

# Keene & Associates, Inc.

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**This Brochure provides information about the qualifications and business practices of Keene & Associates, Inc. (the “Registrant”). If you have any questions about the contents of this Brochure, please contact John Keene at 817-366-4500 or [jkeene@keeneassociates.com](mailto:jkeene@keeneassociates.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.**

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

References herein to Registrant as a “registered investment adviser” or any reference to being “registered” does not imply a certain level of skill or training.

## Item 2            Material Changes

There have been no material changes to this Brochure since the previous Annual Update filing on March 8, 2016.

**ANY QUESTIONS: Keene & Associates, Inc.'s Chief Compliance Officer, John Keene, remains available to address any questions that an existing or prospective client may have regarding any of these changes or any other aspect of this Brochure.**

## Item 3            Table of Contents

|         |  |    |
|---------|--|----|
| Item 1  | Cover Page.....  | 1  |
| Item 2  | Material Changes.....  | 2  |
| Item 3  | Table of Contents.....   | 2  |
| Item 4  | Advisory Business .....  | 3  |
| Item 5  | Fees and Compensation .....  | 5  |
| Item 6  | Performance-Based Fees and Side-by-Side Management .....                                   | 6  |
| Item 7  | Types of Clients.....  | 6  |
| Item 8  | Methods of Analysis, Investment Strategies and Risk of Loss.....                           | 6  |
| Item 9  | Disciplinary Information .....   | 8  |
| Item 10 | Other Financial Industry Activities and Affiliations .....                                 | 8  |
| Item 11 | Code of Ethics, Participation or Interest in Client Transactions and Personal Trading..... | 8  |
| Item 12 | Brokerage Practices .....  | 9  |
| Item 13 | Review of Accounts.....  | 13 |
| Item 14 | Client Referrals and Other Compensation.....   | 13 |
| Item 15 | Custody.....   | 13 |
| Item 16 | Investment Discretion.....   | 14 |
| Item 17 | Voting Client Securities.....  | 15 |
| Item 18 | Financial Information .....  | 16 |

#### **Item 4            Advisory Business**

- A. Keene & Associates, Inc. (“Registrant”) is a Texas Corporation formed in 1994. Registrant became registered as an Investment Adviser with the Securities and Exchange Commission on September 19, 1994. Registrant is principally owned by John Keene, who is also the Registrant’s President, Chief Investment Officer, and Chief Compliance Officer.
- B. Registrant offers investment advisory services to its clients (individuals, high net worth individuals, banking or thrift institutions, corporations and other business entities, etc.) as described below.

#### **INVESTMENT ADVISORY SERVICES**

The client can engage the Registrant to provide discretionary and/or non-discretionary investment advisory services on a fee-only basis. The Registrant’s annual investment advisory fee is based upon a percentage (%) of the market value of the assets placed under the Registrant’s management. Registrant’s annual investment advisory fee shall include portfolio management services and, to the extent specifically requested by the client, limited financial planning and consulting services.

Before engaging the Registrant to provide investment advisory services, clients are required to enter into a Portfolio Management Agreement with Registrant setting forth the terms and conditions of the engagement (including termination), describing the scope of the services to be provided, and the fee that is due from the client. An investment adviser representative will first ascertain each client’s investment objectives, and then allocate and/or recommend that the client allocate investment assets consistent with the designated investment objectives. Once allocated, the Registrant provides ongoing monitoring and review of account performance and asset allocation as compared to client investment objectives, and may rebalance and/or recommend that clients rebalance accounts as necessary based on such reviews.

#### **MISCELLANEOUS**

**Limitations of Financial Planning and Non-Investment Consulting/Implementation Services.** To the extent requested by a client, Registrant may provide financial planning and related consulting services regarding non-investment related matters, such as estate planning, tax planning, insurance, etc. The Registrant does not serve as a law firm, accounting firm, or insurance agency, and no portion of Registrant’s services should be construed as legal, accounting, or insurance implementation services. Accordingly, Registrant does not prepare estate planning documents, tax returns or sell insurance products. To the extent requested by a client, Registrant may recommend the services of other professionals for certain non-investment implementation purposes (i.e. attorneys, accountants, insurance agents, etc.). Clients are reminded that they are under no obligation to engage the services of any such recommended professional. The client retains absolute discretion over all such implementation decisions and is free to accept or reject any recommendation

made by Registrant or its representatives. **Please Note:** If the client engages any unaffiliated recommended professional, and a dispute arises thereafter relative to such engagement, the client agrees to seek recourse exclusively from and against the engaged professional.

