



## **Engaged Capital, LLC**

610 Newport Center Drive, Suite 250  
Newport Beach, CA 92660  
949-734-7900  
[www.engagedcapital.com](http://www.engagedcapital.com)

## **Form ADV, Part 2A Brochure**

April 1, 2013

This brochure provides information about the qualifications and business practices of Engaged Capital, LLC ("Engaged Capital"). If you have any questions about the contents of this brochure, please contact us at 949-734-7900. 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.

Any reference to or use of the terms "registered investment adviser" or "registered," does not imply that Engaged Capital or any person associated with Engaged Capital has achieved a certain level of skill or training.

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

## ITEM 2 - MATERIAL CHANGES

**Revised April 1, 2013**

The purpose of this page is to inform you of material changes since the last update to our brochure on October 24, 2012. If you are receiving this brochure for the first time, this section may not be relevant to you.

This brochure is Engaged Capital's third brochure and we have not made any material changes from the first or second brochure. We review and update this brochure at least annually to confirm that it remains current.

## ITEM 3 - TABLE OF CONTENTS

<b>ITEM 1 - COVER PAGE.....</b>	<b>1</b>
<b>ITEM 2 - MATERIAL CHANGES.....</b>	<b>2</b>
<b>ITEM 3 - TABLE OF CONTENTS.....</b>	<b>3</b>
<b>ITEM 4 - ADVISORY BUSINESS.....</b>	<b>5</b>
Description of Advisory Firm .....	5
Advisory Services Offered.....	5
Investment Mandates and Client Imposed Restrictions .....	5
Wrap Fee Programs .....	6
Assets Under Management .....	6
<b>ITEM 5 - FEES AND COMPENSATION .....</b>	<b>6</b>
Fee Schedule.....	6
Investment Management Fees .....	6
Billing Method .....	7
Management Fees.....	7
Other Fees and Expenses.....	8
Termination .....	8
<b>ITEM 6 - PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT .....</b>	<b>8</b>
<b>ITEM 7 - TYPES OF CLIENTS .....</b>	<b>9</b>
<b>ITEM 8 - METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS .....</b>	<b>9</b>
Methods of Analysis and Investment Strategies .....	9
General Investment Strategies.....	9
Methods of Analysis for Selecting Securities .....	10
Investing Involves Risk.....	10
Specific Risks.....	10
Equity Securities .....	10
Short Sales.....	11
Limited Operating History .....	11
Portfolio Concentration.....	11
Special Situation Investing .....	11
Inside Information .....	12

Importance of the Adviser .....	12
<b>ITEM 9 - DISCIPLINARY INFORMATION.....</b>	<b>12</b>
<b>ITEM 10 - OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS.....</b>	<b>12</b>
Proprietary Private Fund .....	12
<b>ITEM 11 - CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING .....</b>	<b>13</b>
Personal Trading Practices .....	13
<b>ITEM 12 - BROKERAGE PRACTICES .....</b>	<b>14</b>
Factors Considered in Selecting Broker-Dealers for Client Transactions .....	14
Research and Other Benefits .....	15
Brokerage for Client Referrals .....	16
Directed Brokerage Transactions .....	16
Aggregation and Allocation of Transactions.....	16
<b>ITEM 13 - REVIEW OF ACCOUNTS.....</b>	<b>17</b>
<b>ITEM 14 - CLIENT REFERRALS AND OTHER COMPENSATION.....</b>	<b>17</b>
<b>ITEM 15 - CUSTODY.....</b>	<b>17</b>
<b>ITEM 16 - INVESTMENT DISCRETION .....</b>	<b>17</b>
<b>ITEM 17 - VOTING CLIENT SECURITIES.....</b>	<b>18</b>
<b>ITEM 18 - FINANCIAL INFORMATION .....</b>	<b>18</b>

## ITEM 4 - ADVISORY BUSINESS

### Description of Advisory Firm

Engaged Capital, LLC (“Engaged Capital,” “we,” “our,” or “us”) is a Delaware limited liability company headquartered in Newport Beach, California. Engaged Capital is registered as an investment adviser with the U.S. Securities and Exchange Commission. Glenn W. Welling, through Engaged Capital Holdings, LLC, is the principal owner of the firm. We were organized in February 2012.

### Advisory Services Offered

Engaged Capital provides continuous and regular investment management services on a discretionary basis to private investment funds (“Funds”) that we have organized. The Funds are available only to qualified investors and only by a private offering memorandum. Under the rules of the Securities and Exchange Commission, investors are considered “qualified” if they meet certain minimum net worth and/or income requirements. For information about net worth and/or income requirements, see **Item 10 – Other Financial Industry Activities and Affiliations** below.

