

**Part 2A of Form ADV: *Firm Brochure***

**BERENS CAPITAL MANAGEMENT, LLC**

717 Fifth Avenue, Floor 12A  
New York, NY 10022

Telephone: (212)-698-2030

Facsimile: (212)-698-2021

E-mail: [iferreira@berenscapital.com](mailto:iferreira@berenscapital.com)

Web Address: [www.berenscapital.com](http://www.berenscapital.com)

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**This brochure provides information about the qualifications and business practices of Berens Capital Management, LLC (hereinafter “Berens” or “firm” or “we”). If you have any questions about the contents of this brochure, please contact us at (212)-698-2030 or at [iferreira@berenscapital.com](mailto:iferreira@berenscapital.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. Berens is an SEC registered investment adviser. Registration does not imply any particular level of skill or training by our firm or employees.**

**Additional information about Berens is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). You can search this site by a unique identifying number, known as a CRD number. The CRD number for Berens is 135746.**

## **Item 2 MATERIAL CHANGES**

Consistent with SEC rules, we seek to provide a summary of any material changes to this and subsequent Disclosure Brochures within 120 days after the close of our fiscal year. We may also provide other disclosures at other times during the year in the event of any material changes to our business.

Since our last annual updating amendment filed on 03/17/2016, Berens has undergone the following material changes:

Berens has completed its integration of certain private funds formerly managed by StoneWater Capital, LLC (hereinafter “the StoneWater Funds”). As part of this transition, certain key former officers and staff of StoneWater Capital, LLC have joined Berens, including Frank Brochin. Frank is now Chief Investment Officer for Berens. Rodney Berens and Raymond Schilt have assumed Senior Advisory roles and, while maintaining oversight responsibility for the firm, have stepped down from their prior roles as co-Chief Investment Officers.

Items 4, 5, 8 and 12 have been amended to disclose details regarding Berens’ management of Berens Capital Asia (Ex-Japan), LLC, formerly managed by StoneWater Capital, LLC, including the potential for direct trading activity by Berens.

At the time of this filing, certain private funds managed by Berens were closed and undergoing liquidation. Details regarding the strategies, investment objectives and fee structures for these funds have been removed or have otherwise not been included in this Brochure.

As the Berens Funds were undergoing their annual audits as of the date of this Brochure, unaudited gross valuations as of Fund’s fiscal year end (12/31/2016) have been used in calculating the firm’s regulatory assets under management (RAUM) reported at Item 4 of this Brochure.

Please note, the above summarizes only material changes made since our last annual update filing of this Disclosure Brochure.

## Table of Contents

<b>Item</b>	<b>Section</b>	<b>Page Number</b>
1.	Cover Page	1
2.	Material Changes	2
3.	Table of Contents	3
4.	Advisory Business	4
5.	Fees and Compensation	6
6.	Performance-Based Fees and Side-by-Side Management	10
7.	Types of Clients	11
8.	Methods of Analysis, Investment Strategies and Risk of Loss	11
9.	Disciplinary Information	13
10.	Other Financial Industry Activities and Affiliations	13
11.	Code of Ethics, Participation or Interest in Client Transactions and Personal Trading	13
12.	Brokerage Practices	15
13.	Review of Accounts	17
14.	Client Referrals and Other Compensation	17
15.	Custody	18
16.	Investment Discretion	18
17.	Voting Client Securities	18
18.	Financial Information	19

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

Berens is an SEC-registered investment adviser with its principal place of business in New York, New York. The firm has been in business since 2000, with Rodney Berens as the principal owner of the firm.

Berens provides investment management services solely to the following private funds (hereinafter collectively, “the Funds”).

- Berens Capital Fund, Ltd., a Cayman Islands exempted company (hereinafter “*Berens Capital Fund*”);
- Berens Capital Partners, L.P, a Delaware limited partnership (hereinafter “*Berens Capital Partners*” and collectively with Berens Capital Fund, “*Berens Capital Funds*”);
- Berens Global Value Fund, Ltd., a Cayman Islands exempted company (hereinafter “*Berens Global Value Offshore*”);
- Berens Global Value Fund, L.P., a Delaware limited partnership (hereinafter “*Berens Global Value Domestic*” and collectively with Berens Global Value Off-Shore, “*Global Value Funds*”);
- Berens Africa Development Partners I Access Fund, L.P., a Cayman Islands exempted limited partnership (hereinafter “*Berens Africa Development Access Fund*”);
- Berens Capital Asia (Ex-Japan), LLC, a Delaware limited liability company (hereinafter “*Berens Capital Asia [Ex-Japan] Fund*”).