**Non-Discretionary Service Limitations.** Clients that determine to engage Registrant on a non-discretionary investment advisory basis **must be willing to accept** that Registrant cannot effect any account transactions without obtaining prior consent to such transaction(s) from the client. Thus, in the event that Registrant would like to make a transaction for a client's account (including in the event of an individual holding or general market correction), and the client is unavailable, the Registrant will be unable to effect the account transaction(s) (as it would for its discretionary clients) **without first obtaining the client's consent.**

**Client Obligations.** In performing its services, Registrant shall not be required to verify any information received from the client or from the client's other designated professionals, and is expressly authorized to rely thereon. Moreover, each client is advised that it remains their responsibility to promptly notify Registrant if there is ever any change in their financial situation or investment objectives for the purpose of reviewing/evaluating/revising Registrant's previous recommendations and/or services.

**Investment Risk.** Different types of investments involve varying degrees of risk, and it should not be assumed that future performance of any specific investment or investment strategy (including the investments and/or investment strategies recommended or undertaken by Registrant) will be profitable or equal any specific performance level(s).

**Retirement Rollovers-Potential for Conflict of Interest:** A client or prospective client leaving an employer typically has four options regarding an existing retirement plan (and may engage in a combination of these options): (i) leave the money in the former employer's plan, if permitted, (ii) roll over the assets to the new employer's plan, if one is available and rollovers are permitted, (iii) roll over to an Individual Retirement Account ("IRA"), or (iv) cash out the account value (which could, depending upon the client's age, result in adverse tax consequences). If the Registrant recommends that a client roll over their retirement plan assets into an account to be managed by the Registrant, such a recommendation creates a conflict of interest if the Registrant will earn an advisory fee on the rolled over assets. To the extent that Registrant recommends that clients roll over assets from their retirement plan to an IRA managed by Registrant, then Registrant represents that it and its investment adviser representatives are fiduciaries under the Employment Retirement Income Security Act of 1974, or the Internal Revenue Code, or both. **No client is under any obligation to roll over retirement plan assets to an account managed by Registrant. The Registrant's Chief Compliance Officer, John Keene, remains available to address any questions that a client or prospective client may have regarding the potential for conflict of interest presented by such rollover recommendation.**

**Use of Mutual Funds and Exchange Traded Funds.** While the Registrant may recommend allocating investment assets to mutual funds and/or exchange traded funds that are not available directly to the public, the Registrant may also recommend that clients allocate investment assets to publically-available mutual

funds and/or exchange traded funds that the client could obtain without engaging Registrant as an investment adviser. However, if a client or prospective client determines to allocate investment assets to publically-available mutual funds and/or exchange traded funds without engaging Registrant as an investment adviser, the client or prospective client would not receive the benefit of Registrant's initial and ongoing investment advisory services.

**Disclosure Statement.** A copy of Registrant's written disclosure statement as set forth on Part 2 of Form ADV shall be provided to each client prior to, or contemporaneously with, the execution of the *Investment Advisory Agreement*.

- C. Registrant shall provide investment advisory services specific to the needs of each client. To commence investment advisory services, an investment adviser representative will ascertain each client's investment objective(s). Thereafter, Registrant shall allocate and/or recommend that the client allocate investment assets consistent with the designated investment objective(s). The client may, at anytime, impose reasonable restrictions in writing to limit Registrant's services.
- D. Registrant does not sponsor a wrap program or offer investment advisory services on a wrap-fee basis.
- E. As of December 31, 2016, Registrant had \$92,884,808 in assets under management on a discretionary basis and \$248,299,230 in assets under management on a non-discretionary basis.