This Form ADV Part 2A Brochure is not an offer to sell, or a solicitation of an offer to purchase, partnership interests in any Fund. Such an offer can only occur when the prospective investor receives the offering documents.

Engaged Capital may also provide continuous and regular investment management services on a discretionary basis to certain institutional clients (“Managed Accounts”), including pension plans, pursuant to managed account arrangements that generally parallel the investment management services being provided to a related Fund.

For information about our discretionary authority, see **Item 16 - Investment Discretion** below. We describe the fees charged for investment supervisory services below under **Item 5 - Fees and Compensation**.

### Investment Mandates and Client Imposed Restrictions

The terms on which Engaged Capital manages a Fund or Managed Account are established at the time the Fund or Managed Account relationship is established. These terms are generally set out in the governing documents entered into by Engaged Capital with respect to the client and disclosed in the offering documents for the Fund or the investment management agreement for the Managed Account client. Our primary strategy employs a long “constructive activist” approach, which may be coupled with opportunistic short sales, in both cases investing in small and mid-cap domestic equities.

In accordance with the governing documents of each Fund: (1) certain investors in the Fund may invest on terms that differ from the terms generally applicable to other investors; (2) other classes of ownership interests may be established with terms that differ from those described in the Fund’s offering documents; and (3) we may manage some Fund investors’ accounts under terms that differ

from the terms described in the Fund's offering documents. Such differing terms may be more favorable than the terms provided to other investors and may include, but are not limited to, terms relating to the ability to withdraw or redeem capital, access to information, management and performance fees and allocations, and special rights to make future investments. Such modifications may in some cases be based upon, among other things, the size of an investor's investment, an agreement by an investor to maintain such investment for a specified period of time, a transfer from a Managed Account, or other commitments by the investor. For additional information about differing Fund terms for certain investors, see **Item 11 – Code of Ethics, Participation or Interest in Client Transactions and Personal Trading** below.

Managed Accounts may, in addition to negotiating differing terms such as those described in the preceding paragraph, also request other provisions such as keeping a minimum level of cash in the account or restricting Engaged Capital from buying or selling certain specific securities or security types in the account. *If a Managed Account client or Fund investor directs Engaged Capital not to purchase a particular security or type of security, Engaged Capital may restrict that security from consideration as a portfolio investment, and thus will not buy the security for any clients, including the related Fund.* Engaged Capital reserves the right to not accept and/or terminate a Managed Account if we feel that the client-imposed restrictions would limit or prevent us from meeting or maintaining the client's investment strategy.

## **Wrap Fee Programs**

Engaged Capital does not manage accounts as part of a wrap or bundled fee program.

## **Assets Under Management**

Engaged Capital manages client assets in discretionary accounts on a continuous and regular basis. As of April 1, 2013, our assets under management were \$111,541,003.

## **ITEM 5 - FEES AND COMPENSATION**

### **Fee Schedule**

#### *Investment Management Fees*

Engaged Capital charges the Fund investors and Managed Accounts a management fee for investment management services. Our fees, which may be subject to negotiation, generally range from 1.25% to 1.75% annually, based primarily on the amount of assets being placed under management with us and the point in time in the life cycle of the relevant Fund that the assets are placed.

#### *Performance Allocation*

Engaged Capital may also receive a performance allocation from Fund investors and Managed Accounts, which will generally range from 10% to 20% of any annual appreciation in a Fund investor's capital account or in a Managed Account. Such performance allocations may be subject to high water mark requirements, as set forth in the relevant Fund documents or investment management agreement.

### General

Management fees and performance allocations are established at the time of the establishment of a Fund or the beginning of the advisory relationship with a Managed Account and may vary among the Funds, among each Fund investor within a Fund, and among Managed Accounts. Specific details of such compensation and method of calculation are set out in the offering materials, disclosure documents, investment management agreements, and governing documents of the relevant Funds and Managed Accounts. We may also enter into strategic partnerships, side letter agreements, or other arrangements with specific investors in a Fund whereby such investors receive direct or indirect reductions of management fees or other compensation otherwise payable to Engaged Capital with respect to their investments.