Additionally, Berens provides investment management services to several private funds that are currently in liquidation.

The Funds are not required to register under the Securities Act of 1933 or the Investment Company Act of 1940 in reliance upon certain exemptions available to issuers whose securities are not publicly offered. We manage the Funds on a discretionary basis in accordance with the terms and conditions of each Fund's offering and organizational documents. Except as provided above with regard to direct trading activity engaged in on behalf of Berens Capital Asia (Ex-Japan) Fund, we generally do not directly buy or sell securities for the Funds other than for interests in the underlying private funds. Nevertheless, we have been granted the authority to make direct investments on behalf of each Berens Fund and may do so in the future.

**BERENS CAPITAL FUNDS:** In general, the Berens Capital Funds are managed in parallel with each other. In other words, these funds will typically hold the same securities in roughly the same percentages subject to cash availability, availability of interests in the underlying funds and other considerations. As such, they will generally be managed according to the same strategy and have similar risk profiles. The investment objective of the Berens Capital Funds will be to seek to achieve capital appreciation by deploying each of the Berens Capital Funds’ assets among a selected

group of Portfolio Managers who may be managers of funds (in which case the Berens Capital Funds will invest in such funds) or who may manage accounts for the Berens Capital Funds. The Berens Capital Funds will focus primarily on hedge funds whose Portfolio Managers employ a long/short equity strategy but we may also invest with hedge funds or managers employing other investment strategies if we believe this will further the investment objective of the Berens Capital Funds.

*BERENS GLOBAL VALUE FUNDS:* Like the Berens Capital Funds, the Berens Global Value Funds are managed in parallel with each other, that is, these funds will typically hold the same underlying securities in roughly the same percentages subject to cash availability, availability of interests in the underlying funds and other considerations. As such, they will generally be managed according to the same strategy and have similar risk profiles. The investment objective of the Berens Global Value Funds is to seek to achieve (i) superior risk adjusted rates of return, and (ii) low to moderate correlation to other investment funds managed by our firm and to the equity markets in general by deploying the Funds' assets among a concentrated, non-diversified group of Portfolio Managers who seek to capitalize primarily on emerging markets equities, emerging markets debt, global distressed debt, non-US equities and select US equities investment opportunities. These Portfolio Managers may be managers of private funds (in which case the Berens Global Value Funds will invest in such funds) or may manage accounts for the Berens Global Value Funds.

*BERENS AFRICA DEVELOPMENT ACCESS FUND:* The Berens Africa Development Partners 1 Access Fund, LP was formed as an access vehicle to provide investors with the opportunity to indirectly participate in the performance of African Development Partners I, LLC ("ADPI"), a private equity fund organized under the laws of Mauritius as a category 1 Global Business License Company. ADPI was formed for the purpose of making private equity investments in Africa. As such, most investment and trading activity of Berens Africa Development Fund takes place indirectly through an investment of substantially all of the Fund's assets in interests of ADPI, which is managed by Development Partners International, LLP ("DPI"). DPI is based in London as a fund management company formed to make private equity investments in Africa. DPI is unaffiliated with Berens. DPI will seek attractive long-term returns through equity and equity-related investments in private sector businesses in Africa. DPI will invest only in businesses based, or with primary operations, in the 53 countries of the African continent and surrounding islands. DPI intends to build a diversified portfolio of between 10 and 20 investments over the four-year commitment period, with the target investment between €10 and €35 million. At the low end of the range, investments are likely to be made only if they offer an opportunity for subsequent further investment. Investments may involve commitments to provide financing over several years.

*BERENS CAPITAL ASIA (EX-JAPAN) FUND:* The investment objective of Berens Capital Asia (Ex-Japan) Fund is to achieve capital appreciation by investing, either directly or indirectly, in a blend of private investment funds, the underlying assets of which are primarily invested in Asian public securities (other than Japanese public securities). The Fund invests capital directly in such private investment funds or through

segregated accounts established for the Fund by underlying managers. Berens may also invest Fund assets through: (i) direct investments in securities, without an intervening private fund or segregated account managed by a third party manager or (ii) other Berens Funds.

Berens will monitor macroeconomic and market changes and, in the event that we believe certain Asian markets are significantly under- or over-priced, may make direct investments to hedge or modestly leverage the overall portfolio.

**ASSETS UNDER MANAGEMENT:** As of the date of this Brochure Berens managed approximately \$848,195,417 on a discretionary basis. Berens does not manage any assets on a non-discretionary basis.