## Item 5 Fees and Compensation

### A. **INVESTMENT ADVISORY SERVICES**

The client can engage the Registrant on a negotiable fee-only basis to provide discretionary and/or non-discretionary investment advisory services as described above. The Registrant's annual investment advisory fee shall be based upon a percentage (%) of the market value placed under the Registrant's management, generally between negotiable and 1.00% as follows:

| <u>Market Value of Portfolio</u>                      | <u>Annual</u> |
|---|---------------|
| <u>Fee %</u>  |               |
| The First \$1,000,000                                 | 1.00%         |
| Additional Assets between \$1,000,000 and \$3,000,000 | 0.75%         |
| Additional Assets between \$3,000,000 and \$5,000,000 | 0.50%         |
| Additional Assets exceeding \$5,000,000               | Negotiable    |

The Registrant may, in its sole discretion, determine to aggregate account values for related clients (such as spouses and minor children sharing the same residence) for the purpose of reducing the overall investment advisory fee.

- B. Clients may elect to have Registrant's fees deducted from their custodial accounts. The Portfolio Management Agreement and the custodial / clearing agreement may authorize the custodian to debit the account for the amount of Registrant's fees and to directly remit that fee to Registrant in compliance with

regulatory procedures. In the event that Registrant bills the client directly, payment is due upon receipt of Registrant's invoice. Registrant generally deducts or bills clients for its fees quarterly in arrears, based upon the average month-end market value of client assets under management for the previous quarter.

- C. As discussed below, unless the client directs otherwise or an individual client's circumstances require, Registrant generally recommends that use Charles Schwab and Co., Inc. an SEC-registered, FINRA and SIPC-member broker-dealer/custodian ("Schwab") for client investment management assets. Broker-dealers such as Schwab charge brokerage commissions and/or transaction fees for effecting certain securities transactions (i.e., transaction fees are charged for certain no-load mutual funds, commissions are charged for individual equity and fixed income securities transactions). In addition to Registrant's investment advisory fee, brokerage commissions and/or transaction fees, clients will also incur, relative to all mutual fund and exchange traded fund purchases, charges imposed at the fund level (e.g., management fees and other fund expenses).
- D. Registrant generally deducts or bills clients for its fees quarterly in arrears, based upon the average month-end market value of client assets under management for the previous quarter. Upon termination of the Portfolio Management Agreement, Registrant will debit the account / bill the client for the pro-rated portion of the unpaid advisory fee based upon the number of days that services were provided during the billing quarter (as applicable).
- E. Neither Registrant, nor its representatives, accepts compensation from the sale of securities or other investment products.

## **Item 6            Performance-Based Fees and Side-by-Side Management**

Neither Registrant, nor any supervised person of Registrant, accepts performance-based fees.

## **Item 7            Types of Clients**

Registrant's clients shall generally include individuals, high net worth individuals, banking or thrift institutions, corporations and other business entities, etc. Registrant generally requires a minimum account size of \$250,000 for investment advisory services. However, the Registrant, in its sole discretion, may charge a lesser investment advisory fee or reduce / waive its minimum annual fee requirement based upon certain criteria (i.e. anticipated future earning capacity, anticipated future additional assets, dollar amount of assets to be managed, related accounts, account composition, negotiations with client, etc.).

## **Item 8            Methods of Analysis, Investment Strategies and Risk of Loss**

- A. Registrant may utilize the following methods of security analysis:

- Fundamental - (analysis performed on historical and present data, with the goal of making financial forecasts);
- Technical – (analysis performed on historical and present data, focusing on price and trade volume, to forecast the direction of prices); and

Registrant may utilize the following investment strategies when implementing investment advice given to clients:

- Long Term Purchases (securities held at least a year);
- Short Term Purchases (securities sold within a year); and
- Trading (securities sold within thirty (30) days).

**Please Note: Investment Risk.** Investing in securities involves risk of loss that clients should be prepared to bear. Different types of investments involve varying degrees of risk, and it should not be assumed that future performance of any specific investment or investment strategy (including the investments and/or investment strategies recommended or undertaken by Registrant) will be profitable or equal any specific performance level(s).