## **Billing Method**

### Management Fees

Subject to any applicable Fund documents and/or investment management agreements, Engaged Capital's management fees are payable quarterly in advance at the beginning of each calendar quarter. We charge one fourth of the annual fee rate each quarter based on the market value of the client's portfolio as of the first day of the current calendar quarter. The formula used for the calculation is as follows:  $(\text{Annual Rate}) \times (\text{Total Assets Under Management as of Quarter-Beginning}) / 4$ .

For new Fund investors (subject to any applicable Fund documents) and Managed Accounts, the first payment is a pro-rata calculation due upon execution of the subscription or investment management agreement that takes into consideration the number of days remaining in the quarter and the initial value of the portfolio. The formula used to calculate the initial management fee would be as follows:  $(\text{Result of Quarterly Calculation}) \times (\text{Days Remaining in Quarter}) / (\text{Total Number of Days in Quarter})$ . For management fee calculation purposes, a calendar quarter is a period beginning on January 1, April 1, July 1, or October 1 and ending on the day before the next quarter. A day is any calendar day including weekends and holidays. For new Fund investors and Managed Accounts, the number of days remaining in the quarter is the number of calendar days following the funding date of the new account.

Management fees charged to the Funds are paid directly from each Fund in accordance with the Fund documents. The Funds receive brokerage statements from the custodian no less frequently than quarterly, and Fund investors receive monthly unaudited account statements. For Managed Accounts, it is up to the client whether they wish to have the management fees withdrawn directly from their custodian account or pay by check or wire transfer. With client authorization, Engaged Capital will automatically instruct the independent custodian to withdraw Engaged Capital's management fee from the client's account held by the custodian. Typically, the custodian withdraws management fees from the client's account during the first month of each quarter based on Engaged Capital's instruction. Managed Account clients will receive brokerage statements from the custodian no less frequently than quarterly. The custodian statement will show the deduction of the management fee for those clients who authorize the management fees to be withdrawn directly from their custodian account. Engaged

Capital will send an invoice to all Managed Account clients who choose not to have management fees withdrawn directly from their custodian account. The invoice is payable upon receipt and will include the fee calculation and amount due.

For Managed Accounts, Engaged Capital will send a statement to each client who authorizes Engaged Capital to instruct the custodian to withdraw fees directly from the account. The statement will show the amount of the fee, the value of the client's assets upon which we based the fee, and the specific manner in which we calculated the fee. It is the client's responsibility to verify the accuracy of the fee calculation. The custodian will not determine whether the fee is properly calculated.

### Performance Allocations

Any performance-based allocations to Engaged Capital will be payable annually in arrears based on the account market value on December 31 of the preceding calendar year. The formulas used for the calculation, as well as for any adjustments for contributions, withdrawals or terminations, will be set forth in the applicable Fund documents or investment management agreement.

## **Other Fees and Expenses**

Each Fund bears all expenses of its organization and operation, including legal, auditing, and accounting expenses, fees payable for administration, registrar and transfer agent and other professional services, investment and brokerage expenses such as commissions, markups or markdowns on securities, interest on margin accounts and other indebtedness, borrowing charges on securities sold short, custodial fees, management fees, and other expenses incurred in the purchase and sale of investments, as determined by Engaged Capital. All clients, including all Managed Accounts, pay all brokerage commissions, stock transfer fees, margin charges, foreign exchange and settlement fees, and/or other charges incurred in connection with transactions in accounts, from the assets in the account. These charges are in addition to the fees client pays to Engaged Capital. See **Item 12 - Brokerage Practices** below for more information.

## **Termination**

Fund investors have such withdrawal rights as may be specified in the applicable Fund documents. In the case of Managed Accounts, either party may terminate the advisory agreement by providing written notice to the other party as may be provided in the advisory agreement, generally upon at least 90 days' notice. Engaged Capital will refund any prepaid, unearned advisory fees based on the effective date of termination, using the following formula:  $(Fees\ Paid) \times (Days\ Remaining\ in\ Quarter) / (Total\ Number\ of\ Days\ in\ Quarter)$ .

## **ITEM 6 - PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

As noted in **Item 5 – Fees and Compensation**, Engaged Capital may receive performance-based compensation from Fund investors and Managed Accounts. Engaged Capital has an incentive to favor, or take increased investment risk with respect to, Fund investors and Managed Accounts from which we receive higher performance-based compensation over Fund investors and Managed Accounts from



which lower performance-based compensation is received. Engaged Capital has adopted policies and procedures reasonably designed to address these types of conflicts. Specifically, the policies and procedures are designed to allocate investment opportunities between accounts on a fair and equitable basis over time and prevent non-suitable investments in client accounts.