Please note, as the Berens Funds were undergoing their annual audits as of the date of this Brochure, unaudited gross valuations as of each Fund's fiscal year end (12/31/2016) have been used in calculating the firm's regulatory assets under management (RAUM) reported at Item 4 of this Brochure.

**ADDITIONAL CONSIDERATIONS:** The information provided herein merely summarizes the detailed information provided in each Fund's offering and organizational documents. Prospective investors in any one or more of the Funds should be aware of additional risks and requirements associated with investment. Prospective investors should refer to the appropriate Fund offering and organizational documents for important additional information and considerations.

## **Item 5. Fees and Compensation**

For our services to the Funds, we will charge a Management Fee as described below. In addition, we will either charge a performance-based fee or the General Partner will receive an annual "Performance Allocation" as described below. The fees charged to any particular investor in a Fund are negotiable based on the investment size and terms available.

For the *Berens Capital Fund* and *Berens Capital Partners*, Berens charges its fees as follows:

<b>Invested Amount</b>	<b>Management Fee</b>	<b>Performance Fee</b>	<b>Hurdle Rate</b>
Less than \$10 Million	6 month lock up- 1%	10%	4%
Less than \$10 Million	3 year lock up- 0.75%	7.5%	4%
More than \$10 Million	6 month lock up- 0.85%	8.5%	4%
More than \$10 Million	3 year lock up- 0.70%	7.0%	4%

Existing investors in *Berens Capital Fund*, *Berens Capital Partners* or *Berens Capital ERISA Fund* may be subject to legacy fee schedules and terms which are no longer applicable for new investors. However, existing investors are provided the option to move into the new share class and receive the same terms at their discretion.

With respect to the *Berens Global Value Domestic* and *Berens Global Value Offshore*, Berens charges its fees as follows:

<b>Invested Amount</b>	<b>Management Fee</b>	<b>Performance Fee</b>	<b>Hurdle Rate</b>
Less than \$10 Million	1 year lock up- 1%	10%	N/A
More than \$10 Million	1 year lock up- 0.85%	8.5%	N/A
Any amount	3 year lock up- 0.50%	7.0%	N/A

With respect to the *Berens Capital Asia (Ex-Japan) Fund*, Berens charges its fees as follows:

<b>Invested Amount</b>	<b>Management Fee</b>	<b>Performance Fee</b>	<b>Hurdle Rate</b>
Any amount	1.5%	5%	N/A

**MANAGEMENT FEES:** With respect to each Fund an annual management fee is directly debited from each Fund investor's capital account by Berens quarterly, in advance, based upon the value of the Fund capital account (market value or fair market value in the absence of market value, adjusted for capital contributions during the period and minus any withdrawals or debit balance) at the end of the previous quarter.

Legacy investors in any Berens Fund may opt into new terms and fee schedules, as applicable, at their discretion.

**PERFORMANCE FEES:** Subject to a loss carryforward (as discussed below), a Performance-Based Fee will be charged by Berens, or Performance Allocation made to the General Partner, as applicable, on an annual basis ("Performance Fee"). The Performance Fee will be equal to the agreed percentage of net profits (including net unrealized gains) of each investor's share or interest (as set forth in the schedules above), in excess of the agreed hurdle rate, if any, during such fiscal year attributable to each share or interest, as applicable. A hurdle rate is the minimum return required before the Performance Fee is charged.

No Performance Fee charge will be incurred until any net loss previously allocated to an investor has been offset by subsequent net profits. Any such loss carryforward will be subject to reduction for withdrawals on a pro rata basis.

Investors must understand the proposed method of compensation and its risks prior to investing in any of the Funds. Prospective investors in any one of the Funds should refer to the appropriate Fund offering and organizational documents for more information regarding the fees charged by Berens or the General Partner, as applicable.

#### *Berens Africa Development Access Fund*

With respect to the Berens Africa Development Access Fund, Berens charges a Carried Interest Distribution equal to 10% of all dividends and other payments received from ADPI above each Limited Partners capital contribution plus a 7% annual compound return, including net proceeds realized from portfolio investments. In addition to the Carried Interest Distributions, the Berens Africa Development Fund will pay Berens an annual management fee equal (a) during the Investment Period, to 0.5% of aggregate Capital Commitments, and (b) during the period thereafter, to 0.5% of the total capital contributions that were used to fund investments by the Berens Africa Development Fund in ADPI. The first Management Fee payment shall be payable in advance on the Initial Closing Date and all subsequent Management Fees shall be payable in advance on the first day of each calendar quarter (at the rate of 0.125% per quarter); provided that the General Partner may, in its discretion, from time to time, waive the requirement to make any such payments on a quarterly basis, and instead accrue such payments until a subsequent date, such as the date of a Capital Call, as may be designated by the General Partner. Management Fees may be paid out of monies reserved or otherwise available for distribution or out of Capital Calls.