- B. Registrant's methods of analysis and investment strategies do not present any significant or unusual risks. However, every method of analysis has its own inherent risks. To perform an accurate market analysis Registrant must have access to current / new market information. Registrant has no control over the dissemination rate of market information; therefore, unbeknownst to Registrant, certain analyses may be compiled with outdated market information, severely limiting the value of Registrant's analysis. Furthermore, an accurate market analysis can only produce a forecast of the direction of market values. There can be no assurances that a forecasted change in market value will materialize into actionable and/or profitable investment opportunities.

The Registrant's primary investment strategies - Long Term Purchases, Short Term Purchases, and Trading - are fundamental investment strategies. However, every investment strategy has its own inherent risks and limitations. For example, longer term investment strategies require a longer investment time period to allow for the strategy to potentially develop. Shorter term investment strategies require a shorter investment time period to potentially develop but, as a result of more frequent trading, may incur higher transactional costs when compared to a longer term investment strategy. Trading, an investment strategy that requires the purchase and sale of securities within a thirty (30) day investment time period involves a very short investment time period but will incur higher transaction costs when compared to a short term investment strategy and substantially higher transaction costs than a longer term investment strategy.

- C. Currently, Registrant primarily allocates investment assets among mutual funds, exchange traded funds, individual equities, individual bonds and bond funds on a discretionary or non-discretionary basis, in accordance with the client's designated investment objective(s).

**Item 9            Disciplinary Information**

There are no legal or disciplinary events to report that are material to an existing or prospective client's evaluation of the Registrant's advisory business or the integrity of its management.

**Item 10           Other Financial Industry Activities and Affiliations**

- A. Neither Registrant, nor its representatives, are registered or have an application pending to register, as a broker-dealer or a registered representative of a broker-dealer.
- B. Neither Registrant, nor its representatives, are registered or have an application pending to register, as a futures commission merchant, commodity pool operator, a commodity trading advisor, or a representative of the foregoing.
- C. The Registrant does not have any relationship or arrangement that is material to its advisory business or to its clients with any related person required to be disclosed in this Item 10.C.
- D. Registrant does not receive, directly or indirectly, compensation from investment advisors that it recommends or selects for its clients.

**Item 11           Code of Ethics, Participation or Interest in Client Transactions and Personal Trading**

- A. Registrant maintains an investment policy relative to personal securities transactions. This investment policy is part of Registrant's overall Code of Ethics, which serves to establish a standard of business conduct for all of Registrant's Representatives that is based upon fundamental principles of openness, integrity, honesty and trust, a copy of which is available upon request.

In accordance with Section 204A of the Investment Advisers Act of 1940, Registrant also maintains and enforces written policies reasonably designed to prevent the misuse of material non-public information by Registrant or any person associated with Registrant.

- B. Neither Registrant nor any related person of Registrant recommends, buys, or sells for client accounts, securities in which Registrant or any related person of Registrant has a material financial interest.
- C. Registrant and/or representatives of Registrant may buy or sell securities that are also recommended to clients. This practice may create a situation where Registrant and/or representatives of Registrant are in a position to materially benefit from the sale or purchase of those securities. Therefore, this situation creates a potential conflict of interest. Practices such as "scalping" (i.e., a practice whereby the owner of shares of a security recommends that security for investment and then immediately sells it at a profit upon the rise in the market price which follows the recommendation) could take place if Registrant did not



have adequate policies in place to detect such activities. In addition, this requirement can help detect insider trading, “front-running” (i.e., personal trades executed prior to those of Registrant’s clients) and other potentially abusive practices.

Registrant has a personal securities transaction policy in place to monitor the personal securities transactions and securities holdings of each of Registrant’s “Access Persons”. Registrant’s securities transaction policy requires that an Access Person of Registrant must provide the Chief Compliance Officer or his/her designee with a written report of their current securities holdings within ten (10) days after becoming an Access Person. Additionally, each Access Person must provide the Chief Compliance Officer or his/her designee with a written report of the Access Person’s current securities holdings at least once each twelve (12) month period thereafter on a date Registrant selects; provided, however that at any time that has only one Access Person, he or she shall not be required to submit any securities report described above.

