

# 3(38) Investment Fiduciaries

## Form ADV Part 2A Brochure

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This Brochure provides information about the qualifications and business practices of 3(38) Investment Fiduciaries (“Adviser”). If you have any questions about the contents of this Brochure, please contact us at (818) 296-9529. 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.

Adviser is a registered investment adviser, but registration of an investment adviser does not imply any level of skill or training. Additional information about Adviser also is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov) and by searching for CRD# 298053.

## **Item 2 – Material Changes**

In this Item, Adviser is required to identify and discuss material changes since the last time this brochure was updated. Since Adviser's initial brochure was filed on August 31, 2018, it has the following material changes to report:

- The firm's principal office and place of business remains at the same location, but has changed suites within that location. Rather than occupying Suite 4, it now occupies Suite 3.
- Item 14 has been updated to disclose instances in which Adviser retains the ability to refer clients to third-party entities or receive referrals from third-party entities.

### Item 3 – Table of Contents

Item 1 – Cover Page .....	i
Item 2 – Material Changes .....	ii
Item 4 – Advisory Business .....	1
Item 5 – Fees and Compensation .....	2
Item 6 – Performance-Based Fees and Side-By-Side Management .....	3
Item 7 – Types of Clients .....	3
Item 8 – Methods of Analysis, Investment Strategies, and Risk of Loss .....	4
Item 9 – Disciplinary Information .....	5
Item 10 – Other Financial Industry Activities and Affiliations .....	5
Item 11 – Code of Ethics .....	6
Item 12 – Brokerage Practices .....	8
Item 13 – Review of Accounts .....	8
Item 14 – Client Referrals and Other Compensation .....	9
Item 15 – Custody .....	9
Item 16 – Investment Discretion .....	9
Item 17 – Voting Client Securities .....	10
Item 18 – Financial Information .....	10
Brochure Supplement(s)	

## **Item 4 – Advisory Business**

3(38) Investment Fiduciaries (“Adviser”) is a corporation located in, and organized under, the laws of the State of California. The firm was founded in 2018 and is principally owned by Steven T. Wilkinson. Adviser is an investment adviser registered with the Securities and Exchange Commission, qualifying as a pension consultant. Individuals offering the advisory services of Adviser are registered with the appropriate states as investment adviser representatives (“IARs”).

The following is a description of the advisory services offered by Adviser:

### **I. Partnered Retirement Plan Advisory and Consulting Services**

Adviser constructs and maintains an investment lineup that is appropriate for and can be offered as investment options under a participant-directed ERISA plan (the “Investment Series”).

#### ***ERISA Fiduciary Services:***

Under the terms of the investment management agreement with the ERISA Plan Client, Adviser maintains the Investment Series and develops an investment policy statement setting forth its process for selecting and monitoring the investment options used in the Investment Series. Adviser has decision-making authority with respect to the selection, addition, removal, and/or replacement of the investment options used in the Investment Series, subject to limitations or changes in the universe of investment options provided by the Plan recordkeeper (such as the cash option, Qualified Default Investment Alternative (“QDIA”), share class, etc.). Adviser provides to the ERISA Plan Client periodic reports and other information regarding the investment options in the Investment Series, including any changes and additions to those investment options.

### **General Information About Advisory Services**

For each of the advisory and management services described above, Adviser does not limit its investment recommendations to any specific type of product or security. Adviser considers the universe of investment options open to the specific ERISA Plan Client or its platform. Since different types of investments typically involve different types of risk, the firm conducts a risk analysis of the ERISA Plan Client and the overall portfolio, before recommending investment options. Adviser manages investment options on either a discretionary or non-discretionary basis, and the ERISA Plan Client is always free to place

restrictions on the types of investments that Adviser recommends or selects for the ERISA Plan Client.

Adviser generally recommends an investment allocation consisting of mutual funds and exchange traded funds, but other options may be considered if appropriate for a client.