As authorized through its governing documents, the General Partner has extended the termination date for the Berens Africa Development Access Fund through February 2020. In addition to the Carried Interest Distributions, and through the extended life of the Fund, the Berens Africa Development Partners will also be subject to pay DPI or its affiliates a reduced annual management fee as follows:

- Through December 2017: 1.85%
- Through December 2018: 1.25%
- Through February 2020: 0%

#### **GENERAL INFORMATION:**

***Personal Investments in Funds:*** Certain executive officers and/or other employees of Berens have invested or may invest a portion of their personal net worth in one or more of the Funds. Certain executive officers of Berens also have direct investments in one or more of the underlying funds invested in by the Funds. Investments in one or more of the underlying funds which the Funds have invested or may invest in, can create certain conflicts of interest. To address these conflicts, any officer or employee seeking to directly invest in a private fund or other private offering must obtain preapproval for the proposed transaction as required under the provisions of Berens' Code of Ethics. (Refer to Item 11 of this Brochure for additional information).



In addition, officers and/or employees of certain underlying funds in which the Berens Funds have invested may, from time to time, invest a portion of their personal net worth in the Funds. Such investments, in theory, can create potential conflicts of interest as Berens may have incentive to encourage further investment in the Berens Funds by these individuals by investing more Berens Funds' assets in the underlying funds managed by these individuals' firms. To ensure the firm's fiduciary duty, Berens has adopted policies and procedures requiring review of all investment decisions by the Investment Team in accordance with pre-established parameters for investment and portfolio construction. These include guidelines for the number of managers in a portfolio, position targets for each manager and target ranges for gross and net exposure.

***Different Fee Schedules:*** Berens' and the General Partner's fees, including the Performance Fee, may be discounted or waived with respect to any investor for any particular period of time at the sole discretion of Berens or the General Partner, as applicable. This discounted rate or waiver is not available to all or even most investors in the Funds.

***Termination:*** An investor may withdraw all or any part of its investment from any of the Funds as set forth in the applicable Fund's offering documents. Berens or the General Partner, as applicable, may in its sole discretion, waive or modify any of the terms of withdrawals for certain investors who are relatives, employees or affiliates of Berens or the General Partner or its Principals, or for certain large or strategic investors as well as in any other case.

Investors in each Fund should refer to the appropriate Fund's private placement memorandum and offering documents for complete information regarding withdrawals of investments.

***Other Fees and Expenses:*** Prospective investors in any one of the Funds, each a fund of hedge funds (or, in the case of ADPI, an access vehicle to another private fund), should note that he/she will incur at least two layers of fees: Berens' management fee and performance based compensation, as set forth above, as well as the management fee and/or a performance-based compensation charged by the underlying hedge funds in which the Fund invests. This layering of fees is incorporated in the net income or loss of the Fund, is not readily apparent to investors and will lower the investor's overall return.

While it is not anticipated that mutual funds will be included in the clients' portfolios, money market mutual funds may be used to "sweep" unused cash balances until they can be appropriately invested. Investors should recognize that all fees paid to Berens for investment advisory services are separate and distinct from the fees and expenses charged by mutual funds to their shareholders. These fees and expenses are described in each fund's prospectus. These fees will generally include a management fee, other fund expenses.

In addition to fees paid to our firm or the General Partner, as appropriate, and to each of the underlying fund managers, investors will also be responsible for the fees and

expenses charged by custodians and imposed by any broker dealer with which Berens or an underlying fund manager effects transactions for the Funds. Please refer to Item 12 of this brochure for additional information regarding brokerage.

**Valuation Process:** Management and performance based fees charged by Berens are based on the value or fair value of the underlying assets held by the applicable Fund. As such, and due to the inherent nature of private fund investing, Berens largely relies on the valuations provided by underlying private fund managers or general partners. We believe that our reliance is reasonable under the circumstances based on our in-depth, information-gathering process and evaluation of each underlying manager. Notwithstanding we retain the right to determine fair value at an amount different from the underlying manager-reported Net Asset Value if there is a material reason to believe that the value reported does not represent fair valuation.

**Side Letters:** Berens or the General Partner, as appropriate, has waived and may in the future, waive or modify the terms of investment for certain large or strategic investors, in side letters or otherwise, in its sole discretion, including but not necessarily limited to, a waiver or lowering of Management Fees, a waiver or lowering of the performance fee, preferential redemption rights, and/or increased transparency or reporting or reporting in a format different from that provided to other investors. Existing side letters issued to certain investors include “Key Man” event provisions, aggregator discounts, investor specific requests and varying fee structures. There are no side letters that provide preferential redemption rights or increased transparency.