- D. Registrant and/or representatives of Registrant may buy or sell securities, at or around the same time as those securities are recommended to clients. This practice creates a situation where Registrant and/or representatives of Registrant are in a position to materially benefit from the sale or purchase of those securities. Therefore, this situation creates a potential conflict of interest. As indicated above in Item 11.C, Registrant has a personal securities transaction policy in place to monitor the personal securities transaction and securities holdings of each of Registrant’s Access Persons.

## **Item 12 Brokerage Practices**

- A. In the event that the client requests that the Registrant recommend a broker-dealer/custodian for execution and/or custodial services (exclusive of those clients that may direct the Registrant to use a specific broker-dealer/custodian), Registrant generally recommends that investment advisory accounts be maintained at Schwab. Prior to engaging Registrant to provide investment advisory services, the client will be required to enter into a formal Portfolio Management Agreement with Registrant setting forth the terms and conditions under which Registrant shall manage the client’s assets, and a separate custodial/clearing agreement with each designated broker-dealer/custodian.

Factors that the Registrant considers in recommending Schwab (or another broker-dealer/custodian, investment platform, unaffiliated investment manager, mutual fund sponsor, or vendor) include historical relationship with the Registrant, financial strength, reputation, execution capabilities, pricing, research, and service. Although the commissions and/or transaction fees paid by Registrant’s clients shall comply with the Registrant’s duty to obtain best execution, a client may pay a commission that is higher than another qualified broker-dealer might charge to effect the same transaction where the Registrant determines, in good faith, that the commission/transaction fee is reasonable. In seeking best execution, the determinative factor is not the lowest possible cost, but whether the transaction represents the best qualitative execution, taking into consideration the full range of a broker-dealer’s services, including the value of research provided, execution capability, commission rates, and responsiveness.

Accordingly, although Registrant will seek competitive rates, it may not necessarily obtain the lowest possible commission rates for client account transactions. The brokerage commissions or transaction fees charged by the designated broker-dealer/custodian are exclusive of, and in addition to, Registrant's investment advisory fee. The Registrant's best execution responsibility is qualified if securities that it purchases for client accounts are mutual funds that trade at net asset value as determined at the daily market close.

1. Research and Additional Benefits

Although not a material consideration when determining whether to recommend that a client utilize the services of a particular broker-dealer/custodian, Registrant may receive from Schwab (or another broker-dealer/custodian, investment manager, vendor, platform, or fund sponsor) without cost (and/or at a discount) support services and/or products, certain of which assist Registrant to better monitor and service client accounts maintained at such institutions. Included within the support services that may be obtained by Registrant could include investment-related research, pricing information and market data, software and other technology that provide access to client account data, compliance and/or practice management-related publications, discounted or gratis consulting services, discounted and/or gratis attendance at conferences, meetings, and other educational and/or social events, marketing support-including client events, computer hardware and/or software and/or other products used by Registrant in furtherance of its investment advisory business operations.

As indicated above, certain of the support services and/or products that may be received may assist Registrant in managing and administering client accounts. Others do not directly provide such assistance, but rather assist Registrant to manage and further develop its business enterprise. There is no corresponding commitment made by Registrant to Schwab or any other any entity to invest any specific amount or percentage of client assets in any specific mutual funds, securities or other investment products as result of the above arrangement.

Schwab Advisor Services

Schwab Advisor Services (formerly called Schwab Institutional) is Schwab's business serving independent investment advisory firms like the Registrant. It provides Registrant and its clients with access to its institutional brokerage –trading, custody, reporting and related services – many of which are not typically available to Schwab retail customers. Schwab also makes available various support services and "Additional Benefits." Some of those support services and Additional Benefits help Registrant manage or administer its clients' accounts while others help Registrant manage and grow its business. Schwab may also provide monetary assistance to Registrant to defray certain costs towards certain technology, compliance, legal, business consulting and other related expenses. Schwab's support services are generally available on an unsolicited basis (Registrant does not have to request them) and at no charge to Registrant as long as it maintains at least \$10 million of its clients' assets in accounts at Schwab. Otherwise, if Registrant does not maintain at least \$10 million of its clients' assets with Schwab, it may incur a quarterly

service fee of \$1,200 from Schwab. Here is a more detailed description of Schwab's support services:

#### Services that Benefit the Client

Schwab's institutional brokerage services include access to a broad range of investment products, execution of securities transactions, and custody of client assets. The investment products available through Schwab include some to which Registrant might not otherwise have access or that would require a significantly higher minimum initial investment by Registrant's clients. Schwab's services described in this paragraph generally benefit Registrant's clients and their accounts.