Adviser endeavors at all times to only recommend investments that it feels are suitable for a given client, and it makes reasonable efforts to describe, in detail, any conflicts of interest that may exist. Clients should be aware that all securities investments involve risk, including the possible loss of all or part of an investment. Clients who elect to invest in securities must be willing to bear this risk.

Adviser does not participate in any wrap fee programs.

Adviser is a pension consultant and does not have regulatory assets under management.

## **Item 5 – Fees and Compensation**

Adviser has established the below fee schedule for the advisory services described in Item 4 above.

Adviser is a fiduciary under ERISA with respect to the investment management and advisory services described in the investment management or advisory agreement, as the case may be, between Adviser and the ERISA Plan Client. As such, Adviser is subject to specific duties and obligations under ERISA and the Internal Revenue Code that include, among other things, restrictions concerning certain forms of compensation. To avoid engaging in prohibited transactions, Adviser may only charge fees for investment advice about products for which Adviser and/or its affiliates do not receive any commission, 12b-1 fees or other compensation or conversely, if such compensation is received by Adviser and/or its affiliates, Adviser will offset such amounts against Adviser's stated fee. Where Adviser offsets such compensation amounts against its stated fee, Adviser will disclose to the ERISA Plan Client the amount of such compensation, the services rendered for such compensation, the payer of such compensation and a description of the arrangement with the payer in accordance with the requirements of ERISA Regulation Section 2550.408b-2(c).

### **Retirement Plan Advisory and Consulting Service Fees**

The investment management fee Adviser's services for ERISA Plan Clients is described in the investment management agreement. It is generally based upon a percentage (%) of included plan assets as reported by the plan custodian or recordkeeper (generally ranging

between .02% to .50% annually, depending on the nature and scope of services provided to the particular ERISA Plan Client); however, Adviser alternatively offers a fixed investment management fee based on the nature and scope of services to be provided to a particular ERISA Plan Client. Included plan assets are the plan assets for which Adviser provides services as described in the investment management agreement.

With the exception of the fee for the initial quarter under management, asset-based fees are assessed in arrears based on either the market value of the assets on the last business day of the fee period, or as an average daily balance during the fee period, as specified on the investment management agreement. The initial fee is the amount pro-rated for the number of days remaining in the initial fee period from the effective date of the agreement. The ERISA Plan Client will authorize the plan custodian to automatically deduct the fee from the plan. Fixed fees are also assessed in arrears on a quarterly basis.

Either Adviser or the ERISA Plan Client can terminate the investment management agreement at any time, without penalty, by sending the other party 30 days prior written notice. Both parties remain responsible for obligations arising under any transactions initiated before the agreement was terminated. Adviser is entitled to a fee, prorated for the number of days in the fee period prior to the effective date of termination, based on the market value of the included assets on the effective date of termination or on the average daily balance of the fee period, as specified in the investment management agreement.

In addition to the fees charged by Adviser, clients will incur brokerage and other transaction costs. Please refer to Item 12: Brokerage Practices, for further information on such brokerage and other transaction costs. Clients will also typically incur additional charges related to the safekeeping and custody of client assets, mutual fund and other product-specific expenses, and wire or cash transfer fees. These additional charges are separate and apart from the fees charged by Adviser.

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

Adviser does not charge any performance-based fees (fees based on a share of capital gains on or capital appreciation of the assets of a client).

## **Item 7 – Types of Clients**

Adviser provides investment advisory and investment management services to retirement plans subject to ERISA that are participant-directed defined contribution plans, such as

401(k) plans and 403(b) plans covered by ERISA, as well as 403(b) plans that are not covered by ERISA and 457 plans (each, a “Plan”).

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

Adviser utilizes pass/fail criteria, on a scale of 0 to 100 (with 100 being the best) for active fund managers. This investment due diligence methodology incorporates both quantitative and qualitative factors in evaluating fund managers and their investment strategies.