## **ITEM 7 - TYPES OF CLIENTS**

Investment in the Funds is generally only available to institutional investors and certain high net worth investors that are “accredited investors,” “qualified clients,” and “qualified purchasers,” or non-“U.S. persons,” within the meaning of the Securities Act of 1933 (the “Securities Act”), the Investment Advisers Act of 1940 (the “Advisers Act”), and the Investment Company Act of 1940, as applicable. The Funds may have a specified minimum investment amount as set forth in their offering documentation or other governing documents. These minimum amounts are typically subject to discretion, on the part of Engaged Capital, to permit investment of a smaller amount generally or with respect to any investor in the relevant Fund.

A broad range of U.S. and non-U.S. institutional investors, including, among others, governmental and corporate pension and profit sharing plans, endowments, insurance companies, sovereign wealth funds, funds of funds and certain high net worth individuals and family offices, may invest in the Funds or, if they are “qualified clients” (as defined above), may constitute Managed Accounts.

## **ITEM 8 - METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

### **Methods of Analysis and Investment Strategies**

#### *General Investment Strategies*

Engaged Capital primarily employs a long “constructive activist” strategy to identify attractive investment opportunities over the full cycle of market and economic conditions. We primarily seek investments that can be made at discounts to our estimates of intrinsic value as determined by fundamental analysis and where there are one or more identifiable catalysts for recognition of that value within a defined investment timeframe. Such catalysts may include, among other events, a material corporate event (such as a sale of the company, restructuring or recapitalization), a significant change in the business model or a change in management, competitive position, or market recognition. In conjunction with the long-focused part of the activist strategy, Engaged Capital often hedges our concentrated long investments. This is typically accomplished through the short sale of a basket of equities that is comprised of companies that Engaged Capital believes are under-performing, over-valued companies with similar risks to the long position.

Investments span a broad spectrum of industries and geographies, generally focusing on companies with small to mid-market capitalizations. Investments are generally made in public equities in which we either work with management to effect change or, where management is unwilling to do so, we pursue a shareholder activist strategy.

### Methods of Analysis for Selecting Securities

Engaged Capital utilizes multiple sources of information in analyzing investments, including financial newspapers and magazines, inspections of corporate activities, research material prepared by others, corporate rating services, annual reports, prospectuses, filings with the SEC, and company press releases. We also use industry magazines, third party consultants, regulatory filings filed with U.S. regulators, contacts at major companies and corporate executives, commercial and investment banks, financial intermediaries, other investment and advisory institutions and other direct and indirect contacts. We may participate in on-site visits, industry group and portfolio company management meetings, creditors' committees, steering committees or on the boards of directors of portfolio companies, which will also be a source of information with respect to such companies, subject to policies and procedures related to non-public and proprietary information.

### **Investing Involves Risk**

Prior to investing in either a Fund or a Managed Account, the investor should carefully consider:

1. That investing in securities involves risk of loss which clients should be prepared to bear;
2. That securities markets experience varying degrees of volatility;
3. That over time the client's assets may fluctuate and at any time be worth more or less than the amount invested; and
4. That clients should only commit assets that they feel are available for investment on a long-term basis.

Investment in private funds (such as the Funds) is speculative and involves a substantial degree of risk, which is why investing in private funds may not be suitable for all investors and is intended for sophisticated investors who can accept the risks associated with such investments. The investments may lose all or a substantial portion of their value and investors must be prepared to bear the risk of loss of their investments. Investors will not have recourse except with respect to the assets of the Fund. The Fund documents outline important information for investors. Investors should review all Fund document(s) carefully and should consider conducting additional due diligence before investing.

### **Specific Risks**

#### Equity Securities

Engaged Capital will invest in equity securities, particularly the common stock of small and mid-capitalization companies that we believe have potential for capital appreciation significantly greater than that of the market averages. Equity securities of small and mid-capitalization companies might not be traded in volumes typical of equity securities of larger companies, and it may be more difficult for us to buy and sell significant amounts of smaller-capitalization company shares without an unfavorable impact on prevailing market prices. Furthermore, small-capitalization companies tend to attract little research coverage by the "street," which often results in relatively little interest from institutional

investors. Equity securities of small companies are generally less liquid and subject to more abrupt or erratic market movements than those of larger capitalized companies. Additionally, the risk of bankruptcy or insolvency of many smaller companies, with the attendant losses to investors, is higher than for larger companies.