#### Services that May Not Directly Benefit the Client

Schwab also makes available to us other products and services that benefit Registrant but may not directly benefit Registrant's clients or their accounts. These products and services assist Registrant in managing and administering its clients' accounts. They include investment research, both Schwab's own and that of third parties. Registrant may use this research to service all or some substantial number of its clients' accounts, including accounts not maintained at Schwab. In addition to investment research, Schwab also makes available software and other technology that:

- provide access to client account data (such as duplicate trade confirmations and account statements);
- facilitate trade execution and allocate aggregated trade orders for multiple client accounts;
- provide pricing and other market data;
- facilitate payment of our fees from our clients' accounts; and
- assist with back-office functions, recordkeeping and client reporting.

#### Services that Generally Benefit Only Registrant

Schwab also offers other services intended to help Registrant manage and further develop its business enterprise. These services include:

- educational conferences and events
- technology, compliance, legal, and business consulting;
- publications and conferences on practice management and business succession; and
- access to employee benefits providers, human capital consultants and insurance providers.

Schwab may provide some of these services itself. In other cases, it will arrange for third-party vendors to provide the services to Registrant. Schwab may also discount or waive its fees for some of these services or pay all or a part of a third party's fees. Schwab may also provide Registrant with other benefits such as occasional business entertainment of its personnel.

The availability of these services from Schwab benefits Registrant because it does not have to produce or purchase them. Registrant is not required to pay for Schwab's services so long as it maintains a total of at least \$10 million of client assets in accounts at Schwab. (Beyond that, these services are not

contingent upon Registrant committing any specific amount of business to Schwab in trading commissions or assets in custody.) The \$10 million minimum may give Registrant an incentive to suggest that clients maintain their account with Schwab based on Registrant's interest in receiving Schwab's services that benefit Registrant's business rather than based on clients' interest in receiving the best value in custody services and the most favorable execution of transactions. This presents a potential **conflict of interest**. Registrant believes, however, that its selection of Schwab as custodian and broker may be in the best interests of its clients based upon the factors discussed above. Further, based on the amount of assets the Registrant currently manages, it does not believe that maintaining at least \$10 million of those assets at Schwab in order to avoid paying Schwab quarterly service fees presents an actual and material conflict of interest.

**Registrant's Chief Compliance Officer, John Keene, remains available to address any questions that a client or prospective client may have regarding the above arrangements and any corresponding perceived conflict of interest such arrangements may create.**

2. Registrant does not receive referrals from broker-dealers.
  3. **Directed Brokerage:** Registrant does not generally accept directed brokerage arrangements (when a client requires that account transactions be effected through a specific broker-dealer). In such client directed arrangements, the client will negotiate terms and arrangements for their account with that broker-dealer, and Registrant will not seek better execution services or prices from other broker-dealers or be able to "batch" the client's transactions for execution through other broker-dealers with orders for other accounts managed by Registrant. As a result, a client may pay higher commissions or other transaction costs or greater spreads, or receive less favorable net prices, on transactions for the account than would otherwise be the case. **Please Note:** In the event that the client directs Registrant to effect securities transactions for the client's accounts through a specific broker-dealer, the client correspondingly acknowledges that such direction may cause the accounts to incur higher commissions or transaction costs than the accounts would otherwise incur had the client determined to effect account transactions through alternative clearing arrangements that may be available through Registrant. Higher transaction costs adversely impact account performance. **Please Also Note:** Transactions for directed accounts will generally be executed following the execution of portfolio transactions for non-directed accounts. **Registrant's Chief Compliance Officer, John Keene, remains available to address any questions that a client or prospective client may have regarding the above arrangements.**
- B. To the extent that Registrant provides investment management services to its clients, the transactions for each client account generally will be effected independently, unless Registrant decides to purchase or sell the same securities for several clients at approximately the same time. Registrant may (but is not obligated to) combine or "bunch" such orders to obtain best execution, to negotiate more favorable commission rates or to allocate equitably among Registrant's clients differences in prices and commissions or other transaction costs that might have been obtained had such orders been placed independently.