Eighty percent of the fund’s score is quantitative which incorporates such factors as style, risk/return, and peer group rankings. The other 20% of the score is qualitative, taking into account things such as manager tenure and the fund’s expense ratio relative to the average fund expense ratio in that asset class category.

Upon the determination of Plan strategy, Adviser will then proceed with the recommendation and/or selection of specific investments to fulfill the Plan offerings. Research & analysis on the investments it recommends will be conducted using publicly available information. For mutual funds/ETF’s, Adviser will evaluate the experience and track record of investment managers to determine whether a manager has demonstrated the ability to manage assets under varying economic situations. Adviser also evaluates the underlying investments in a mutual fund or exchange traded fund, to determine whether the manager invests in a manner that is consistent with the fund’s investment objective. A risk associated with this type of analysis is that past performance is not a guarantee of future results. While a manager may have demonstrated a certain level of success in past economic times, he or she may not be able to replicate that success in future markets. In addition, just because a manager may have invested in a certain manner in past years, such manager may deviate from his/her strategy in future years. To mitigate this risk, Adviser attempts to select investments from companies with proven track records that have demonstrated a consistent level of performance and success. Adviser also relies on an assumption that the rating agencies it uses to evaluate investments is providing accurate and unbiased analysis.

Adviser uses investment management strategies that it feels best meet its clients’ needs and objectives. Such strategies typically include asset allocation and diversification. While this strategy typically meets the needs and objectives of our clients, long-term investment strategies may include the risk of not taking advantage of short-term gains that could be profitable to a client. In addition, all securities investments involve risk and clients may lose all or part of their investment. Clients who elect to invest in securities must be willing to bear this risk. Investment recommendations are made with this risk tolerance in mind.

Investing in mutual funds does not guarantee a return on investment, and shareholders of a mutual fund may lose the principal that they've invested into a particular mutual fund. Mutual funds invest into underlying securities that comprise the mutual fund, and as such clients are exposed to the risks arising from such underlying securities. Mutual funds charge internal expenses to their shareholders (which can include management fees, administration fees, shareholder servicing fees, sales loads, redemption fees, and other fund fees and expenses, e.g.), and such internal expenses subtract from its potential for market appreciation. Shares of mutual funds may only be traded at their stated net asset value ("NAV"), calculated at the end of each day upon the market's close.

Investing in ETFs bears similar risks and incurs similar costs to investing mutual funds as described above. However, shares of an ETF may be traded like stocks on the open market and are not redeemable at an NAV. As such, the value of an ETF may fluctuate throughout the day and investors will be subject to the cost associated with the bid-ask spread (the difference between the price a buyer is willing to pay (bid) for an ETF and the seller's offering (asking) price).

Clients are encouraged to carefully read the prospectus of any mutual fund or ETF to be purchased for investment to obtain a full understanding of its respective risks and costs.

## **Item 9 – Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of Adviser or the integrity of Adviser's management. Adviser has no reportable information applicable to this Item.

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

Adviser is principally owned by Steven T. Wilkinson. Adviser is also affiliated with an independently-registered investment adviser, Monarch Plan Advisors, that is also principally owned by Steven T. Wilkinson.

Adviser's IARs may also be licensed to sell various insurance products for which they may receive product commissions. The potential for this additional insurance compensation creates a conflict of interest when making recommendations that involve insurance products for which commissions may be earned. Adviser IARs make insurance product



recommendations when they feel it is in the client's best interest, based on the specific needs and objectives of the client. The potential for additional compensation is not a criterion on which these recommendations are based.

Adviser is not registered as a broker-dealer nor does the firm have any pending registration. Adviser is also not registered as a futures commission merchant, commodity pool operator or commodity trading advisor, nor have any pending applications to register as such.

## **Item 11 – Code of Ethics**

Adviser has adopted a Code of Ethics to promote the principles of honesty and integrity in its business practices, and to maintain Adviser's reputation as a firm that operates with the highest level of professionalism. Adviser recognizes its fiduciary responsibilities to its clients, and its duty and pledge to place clients' interests first and foremost. In connection with this duty, all employees of Adviser are subject to the firm's Code of Ethics, and are required to acknowledge their understanding of its terms.