**General:** Prospective investors should refer to the appropriate offering and organizational documents for additional important information, terms, conditions and risks involved with investing in the Fund(s).

## **Item 6. Performance-Based Fees and Side-By-Side Management**

As we disclosed in Item 5 of this brochure, our firm accepts a Performance Fee from the Fund. Such a performance-based fee is calculated based on a share of capital gains on or capital appreciation of the assets of the Fund.

Investors and prospective investors in one or more of the Funds should note that performance-based fees can create an incentive for an adviser such as Berens to recommend investments which may be riskier or more speculative than those which would be recommended under a different fee arrangement. Also, because the Performance Fee is calculated on a basis which includes unrealized as well as realized appreciation of assets, it may be greater than if such compensation were based solely on realized gains.

At this time, we do not offer advisory services to clients who do not pay performance-based fees, and therefore, we do not have an incentive to favor performance-based fee accounts over non-performance-based fee accounts. However, in theory, we could have incentive to favor a Fund paying higher aggregate performance-based fees than one

paying less or a Fund in which officers and employees of the firm may have more of their personal assets invested. Since we put the interest of our clients first as part of our fiduciary duty as a registered investment adviser, we take the following steps to address these conflicts:

1. We disclose to investors and prospective investors the existence of material conflicts of interest, including the potential for our firm and its employees to earn more compensation from some clients than others;
2. Through the appropriate Fund administrator, we collect, maintain and document relevant investor background information to ensure that the investor is qualified to invest;
3. We have implemented written policies and procedures for fair and consistent allocation of investment opportunities among all Funds or other client accounts, subject to the Fund's/client's underlying strategy, cash availability, availability of interests in the underlying funds and other appropriate considerations;
4. We educate our employees regarding the responsibilities of a fiduciary, including the equitable treatment of all clients, regardless of the fee arrangement.

Performance-based fees will only be charged in accordance with the provisions of Rule 205-3 of the Investment Advisers Act of 1940 and/or applicable state regulations.

#### **Item 7. Types of Clients**

Our firm provides investment management services to several private investment funds as disclosed at Item 4 of this Brochure.

Except as may be permitted by us or the Board of Directors, depending on the Fund, the minimum required initial investment in any one of the Funds is \$1 million. Prospective investors should refer to the appropriate Fund offering documents for additional important qualifications requirements for investment.

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

As adviser to the Funds, our firm primarily invests in the interests of other private funds. As such, traditional fundamental, technical or other securities analysis is not possible when formulating recommendations. Instead, we rely on a systematic due diligence process of the hedge funds and their investment managers in determining which funds to invest in on behalf of our clients.

It is our policy and practice to conduct initial due diligence with respect to the investment manager of any prospective hedge fund investment and to monitor any selected investment manager to determine and evaluate the portfolio management team's background, experience and philosophy; the process by which the manager makes investment decisions; how those decisions are implemented; the manager's investment track record in both up and down markets; the manager's risk management controls, parameters and evaluation process, and the adequacy and effectiveness of the manager's

operational and compliance controls and infrastructure. It is our goal to seek to avoid investment in any hedge fund where we believe the manager of such fund has failed to adopt certain minimal operational controls and safeguards.

The principal driver of portfolio selection is the relative skill set of the underlying fund managers in research, trading, risk management and organization building, with integrity of the individual(s) managing the hedge funds the paramount consideration.

The identity of underlying fund managers is likely to change over time. We may remove them or a new manager may be appointed without prior notice or consent of investors.

A primary source of information used to identify potential hedge funds for investment can include personal references, qualitative reviews of fund's portfolio managers as described above, and review of the Fund Offering Memorandum, Limited Partnership Agreement, Subscription Agreement, performance records and other documents.

One of the primary risks of investing with a third-party fund manager based, in part, on successful past performance is that he/she may not be able to replicate that success in the future. In addition, as we do not control the underlying investments in a third-party manager's portfolio, there is also a risk that a manager may deviate from the stated investment mandate or strategy of the portfolio, making it a less suitable investment for our clients. Moreover, as we do not control the manager's daily business and compliance operations, it is possible for us to miss the absence of internal controls necessary to prevent fraud or other business, regulatory or reputational deficiencies.

As discussed at Item 4, however, Berens may directly invest assets on behalf of the Berens Capital Asia (Ex-Japan) Fund from time to time, as appropriate. Under these circumstances, we may use long or short-term purchases of certain ETFs or other securities to maintain market exposure during redemption cycles or otherwise for liquidity purposes.