Under this procedure, transactions will be averaged as to price and will be allocated among clients in proportion to the purchase and sale orders placed for each client account on any given day. Registrant shall not receive any additional compensation or remuneration as a result of such aggregation.

### **Item 13      Review of Accounts**

- A. For those clients to whom Registrant provides investment supervisory services, account reviews are conducted on an ongoing basis by Registrant's Principals and/or representatives. All investment supervisory clients are advised that it remains their responsibility to advise Registrant of any changes in their investment objectives and/or financial situation. All clients (in person or via telephone) are encouraged to review investment objectives and account performance with Registrant on an annual basis.
- B. Registrant may conduct account reviews on an other-than-periodic basis upon the occurrence of a triggering event, such as a change in client investment objectives and/or financial situation, market corrections and client request.
- C. Clients are provided, at least quarterly, with written transaction confirmation notices and regular written summary account statements directly from the broker-dealer/custodian and/or program sponsor for the client accounts. Registrant may also provide a written periodic report summarizing account activity and performance.

### **Item 14      Client Referrals and Other Compensation**

- A. As referenced in Item 12.A above, the Registrant receives economic benefits from Schwab including support services and/or products without cost (and/or at a discount). Registrant's clients do not pay more for investment transactions effected and/or assets maintained at Schwab as a result of this arrangement. There is no corresponding commitment made by the Registrant to Schwab or any other entity to invest any specific amount or percentage of client assets in any specific mutual funds, securities or other investment products as a result of the above arrangement.
- B. Registrant does not compensate, directly or indirectly, any person, other than its representatives, for new client referrals. However, Registrant previously participated in the Schwab Advisor Network™ (the "Service,") through which Registrant received client referrals in exchange for compensation to Schwab. While Registrant no longer participates in the Service and does not receive new client referrals from Schwab, existing clients previously referred to Registrant from Schwab during its participation in the Service are subject to the terms of continuing fee arrangements.

As discussed above, Registrant is not affiliated with Schwab and is independently owned. There is no employee or agency relationship between Schwab and Registrant. Schwab established the Service as a means of referring its brokerage customers and other investors seeking fee-based personal investment management services to independent investment advisers. Schwab does not

supervise Registrant and has no responsibility for the management of Registrant's clients' portfolios or other advice or services Registrant offers. Registrant continues to pay Schwab a fee for client accounts that were established while it participated in the Service and that are still in custody with Schwab (the "Participation Fee"). The Participation Fee paid by Registrant is a percentage of the fees the referred client owes to Registrant or a percentage of the value of the assets of such clients' accounts, subject to a minimum. Registrant continues to pay Schwab the Participation Fee as long as the applicable referred client's account remains in custody with Schwab. The Participation Fee is paid by Registrant and not the Registrant's clients. Registrant does not charge clients referred to through the Service fees greater than the fees it charges clients with similar portfolios that were not referred through the Service.

For client accounts that were established during Registrant's participation in the Service, Registrant pays Schwab an additional fee if custody of a referred client's account is not maintained by, or is transferred from, Schwab (the "Custody Fee.") The Custody Fee is a one-time payment equal to a percentage of the assets placed with a custodian other than Schwab. It does not apply if the client is solely responsible for the decision not to maintain custody at Schwab. The Custody Fee is generally higher than the Participation Fee that Registrant would pay on an account annually. This raises a **conflict of interest**, since Registrant has an incentive to recommend to its clients that accounts established while Registrant participated in the Service continue to be held in custody at Schwab.