Adviser and its employees are required at all times, to comply with applicable federal laws and regulations, including ERISA, and federal and state securities laws and regulations. All employees have a duty to comply and cooperate with any investigation or inquiry conducted or authorized by Adviser. All employees of Adviser are required to avoid any circumstances that might adversely affect or appear to affect the firm's duty of loyalty to its clients. Conflicts of interests must be avoided at all times, or in cases where such conflicts cannot be avoided, full disclosure must be given to clients. Employees are prohibited from favoring one client over another client. Employees are also prohibited from using any knowledge about client transactions to personally benefit or profit.

Employees of Adviser are required to report to the Compliance Officer personal trading activity on a quarterly basis. All access persons of Adviser, including officers, directors, and partners must report personal holdings to the Chief Compliance Officer on an annual basis. Newly employed access persons are required to report personal holdings upon employment and on an annual basis thereafter. Employees and their immediate family members are prohibited from participating in any initial public offering without prior approval from Adviser. Additionally, employees and their immediate family members must receive prior approval from Adviser before participating in any private placement offering. For all other personal securities transactions, except for transactions in direct obligations of the US Government, shares of investment company or variable insurance products, bank certificates of deposit, shares of unit investment trusts or money market funds, employees

may not knowingly execute a personal transaction for which a client has a pending transaction, and must report all transactions as part of the quarterly reporting process.

A conflict of interest would exist when the personal interests of employees interfere with their responsibilities to the firm and its clients. Therefore, employees are prohibited from accepting inappropriate gifts, favors, or other things of material value that could influence their decision-making. Similarly, employees are prohibited from offering gifts, favors or other things of value that could be viewed as overly generous or aimed at influencing the decision making of a client or potential client.

Adviser will review its Code of Ethics on an annual basis and will update it when the need exists. Any employee that violates the firm's Code of Ethics will be subject to reprimand and the situation will be reviewed by the Chief Compliance Officer of Adviser. Any subsequent violation of the firm's Code of Ethics could result in the employee's termination. Clients who wish to receive a copy of the firm's Code of Ethics may request it by submitting a written request to Adviser.

Neither Adviser nor any of its related persons recommends to clients, or buys or sells for client accounts, securities in which Adviser or any of its related persons has a material financial interest.

From time to time, Adviser or its related persons will invest in the same securities (or related securities such as warrants, options or futures) that Adviser or a related person recommends to clients. This has the potential to create a conflict of interest because it affords Adviser or its related persons the opportunity to profit from the investment recommendations made to clients. Adviser's policies and procedures and code of ethics address this potential conflict of interest by prohibiting such trading by Adviser or its related persons if it would be to the detriment of any client and by monitoring for compliance through the reporting and review of personal securities transactions. In all instances Adviser will act in the best interests of its clients.

From time to time, Adviser or its related persons will buy or sell securities for client accounts at or about the same time that Adviser or a related person buys or sells the same securities for its own (or the related person's own) account. This has the potential to create a conflict of interest because it affords Adviser or its related persons the opportunity to trade either before or after the trade is made in client accounts, and profit as a result. Adviser's policies and procedures and code of ethics address this potential conflict of interest by prohibiting such trading by Adviser or its related persons if it would be to the detriment of any client and by monitoring for compliance through the reporting and review of personal securities transactions. In all instances Adviser will act in the best interests of its clients.

## **Item 12 – Brokerage Practices**

In most cases, Adviser does not engage in any brokerage activities, as Adviser's primary advisory activities involve Plans that are participant-directed defined contribution plans, such as 401(k) plans and 403(b) plans, and 457 plans, and the product offerings available to such Plans through the Plan recordkeeper. Adviser also generally does not recommend broker-dealers to its clients. Adviser does not have any formal or informal soft-dollar arrangements or receive any soft-dollar benefits.

