quality, comprehensiveness and frequency of available research services considered to be of value; and the competitiveness of commission rates in comparison with other brokers satisfying the Investment Adviser's other selection criteria. The Investment Adviser does not have and therefore does not use affiliated brokers.

## Research and Soft Dollars

The Investment Adviser does not currently have any "soft dollar" arrangements.

## Brokerage for Client Referrals

The Investment Adviser does not currently direct brokerage business to brokers who refer prospective investors to the Investment Adviser.

## Order Aggregation

The Investment Adviser may aggregate purchase and sale orders for one Client with those for other accounts or entities, if in the Portfolio Manager's reasonable judgment the aggregation is likely to be of benefit to the Fund and SMA Clients, for example, when aggregation results in a lower commission rate, better price or better execution. The Portfolio Manager may allocate securities among the Fund and SMA Clients it manages on any basis that it considers to be fair under the circumstances, including but not limited to, the risks or likely reward profile of the security, and the strategy, size or policies of the Fund or SMAs. If the transactions are completed at slightly different prices, the Portfolio Manager, at his sole discretion, may charge or credit the fund or account with an average transaction price. Similarly, if a transaction is only partially executed, the Portfolio Manager endeavors to allocate in good faith the transactions as they are completed and may consider the relative size of, and relative appropriateness for, the Fund or SMA Clients. As much as possible, allocation instructions are given before the aggregated transaction; if instructions are not given or followed in advance, the Portfolio Manager allocates the trades in as fair and equitable a manner as possible and as soon as possible (no later than two business days barring unforeseen circumstances).

# Review of Accounts

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## Periodic Reviews

The Investment Adviser, on a daily basis (subject to exceptions) and for internal use, reviews and reconciles the holdings of the Fund and SMA Clients and ensures that the holdings are consistent with his directions and the strategy or guidelines, if any, for the Funds or SMA Clients. The Portfolio Manager also regularly monitors developments that may affect current or potential investments, industries and the general market.

Quarterly, the Investment Adviser reviews the activity and holdings of the Fund and any SMA Clients to determine if there have been any abusive trading practices such as: (1) strategies to improve the appearance of the portfolio or performance (often called window-dressing and including, for example, the purchase of popular stocks before a disclosure event to boost investor confidence, or the purchase of government securities before a disclosure event to create an appearance of conservative investing or on which to blame performance); (2) artificial performance boosting (often called portfolio pumping and including, for example, the purchase of stocks already held by the Fund or SMA Clients on the last day of a reporting period to boost performance); or (3) allocation of trades based on subsequent market events (often called cherry picking and including, for example, allocating a trade after a market loss to a better performing Fund or SMA Client simply because it can more smoothly accommodate the loss). The Investment Adviser also considers its review of access person's holding reports and trading in employee and proprietary accounts to ensure that employee or proprietary trades, if any, are not abusive. Where conflicts are identified, the Portfolio Manager will review and resolve in the best interest of the clients. The Portfolio Manager may consult with such professional advisers that he, in his sole discretion, deems necessary.

Quarterly, the Investment Adviser reviews any allocation decisions and related party transactions for fairness and propriety.

Quarterly, the Investment Adviser reviews the investment mandates and restrictions, if any, of all Fund or SMA Clients over which the Investment Adviser has discretionary authority (as reflected in the Fund's Operating Agreement or advisory agreements for SMAs) and the trade reports to assure that trades and holdings have been and are consistent with that mandate. The current portfolio strategy is reviewed for its consistency with the investment mandate. The Investment Adviser documents all information and communications about any noted violations of the investment portfolios' investment objectives or restrictions. It should be noted that the investment mandate, as reflected in the Operating Agreement for the Fund or Investment Management Agreement for the SMA Clients, provides the Portfolio Manager with virtually complete discretion.