### Short Sales

Engaged Capital manages long/short equity portfolios. The identification of investment opportunities in the implementation of a long/short equity investment strategy is a difficult task, and there are no assurances that such opportunities will be successfully recognized or acquired. In the event of market disruptions, significant losses can be incurred, which may force us to close out one or more positions. Valuation models used to determine whether an equity position presents an attractive opportunity consistent with a long/short investment strategy may become outdated and inaccurate as market conditions change. A short sale creates the risk of a theoretically unlimited loss, in that the price of the underlying security could theoretically increase without limit, thus increasing the cost of buying those securities to cover the short position. There can be no assurance that the security necessary to cover a short position will be available for purchase. Purchasing securities to close out the short position can itself cause the price of the security to rise further, thereby exacerbating the loss.

### Limited Operating History

Engaged Capital has an operating history of less than one year. The past investment performance of us, our partners, principals or employees or other entities with which we may have been affiliated is not an indication of the future results of any Fund or Managed Account. A client's investment program should be evaluated on the basis that there can be no assurance that our assessments of the short-term or long-term prospects of investments will prove accurate or that a client's investment program will prove successful.

### Portfolio Concentration

The Funds and Managed Accounts will tend to have higher position concentrations than many private investment funds and separately managed accounts. Clients' overall returns may depend in part on the success of certain concentrated positions from time to time. Concentration may also magnify the volatility of the client's portfolio and substantially increase the risk profile of the portfolio.

### Special Situation Investing

Special situation investing (such as our constructive activist strategy) requires making predictions about (i) the likelihood that an event will occur and (ii) the impact such event will have on the value of a company's securities. If the event fails to occur or it does not have the effect foreseen, losses can result. For example, the adoption of new business strategies or completion of asset dispositions or debt reduction programs by a company may not be valued as highly by the market as we had anticipated, resulting in losses. In addition, a company may announce a plan of restructuring which promises to enhance value and fail to implement it, resulting in losses to investors. In liquidations and other forms of corporate reorganization, the risk exists that the reorganization either will be unsuccessful, will be

delayed or will result in a distribution of cash or a new security, the value of which will be less than the purchase price to the client of the security in respect of which such distribution was made.

### *Inside Information*

From time to time, we or our affiliates, or members of a group of investors or managers with which we are acting, may work with the management team of a company in which we have invested or propose to invest in order to design an alternate strategic plan and assist them in its execution, and may secure the appointment of persons selected by us or other members of the group to the company's management team or board of directors. In the course of such activities, we may come into possession of material, non-public information concerning such company, and the possession of such information may limit our ability to buy or sell the securities issued by such company. Therefore, we may be required to refrain from buying or selling such securities at times when we might otherwise wish to buy or sell such securities.

### *Importance of the Adviser*

The authority to make decisions and to exercise business discretion on behalf of the Funds and Managed Accounts is delegated to us. The success of our clients' accounts is therefore expected to depend significantly on the expertise of Glenn W. Welling and certain other of our key personnel. The death, incapacity or withdrawal of Mr. Welling or such other personnel could materially adversely affect our clients' accounts, including by triggering a material number of investor withdrawals or redemptions.

## **ITEM 9 - DISCIPLINARY INFORMATION**

Engaged Capital and our personnel seek to maintain the highest level of business professionalism, integrity, and ethics. Engaged Capital does not have any disciplinary information to disclose.

## **ITEM 10 - OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

Engaged Capital does not offer any other services or have any affiliates in the financial industry.

### **Proprietary Private Fund**

Engaged Capital is the investment adviser to the Funds, which are private investment funds. Engaged Capital may also be the general partner of, or act in a similar capacity with respect to, the Funds. The Funds are not publicly offered or traded. The Funds are only available to "Accredited Investors" as the term is defined by Rule 501 of the Securities Act. Investors in a Fund must also meet the financial requirements of Rule 205-3(b) of the Investment Advisers Act of 1940. Those regulations generally provide that Engaged Capital may only offer interests in a Fund to certain institutions, certain organizations, certain trusts, or persons who meet stated income or net worth requirements. The offering memorandum and subscription agreement for any Fund (the "Offering Documents") provide additional information on these standards. Prospective investors in a Fund receive the Offering Documents. This Form ADV Part 2A Brochure is not an offer to sell, or a solicitation of an offer to purchase, membership interests in any Fund. Such an offer can only occur when the prospective investor receives the Offering Documents.