***Long-term purchases:*** We may directly purchase securities with the idea of holding them for a year or longer. We may do this because we believe the securities to be currently undervalued. We may do this because we want exposure to a particular asset class over time, regardless of the current projection for this class.

A risk in a long-term purchase strategy is that, by holding the security for this length of time, we may not take advantages of short-term gains that could be profitable to a client. Moreover, if our predictions are incorrect, a security may decline sharply in value before we make the decision to sell.

***Short-term purchases:*** We purchase securities with the idea of selling them within a relatively short time (typically a year or less). We do this in an attempt to take advantage of conditions that we believe will soon result in a price swing in the securities we purchase.

A risk in a short-term purchase strategy is that, should the anticipated price swing not materialize, we are left with the option of having a long-term investment in a security that was designed to be a short-term purchase, or potentially taking a loss. In addition, this strategy involves more frequent trading than does a longer-term strategy, and will result in increased brokerage and other transaction-related costs, as well as less favorable tax treatment of short-term capital gains.

Risks in General: Securities investments are not guaranteed and you may lose money on your investments. Investors or prospective investors should carefully review the Private Placement Memorandum for any Berens Fund he/she is considering investing in for a detailed explanation of many of the risks associated with investment.

#### **Item 9. Disciplinary Information**

Our firm has no reportable disciplinary events to disclose.

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

Berens Capital LLC and Berens Capital Management GP, Ltd. are related to us through common ownership and control. Berens Capital, LLC serves as General Partner to Berens Capital Partners and Berens Global Value Domestic. Berens Capital Management GP, Ltd. serves as General Partner to the Berens Africa Development Access Fund. Rodney Berens, a Partner at Berens, is also the Managing Member of Berens Capital LLC. Raymond T. Schilt and Laura Finkler, both Partners of Berens are also members of the Board of Directors of the Berens Capital Management GP, Ltd. There are no independent directors on the Board of Directors of Berens Capital Management GP, Ltd.

As General Partner, each of Berens Capital LLC and Berens Capital Management GP, Ltd. will be entitled to any incentive allocation earned pursuant to the terms and conditions set forth in the appropriate Fund offering documents. Any such allocation will ultimately inure to the benefit of the owners and stake-holders in Berens.

In addition to the above, Rodney Berens serves as the Head of the Investment Subcommittee at The Morgan Library & Museum and on the investment committees for Svarog Capital Advisors, an unaffiliated adviser, and the Woods Hole Oceanographic Institute. Mr. Berens is a Life Trustee of both The Morgan Library & Museum and The Woods Hole Oceanographic Institute. Mr. Berens also serves on the Audit and Nominating Committees at General American Investors, Inc.

Mr. Raymond T. Schilt is a nonexecutive director of Rodinia Partners.

#### **Item 11. Code of Ethics, Participation in Client Transactions and Personal Trading**

Our firm has adopted a Code of Ethics, which sets forth high ethical standards of business conduct that we require of our employees, including compliance with applicable federal

securities laws. Our Code of Ethics includes policies and procedures for the review of quarterly securities transactions reports as well as initial and annual securities holdings reports that must be submitted by the firm's access persons. Among other things, our Code of Ethics also requires the prior approval of any acquisition of securities in a limited offering (e.g., private placement) or an initial public offering. Our code provides for oversight, enforcement and recordkeeping. A copy of our Code of Ethics is available to our advisory clients and prospective clients, including investors and prospective investors in one or more of the Funds, upon request to the Chief Compliance Officer, at the firm's principal office address.

As disclosed at Item 5 of this brochure, certain executive officers and/or other employees of Berens have invested or may invest a portion of their personal net worth in one or more of the Funds. In addition, certain executive officers of Berens have direct investments in one or more of the underlying funds in which the Funds have invested.

It is the expressed policy of our firm that no person employed by us may usurp an investment opportunity that may be appropriate for one or more of the Funds without first presenting the opportunity to our Research Team and Chief Investment Officer, particularly when there is limited availability for participation in the opportunity.

As these situations represent a conflict of interest, we have established the following restrictions in order to ensure its fiduciary responsibilities:

1. No officer or employee of our firm may prefer his or her own interest to that of an advisory client.
2. We maintain a list of all securities holdings for our firm and anyone associated with this advisory practice with access to advisory recommendations. These holdings are reviewed on a regular basis by the Chief Compliance Officer or her designee.
3. All of our principals and employees must act in accordance with all applicable Federal and State regulations governing registered investment advisory practices.
4. Any individual not in observance of the above may be subject to disciplinary action up to and including termination.