#### **Item 15      Custody**

Registrant shall have the ability to have its investment advisory fee for each client debited by the custodian on a quarterly basis. Clients are provided, at least quarterly, with written transaction confirmation notices and regular written summary account statements directly from the broker-dealer/custodian and/or program sponsor for the client accounts. Registrant may also provide a written periodic report summarizing account activity and performance.

**Please Note:** To the extent that Registrant provides clients with periodic account statements or reports, the client is urged to compare any statement or report provided by Registrant with the account statements received from the account custodian. **Please Also Note:** The account custodian does not verify the accuracy of Registrant's investment advisory and planning fee calculation.

#### **Item 16      Investment Discretion**

The client can determine to engage Registrant to provide investment advisory services on a discretionary basis. Prior to Registrant assuming discretionary authority over a client's account, the client shall be required to execute an Portfolio Management Agreement, naming Registrant as the client's attorney and agent in fact, granting Registrant full authority to buy, sell, or otherwise effect investment transactions involving the assets in the client's name found in the discretionary account.

Clients who engage Registrant on a discretionary basis may, at anytime, impose restrictions, **in writing**, on Registrant's discretionary authority (i.e. limit the types/amounts of particular securities purchased for their account, exclude the ability to purchase securities with an inverse relationship to the market, limit or proscribe Registrant's use of margin, etc.).

## **Item 17      Voting Client Securities**

- A. Registrant will vote proxies for all securities that it has purchased for clients' accounts, based upon its reasonable judgment of the vote most likely to produce favorable financial results for the client. Proxy votes generally will be cast in favor of proposals that appear to maintain or strengthen the shared interests of shareholders and management, increase shareholder value, maintain or increase shareholder influence over the issuer's board of directors and management, and maintain or increase the rights of shareholders. Generally, proxy votes will be cast against proposals appearing to have the opposite effect. However, Registrant will consider both sides of each proxy issue. Unless Registrant receives specific written instructions from the client, it will not vote proxies based upon social considerations.

Clients seeking to direct the Registrant with respect to a particular proxy vote should contact Registrant's Chief Compliance Officer, John Keene.

Conflicts of interest could arise with respect to certain proxy issues. If Registrant determines in its sole discretion that a material conflict of interest exists, it will take the necessary steps to resolve the conflict before voting the proxies. For example, Registrant may: disclose the existence and nature of the conflict to the affected client, and seek direction from such client as to how to vote on a particular issue; abstain from voting, particularly if there are conflicting interests for the client (for example, where the clients account(s) hold different securities in a competitive merger situation); retain an independent third-party to cast a vote; or take other necessary steps designed to ensure that a decision to vote is in the affected client's best interest.

Upon client confirmation, Registrant will utilize a third-party service provider to assist the client with participation in securities class action lawsuits pertaining to the assets under Registrant's management. Registrant would then provide trade data and other necessary information to the third-party service provider, which would research class action cases and complete and calculate the applicable proof of claim. The third-party service provider would then file the applicable proof of claim with the claims administrator, verify payment received from the claims administrator and distribute the payment to the client minus a fifteen percent (15%) contingency fee of securities class action settlements collected. Otherwise, if clients choose not to engage in the class action monitoring, filing, and recovery services provided by the third-party service provider, clients will be exclusively responsible for voting in all legal proceedings or other type events pertaining to the assets under Registrant's management including, but not limited to, class action lawsuits.

Registrant shall maintain records pertaining to proxy voting as required pursuant to Rule 204-2(c)(2) under the Advisers Act. Copies of Rules 206(4)-6 and 204-2(c)(2) are available upon written request. In addition, information pertaining to how Registrant voted on any specific proxy issue is also available upon written request.

- B. Not applicable. The Registrant will vote proxies as indicated above.

**Item 18      Financial Information**

- A. Registrant does not solicit fees of more than \$1,200, per client, six months or more in advance.
- B. Registrant is unaware of any financial condition that is reasonably likely to impair its ability to meet its contractual commitments relating to its discretionary authority over certain client accounts.
- C. Registrant has not been the subject of a bankruptcy petition.

**ANY QUESTIONS: Registrant's Chief Compliance Officer, John Keene, remains available to address any questions that a client or prospective client may have regarding the above disclosures and arrangements.**