Although not the primary goal of, or essential to, Engaged Capital's business model, there is a possibility that one or more of the firm's principals may end up serving on the board of a portfolio company in connection with our engagement strategy with the company. If compensation is provided for the board position, the compensation will be contributed to the Fund. Any service on a portfolio company board must be approved by Engaged Capital's investment committee.

## **ITEM 11 - CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

Engaged Capital believes that we owe clients the highest level of trust and fair dealing. As part of our fiduciary duty, we place the interests of our clients ahead of the interests of the firm and our personnel. Engaged Capital has adopted a Code of Ethics that emphasizes the high standards of conduct that we seek to observe. Engaged Capital's personnel are required to conduct themselves with integrity at all times and follow the principles and policies detailed in our Code of Ethics.

Engaged Capital's Code of Ethics attempts to address specific conflicts of interest that we have identified or that could likely arise. Engaged Capital's personnel are required to follow clear guidelines from the Code of Ethics in areas such as gifts and entertainment, other business activities, prohibitions of insider trading, and adherence to applicable securities laws. Additionally, individuals who formulate investment advice for clients, or who have access to nonpublic information regarding any clients' purchase or sale of securities (all considered "Access Persons"), are subject to personal trading policies governed by the Code of Ethics (see below).

Engaged Capital will provide a complete copy of the Code of Ethics to any client or prospective client upon request.

### *Personal Trading Practices*

A potential conflict of interest exists whenever investment advisers or their Access Persons trade in the same securities that they are purchasing and selling for clients. The advisers and Access Persons may have an incentive to take investment opportunities from clients for their own benefit, favor their personal trades over client transactions when allocating trades, or use the information about the transactions they intend to make for clients to their personal benefit by trading ahead of clients. In order to address this potential conflict of interest, Engaged Capital and our Access Persons may not purchase or sell securities for themselves that we also select for clients (including the Funds). This includes related securities (e.g., warrants, options, or futures).

Our policies to address these conflicts include the following:

1. Access Persons may not engage in personal trading of any small or mid-cap equity securities (defined as issuers with market capitalizations between \$300 million and \$9 billion) and must generally obtain pre-approval from the Chief Compliance Officer for any personal trades in other securities.

2. Clients receive the opportunity to act on investment decisions prior to and in preference to accounts of Engaged Capital and our Access Persons.
3. Engaged Capital prohibits trading in a manner that takes personal advantage of price movements caused by client transactions.
4. Engaged Capital requires our personnel to report personal securities transactions on at least a quarterly basis.
5. Conflicts of interest also may arise when Engaged Capital's personnel become aware of limited offerings or IPOs, including private placements or offerings of interests in limited partnerships or any thinly traded securities, whether public or private. Given the inherent potential for conflict, limited offerings and IPOs demand extreme care. Engaged Capital's personnel are required to obtain pre-approval from the Chief Compliance Officer before trading in these types of securities.
6. Under certain limited circumstances, we make exceptions to the policies stated above. Engaged Capital will maintain records of these trades, including the reasons for any exceptions.

#### *Financial Interest in Fund Transactions and Fees*

Engaged Capital may enter into agreements or other arrangements, directly or indirectly, with investors that commit significant capital to one or more of the Funds. Where such investors participate in a Fund through a dedicated related Fund (such as a master or feeder Fund), such related Fund may be granted terms that are more favorable than those applicable to other investors. Such preferential terms may include, but are not limited to, the allocation of a share of Engaged Capital's management fees and performance-based compensation earned with respect to Funds that have other investors, preemptive rights to invest in specified portions of Engaged Capital's future investment capacity, and approval rights over such matters as Engaged Capital's employment of outside service providers and senior investment personnel.

Engaged Capital, with respect to all Funds, may enter into side letters and other arrangements with certain investors pursuant to which more favorable management fees and performance-based compensation, including "most favored nation" provisions, may be granted to such investors.

All such preferential arrangements entered into with certain investors, including without limitation those described above under **Item 4 – Advisory Business**, present potential conflicts of interest with Engaged Capital's other Fund investors.