Any proposed investment by a related person in a private fund that is or may be appropriate for one or more of the Berens Funds, or for which one or more of the Berens Funds has already invested but for which an increased allocation may be appropriate, must be submitted for consideration and pre-approved by the Investment Team. In making a determination of whether or not to approve the proposed investment, the Investment Team will consider, among other things:

1. the size of the proposed transaction;

2. the likelihood of investment (or additional allocation) by one or more of the Berens Funds, and;
3. whether or not investment in the underlying fund is limited (that is, capacity-constrained).

The Investment Advisers Act of 1940 makes it unlawful for any investment adviser, directly or indirectly, acting as principal for its own account, to knowingly sell any security to, or purchase any security from, a client without disclosing to the client in writing the capacity in which the adviser is acting and obtaining the client's consent to the transaction. This rule may apply to certain transactions involving accounts in which investment advisers have interests, such as private fund investments by the firm's owners, principals, or employees. The SEC has indicated that when an investment adviser and/or its controlling persons own more than 25% of a fund's outstanding securities, it would be effectively treated as a principal transaction if such an account were to engage in a trade with another client account or fund.

Berens current policy does not permit the firm to engage in principal transactions. Berens has adopted specific policies and procedures for monitoring the level of proprietary ownership in each of the Funds to determine when a proposed cross trade among the Funds may be deemed a principal trade under SEC interpretations. Should Berens change its policy to permit principal transactions in the future, we will amend this disclosure and our policy and procedures to ensure proper notice and consent before engaging in any such transaction.

## **Item 12. Brokerage Practices**

As disclosed at Item 4 of this brochure, we typically do not directly manage client portfolios in the traditional sense, but rather, we manage private funds of hedge funds and invest in the interests of other hedge funds managed by unrelated third-party investment managers. The manager of any fund considered for investment will generally have their own policies, practices and procedures with respect to brokerage. These underlying fund managers will generally have been granted the discretionary authority to select the broker dealer through which to execute trades on behalf of the underlying fund through the fund's organizational documents, offering documents or investment management agreement.

As part of its due diligence, Berens will generally seek to ensure that any manager of a hedge fund recommended for the Funds has adopted written policies and procedures reasonably designed to ensure that the manager will obtain best execution for trades placed in the underlying fund and that the manager endeavors to select brokers, dealers or other counterparties that will provide the best services at the lowest commission rates possible under the circumstances. It should be noted, however, that we do not have any direct influence or control over the underlying managers' selection of brokers or counterparties when executing transactions.

Due to the nature of its advisory services and investment model, Berens will most often execute a transaction for a client on a direct basis when implementing a recommendation that the client invest in a private fund. Depending on the specific circumstances, Berens will typically subscribe to the interests of a private fund on behalf of one or more of the Funds through direct contact with the private fund's general partner or manager or by responding to a solicitation of a finder or the fund's prime broker. Typically, due to the limited nature and regulatory structure of the private funds, multiple subscription sources, finders or prime brokers will not be available and Berens may not be able to seek to execute the transaction through any other source or to negotiate finder fees, if any.

As discussed at Item 4, however, Berens may directly invest assets on behalf of the Berens Capital Asia (Ex-Japan) Fund from time to time, as appropriate.

When engaging in direct trading activity, Berens will endeavor to select those brokers or dealers that will provide the best services at the lowest commission rates possible under the circumstances of the trade. The reasonableness of commissions is based on the broker's ability to provide professional services, competitive commission rates, research and other services that will help Berens in providing investment management services to clients. Berens may, therefore use a broker who provides useful services even though a lower commission may be charged by a broker who offers no such services and minimal securities transaction assistance.

We do not have any formal or informal soft-dollar arrangements and do not receive any soft-dollar benefits from any broker, dealer or other counterparty.

As most of the Berens Funds are funds of hedge funds, and because interests in hedge funds are often restricted, Berens will frequently be required to allocate opportunities to one or more of the Funds that may also be appropriate for other Berens Funds that are not afforded the opportunity to invest. However, to the extent that an opportunity is appropriate for more than one Fund, Berens will generally seek to allocate these investment opportunities based on the following considerations:

- The capacity for each Berens Fund based on desired target weightings; and
- Available cash and timing required for investment.

If an opportunity is suitable for more than one Berens Fund, each Fund has capacity to invest based on desired target weightings and has available cash to make the investment, Berens will generally allocate the opportunity on a pro rata basis.