## Regular Reports

In the Fund, each member will receive the following: (i) annual financial statements of the Fund audited by an independent certified public accounting firm; (ii) in the discretion of the general partner, a quarterly letter from the Investment Adviser discussing the results of the Fund for the previous quarter; (iii) copies of such member's Schedule K-1 to the Fund's tax returns; and (iv) other reports as determined by the Manager in its sole discretion. In addition, member's will be provided quarterly account statements showing unaudited performance information.

The Investment Adviser may agree to provide certain shareholders and other clients with additional information on the underlying investments of the Fund or other accounts, as well as access to the Investment Adviser and their employees for relevant information.

The Investment Adviser also annually either delivers or offers to deliver, along with a Summary of Material Changes, a copy of its Form ADV Part 2 to Clients. Should the Investment Adviser have affirmative answers to certain disciplinary disclosures on the Form ADV as required by the Securities and Exchange Commission, such disclosures will be made available to the client with Form ADV Part 2.

## Client Referrals and Other Compensation

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NA

## Custody

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### Account Statements

Each investor in the Fund will receive the following: (i) annual financial statements of the Fund audited by an independent certified public accounting firm; (ii) in the discretion of the Manager, a quarterly or monthly letter from the Investment Adviser discussing the results of the Fund for the previous quarter or month; (iii) copies of such investor's Schedule K-1 to the Fund's tax returns; and (iv) other reports as determined by the Manager in its sole discretion. In addition, investors are currently provided quarterly account statements showing unaudited performance information.

Pursuant to the agreements between the Investment Adviser and its SMA Clients, the Investment Adviser shall not maintain physical custody of their assets, which will be held in the custody of a custodian meeting the requirements of a "qualified custodian" under Rule 206(4)-2 of the Advisers Act ("Custodian"). Clients will receive account statements from the broker-dealer, bank or other qualified custodian, and Clients should carefully review those statements. The Client will also receive account statements from the Investment Adviser on a monthly or quarterly basis, dependent on what is agreed upon by the Investment Adviser and the Client. The client is urged to compare the account statements they receive from the qualified custodian with those they receive from the Investment Adviser.

# Investment Discretion

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## Discretionary Authority for Trading

The Investment Adviser has discretionary authority over the Fund and certain SMA Clients. The Investment Adviser is authorized to give instructions to the Custodian with respect to all investment decisions regarding the Assets of the Fund and the Custodian is authorized and directed to effect transactions, deliver securities, make payments and otherwise take such actions as the Investment Adviser shall direct in connection with the performance of the Investment Adviser's obligations with respect to the Assets of the Fund. The Investment Adviser has discretion over SMA Clients only as far as it relates to investments.

## Limited Power of Attorney

Before assuming discretionary authority for SMA Clients, the Investment Management Agreement must be fully executed. Dependent on the custodian, a Limited Power of Attorney will also need to be executed. Before assuming discretionary authority for the Fund, the applicable Subscription Documents and Operating Agreement must be fully executed.

# Voting Client Securities

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## Proxy Voting

For any security of which the Fund advised by the Investment Adviser owns more than a combined \$5,000 worth of shares at the time of a proxy solicitation, and over which it has voting discretion, the Investment Adviser analyzes the solicitation. The Investment Adviser votes securities in order to improve (in the judgment of the Investment Adviser) shareholder value and considers all relevant facts and circumstances in making its voting decision. Where the Fund owns less than \$5,000 worth of shares it is presumed that the Investment Adviser would vote with management. Whether the Investment Adviser has authority to vote proxies for SMA Clients is set in the advisory agreement; if it does have such authority, that authority is exercised in a manner consistent with this Section.

Except as otherwise agreed, generally the Client will be responsible for: (a) directing the manner in which proxies solicited by issuers of securities held in SMAs shall be voted, and (b) making all elections relative to any mergers, acquisitions, tender offers, bankruptcy proceedings or other type events pertaining to the securities in the account. Conflicts are reviewed and resolved by the Portfolio Manager. Clients may obtain a copy of the Investment Adviser's Proxy Voting policies and procedures and/or a copy of the voting record for their securities upon request.

# Financial Information

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