## **ITEM 12 - BROKERAGE PRACTICES**

### **Factors Considered in Selecting Broker-Dealers for Client Transactions**

To the extent required by applicable law, it is our policy to seek to obtain best execution of trades in public equity and other marketable securities traded on behalf of the Funds and Managed Accounts by a selected broker-dealer. In seeking best execution, the determinative factor is not always the lowest

possible per security price or commission but whether, in our view, the transaction represents the best overall qualitative and quantitative execution for the Fund or Managed Account. Our process of determining best execution involves not only an assessment of brokerage commissions or bid/offer spreads, but also an evaluation of broker-dealer ancillary services. We will consider the full range of a broker-dealer's services in assessing best execution, including:

- competitiveness of commission rates and spreads
- promptness of execution
- past history in executing orders
- clearance and settlement capabilities
- research capabilities and quality
- access to markets, investments (including access to new issues) and distribution network
- trade error rate and ability or willingness to correct errors
- anonymity/confidentiality
- market impact
- liquidity
- speed of execution
- expertise with complex transactions
- trading style and strategy
- geographic location

Although Engaged Capital will seek competitive commissions and spreads, we may not necessarily obtain the lowest possible rates for portfolio transactions. The commissions, spreads or other transaction fees charged by an executing broker-dealer may be higher or lower than those charged by other broker-dealers.

The broker-dealers we utilize to execute client transactions may become investors in Funds managed by Engaged Capital. Engaged Capital would therefore have incentive to place trades through the broker-dealer in order to maintain or obtain additional investments in the Fund. Consistent with our policy to seek best execution of client transactions, Engaged Capital has adopted policies for the review of our brokerage practices (and the broker-dealers through which we place client trades) to confirm that (i) trades are placed in accordance with our standard brokerage practices, and (ii) broker-dealers who may also be Fund investors are not inappropriately favored.

### *Research and Other Benefits*

As part of our trading activities on behalf of the Funds and Managed Accounts, Engaged Capital enters into arrangements where brokerage business is promised in exchange for proprietary or third party services ("soft dollar" arrangements). Engaged Capital receives a benefit under these arrangements because we do not need to produce or pay for the research, brokerage products or other services received. When we enter into any relationship that could be viewed as a "soft dollar" arrangement, we intend to comply with the safe harbor provided under Section 28 of the Securities and Exchange Act of 1934.

We may also receive research, brokerage products and other services in the ordinary course of trading on behalf of the Funds and Managed Accounts. These bundled services are made available to advisers such as Engaged Capital on an unsolicited basis, without regard to the rates of commissions charged or paid by clients or the volume of business directed to such broker-dealers. We may have an incentive, however, to select or recommend a broker-dealer based on our interest in receiving the research or brokerage products or other services, rather than on our clients' interest in receiving most favorable execution.

### Brokerage for Client Referrals

Engaged Capital does not receive client referrals from any broker-dealer or third party in exchange for using that broker-dealer or third party. In the future, a broker-dealer may become an investor in a Fund or a Managed Account client. This would present a conflict, as we would have an incentive to use that broker-dealer rather than one who was not a Fund investor or client. Our policies and procedures address such conflicts by requiring us generally to seek best execution when trading on behalf of the Funds and other clients.

### Directed Brokerage Transactions

Engaged Capital is prepared to work with any broker-dealer that a Managed Account client chooses. For the following reasons, however, Managed Account clients who direct Engaged Capital to use a particular broker-dealer for trading may pay higher commission charges than our other clients. Engaged Capital may not have authority to negotiate commissions or obtain volume discounts, and best execution may not be achieved. Such clients should further understand that when they direct Engaged Capital to use a specific broker, disparity in transaction charges might exist between the transaction costs charged to the Funds and other clients. Additionally, Engaged Capital may not be able to aggregate the orders of clients who have directed brokerage with other clients. In these circumstances, the trades for clients who direct Engaged Capital to use a particular broker-dealer may be placed after the trades of other clients and may receive less favorable prices.

## **Aggregation and Allocation of Transactions**

In order to minimize execution costs and obtain best execution for the Funds' and Managed Accounts' transactions in marketable securities, Engaged Capital may bunch orders for the Funds and Managed Accounts (subject to our obligation to obtain best execution and otherwise treat our clients in a fair and equitable manner). As an investment adviser to both the Funds and Managed Accounts (collectively, "clients"), we generally execute transactions and allocate trades on a pro rata basis to each Fund and Managed Account. We may aggregate orders for clients in the same securities in an effort to seek best execution, negotiate more favorable commission rates, and/or allocate differences in prices, commissions, and other transaction costs equitably among our clients. These are benefits of aggregating orders that we might not obtain if we placed those orders independently.