However, from time to time and when agreed to in writing with an ERISA Plan Client, Adviser will engage in limited directed brokerage activities. Adviser does not maintain any economic relationship with such broker-dealers that would create a material conflict of interest. However, clients should be aware that by directing brokerage Adviser may be unable to achieve most favorable execution of client transactions, and that this practice may cost clients more money (especially if Adviser is unable to aggregate or bunch trades at a discounted rate).

Adviser considers several factors when recommending a custodial broker-dealer for client transactions and determining the reasonableness of such custodial broker-dealer's compensation. Such factors include the custodial broker-dealer's industry reputation and financial stability, service quality and responsiveness, execution price, speed and accuracy, reporting abilities, and general expertise. Assessing these factors as a whole allows Adviser to fulfill its duty to seek best execution for its clients' securities transactions. However, Adviser does not guarantee that the custodial broker-dealer recommended for client transactions will necessarily provide the best possible price, as price is not the sole factor considered when seeking best execution.

## **Item 13 – Review of Accounts**

On a daily basis, Adviser's IARs monitor market conditions as well as significant developments related to the general economy. On a quarterly basis, Adviser will receive plan scoring to monitor investment selections. Clients will also receive normal and customary brokerage or custodial statements from the custodians at which their assets are held. These brokerage or custodial statements are typically generated monthly whenever there is activity in the account or at least quarterly.

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

In some cases, Adviser will recommend that clients use certain companies for retirement plan services. Adviser makes these recommendations simply as a convenience to clients and clients are free to choose whether or not to use recommended firms for retirement plan administration. While Adviser is not compensated for such referrals, Adviser and/or its affiliate advisor Monarch Plan Advisors may receive economic benefit by also receiving referrals from recommended plan administrators or recordkeepers. No compensation is given to either Monarch or Adviser for such referrals.

In addition, neither Monarch nor Adviser compensates a plan administrator or recordkeepers for client referrals. Adviser retains the discretion to compensate other persons or entities for client referrals, pursuant to a solicitor's agreement and in accordance with the solicitor's rule.

## **Item 15 – Custody**

For Plan clients, Adviser does not deduct its own fees or otherwise have custody of any Plan funds or assets. Rather, the Plan sponsor generally authorizes the Plan custodian to automatically deduct Adviser's fees from the Plan. Clients receive normal and customary custodial account statements at least quarterly, which detail the amount of advisory fees debited from an account. Clients are strongly encouraged to review all statements carefully and compare them accordingly. Clients, not account custodians, are responsible for verifying the accuracy of all fees.

## **Item 16 – Investment Discretion**

Adviser provides discretionary investment management services under ERISA Section 3(38), as described in Item 4. This authority includes the responsibility to select the investment fund options available under the ERISA Plan. In addition, in providing non-discretionary investment advisory services to Plan clients, the investment options recommended by Adviser may include managed portfolios developed by Adviser that use the Plan's investment options. If the Plan client selects those managed portfolios, Adviser has full discretionary authority over investment management of the Plan assets invested in the Adviser-managed portfolios including, but not limited to, determination of the asset class allocations and selection of the underlying investments for each portfolio, adjustment

of the asset class allocations, and the addition, removal or modification of the underlying investments. If Adviser managed portfolios are selected by the Plan client as Plan investment options, it will not result in additional compensation to Adviser.

#### **Item 17 – Voting Client Securities**

Adviser does not have any authority to and does not vote proxies on behalf of clients. Clients retain the responsibility for receiving proxy materials and voting proxies for any and all securities maintained in client portfolios.

#### **Item 18 – Financial Information**

Adviser does not require or solicit prepayment of more than \$1,200 in advisory fees more than six months in advance of services rendered. Adviser is therefore not required to include a financial statement or balance sheet with this brochure.

Adviser does not have any financial condition that is reasonably likely to impair its ability to meet contractual commitments to clients. Adviser has not been the subject of any bankruptcy petition.