Notwithstanding the above, and depending on the facts and circumstances of any particular investment, Berens may allocate an investment opportunity on a different basis so long as the Investment Committee determines that the final allocation decision is fair and equitable and not based upon Fund performance, applicable fee structures or other potential conflicts of interest leading to preferential treatment.



As a matter of practice, Berens does not generally aggregate client trades in public securities.

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

Berens monitors the portfolio managers of each underlying fund on a periodic basis and investment policies and philosophies are discussed with each manager regularly.

On a regular basis, Berens conducts internal meetings of investment personnel to discuss each underlying fund and fund manager. Key investment personnel at Berens include the Research Team members and Frank Brochin, Berens' Chief Investment Officer. Rodney Berens and Raymond Schilt, each of whom have retained Senior Advisory roles at Berens, may join these internal meetings from time to time.

An independent certified public accountant, that is both registered with and subject to regular inspection by the Public Companies Accounting Oversight Board, audits the Funds annually and a copy of the audited financials are sent to each investor on a timely basis.

In addition to annual audited financials, investors will receive at least quarterly reports of the performance of the applicable Fund, net of all fees. With the exception of Berens Africa Development Access Fund, reports of the Funds are prepared and verified by an independent offshore fund administrator. Berens Africa Development Access Fund reports are prepared quarterly.

On a regular basis, investors and certain prospective investors will receive performance letters pertaining to performance of the Funds based on preliminary returns supplied by Portfolio Managers of the underlying hedge funds.

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

Other than as already disclosed at Item 10 of this Brochure, neither Berens, nor any officer, director or employee of the firm, receives compensation from third parties in connection with providing investment advice to its clients.

Currently, the Funds are the firm's only clients. As part of our marketing efforts, we, or the Fund General Partner, as applicable, have entered into arrangements to compensate certain third party placement agents and/or others, for referring prospective investors to the Funds. If an investor is referred to a Fund through one of these arrangements, we will pay the referring party a fee calculated as an agreed percentage of the investor's initial investment or an on-going, periodic fee calculated based on a percentage of the Management Fee charged by Berens or a percentage of the total value of the investor's capital account.

We reserve the right to enter into additional, similar arrangements in the future. Although common, such referral arrangements do create a potential conflict of interest because, in theory, the referrer may be motivated, at least partially, by financial gain and not because the Funds are the most suitable to the prospective investor's needs.

**Item 15. Custody**

Because we act as investment adviser and as general partner to some of the Funds and because we have affiliates who either act as general partner to, or serve on the boards of others of the Funds, as applicable, we are deemed to have custody of client assets under current applicable regulatory interpretations. As an adviser with custody, we seek to have each of the Funds audited on an annual basis by an independent public accountant that is both registered with and subject to regular inspection by the Public Company Accounting Oversight Board (PCAOB). Because each of the Funds is a fund of funds, we seek to send the audited financials to each investor within 180 days of the applicable Fund's fiscal year end.

**Item 16. Investment Discretion**

As investment adviser to the Funds, Berens is granted the discretionary authority in the relevant organizational documents and/or advisory agreements to determine which securities and the amounts of securities that are bought or sold for the Funds.

**Item 17. Voting Client Securities**

Typically, the underlying fund managers will vote proxies with respect to the holdings in their respective funds. However, in certain circumstances Berens may be required to vote proxies solicited by the underlying funds whose interests are held directly by the Funds. Under these circumstances, Berens will vote proxies in the best interest of the Funds, typically with the goal of maximizing value for the Funds and the investors in the Funds. To that end, Berens endeavors to vote proxies in the manner that it determines in good faith will be the most likely to cause the Funds' investments to increase the most or decline the least in value. Consideration is given to both the short and long-term implications of the proposal to be voted on when considering the optimal vote. Berens' complete proxy voting policy and procedures has been memorialized and is available for investors to review.

***Class Actions, Bankruptcies and Other Legal Proceedings:*** Generally, Berens will neither participate nor act on behalf of the Funds in class action proceedings involving companies whose securities are held by the underlying funds. In the unlikely event of a class action, bankruptcy or legal proceeding involving an underlying fund or fund manager, however, Berens will make a good faith determination of the costs and benefits of participating in such proceedings on a case by case basis. If, in its sole discretion, Berens determines that the benefits outweigh the costs, Berens will participate and distribute any benefit received upon settlement or otherwise to the applicable Funds.

**Item 18. Financial Information**

Under no circumstances will we earn fees in excess of \$1,200 more than six months in advance of services rendered, therefore, we are not required to include a financial statement with this brochure.

Berens has not been the subject of a bankruptcy petition at any time during the past ten years.