## **ITEM 13 - REVIEW OF ACCOUNTS**

Our portfolio managers manage portfolios on a continuous basis and generally review all positions in client accounts daily. The nature and frequency of regular reports to investors in the Funds depends on the terms of the governing documents of such Funds. Typically investors in the Funds are provided with monthly unaudited account statements, written quarterly unaudited financial reports, and annual audited financial statements. Each Managed Account client receives a statement from the custodian that includes an accounting of all holdings and transactions in the account for the reporting period. In addition, Engaged Capital provides written reports detailing performance in Managed Account client accounts on a quarterly basis. Engaged Capital may also provide additional reporting as agreed upon by Engaged Capital and the client on a case-by-case basis.

## **ITEM 14 - CLIENT REFERRALS AND OTHER COMPENSATION**

Engaged Capital may compensate persons for the introduction of investors to the Funds. If a solicitor introduces an investor to a Fund, that solicitor will be in compliance with any applicable broker-dealer or other regulation and will also make appropriate disclosure of the nature of the solicitor relationship with Engaged Capital to prospective investors at the time of the solicitation.

## **ITEM 15 - CUSTODY**

Engaged Capital is deemed to have custody of the assets of certain private funds where Engaged Capital has the ability to request funds from the custodian out of the account. Engaged Capital has put controls in place, in compliance with federal rules, to protect the assets of each Fund where we have this authority. A qualified custodian holds the Fund's assets. In addition, an independent accountant audits the account each year, and we send copies of the audited financial statements to all investors in the Fund. An independent accountant will also audit the Fund upon liquidation.

Engaged Capital also has limited custody of our Managed Account clients' funds or securities when such clients authorize us to deduct our management fees directly from the client's account. All Managed Account clients' accounts are held by independent qualified custodians who send statements directly to the client at least quarterly. The statements will reflect the client's funds and securities held with the qualified custodian as well as any transactions that occurred in the account, including the deduction of Engaged Capital's fee. Managed Account clients should carefully review the account statements they receive from their qualified custodian. When such clients receive statements from Engaged Capital as well as from the qualified custodian, they should compare these two reports carefully. Clients with any questions about their statements should contact us at the address or phone number on the cover of this brochure. Clients who do not receive their statement from their qualified custodian at least quarterly should also notify us.

## **ITEM 16 - INVESTMENT DISCRETION**

Engaged Capital has full discretion to decide the specific security to trade, the quantity, and the timing of transactions for the Funds and Managed Accounts. Engaged Capital will not contact clients before

placing trades in their account, but Managed Account clients will receive confirmations directly from their custodian for any trades placed. Managed Account clients grant us discretionary authority in the contracts they sign with us. Such clients also give us trading authority over their accounts when they sign the custodian paperwork. Fund investors should review the limited partnership/operating agreements for the Funds, which outline this authority.

However, certain Managed Account client-imposed conditions may limit our discretionary authority, such as where the client prohibits transactions in specific security types or directs Engaged Capital to execute transactions through specific broker-dealers. See also ***Investment Mandates and Client Imposed Restrictions*** under ***Item 4*** and ***Item 12 – Brokerage Practices***, above.

## ITEM 17 - VOTING CLIENT SECURITIES

We are responsible for voting the proxies issued on securities held in the Funds and Managed Accounts. We have adopted Proxy Voting Policies and Procedures in an effort to ensure we cast votes in the best interests of our clients. These Proxy Voting Policies and Procedures are summarized as follows:

Engaged Capital believes that proxy voting is an important part of shareholder engagement as it gives shareholders a voice in the decision-making process of a portfolio company's board of directors and management. We review each and every proxy proposal to determine whether or not it is in the best interests of the shareholders and whether it is consistent with our engagement strategy. As a result, we could vote similar proposals at different companies in different ways.

If we have a conflict of interest we will disclose the conflict to investors in the Fund and our Managed Accounts, or we will contact a third party to advise Engaged Capital to determine the vote and/or provide voting recommendations. In the case of a conflict of interest resulting from a particular employee's personal relationships, we will remove the employee from the decision-making process with respect to the proxy vote. At any time, Fund investors and Managed Account clients may contact us to request information about how we voted proxies or to get a copy of our Proxy Voting Policies and Procedures.

## ITEM 18 - FINANCIAL INFORMATION

Registered investment advisers are required in this item to provide clients with certain financial information or disclosures about the firm's financial condition, if any of the following facts or circumstances are present. As Engaged Capital does not require the prepayment of more than \$1,200 in fees per client, six months or more in advance, does not have or foresee any financial condition that is reasonably likely to impair our ability to meet contractual commitments to clients, and has not been the subject of a bankruptcy proceeding, no disclosure is required.