

**Item 1 – Cover Page**

**Part 2A Appendix 1  
Wrap Fee Program Brochure**

**Nepsis, Inc.**

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Date of Disclosure Brochure: January 2019

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This Wrap Fee Program Brochure provides information about the qualifications and business practices of Nepsis, Inc. (also referred to as we, us and Nepsis throughout this disclosure brochure). If you have any questions about the contents of this brochure, please contact us at (952) 746-2003. 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 Nepsis is also available on the Internet at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). You can view our firm's information on this website by searching for Nepsis, Inc. or our firm's CRD number 141203.

\*Registration as an investment adviser does not imply a certain level of skill or training.

## **Item 2 – Material Changes**

The firm has added additional information concerning the outside business activities of the firm's President, Mark Pearson. Please refer to *Item 9 – Additional Information* for more detailed information.

There are no other material changes to report since the last annual Brochure Supplement submitted in March 2018.

We will ensure that you receive a summary of any material changes to this and subsequent Wrap Fee Program Disclosure Brochures within 120 days after our firm's fiscal year ends. Our firm's fiscal year ends on December 31, so you will receive the summary of material changes no later than April 30 each year. At that time, we will also offer or provide a copy of the most current Wrap Fee Program Disclosure Brochure. We may also provide other ongoing disclosure information about material changes as necessary.

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## **Item 4 – Services, Fees and Compensation**

Nepsis is an investment adviser registered with the United States Securities and Exchange Commission (“SEC”) and is a corporation formed under the laws of the State of Minnesota.

Nepsis offers Portfolio Management Services through a wrap fee management program. We also offer sub-advisory services to other investment advisory firms and research services to unaffiliated third parties. We have an affiliate Registered Investment Advisory firm, Nepsis Advisor Services, Inc. (NAS) and offer our investment management services to clients of NAS. Both Nepsis, Inc. and Nepsis Advisor Services, Inc. perform their services for clients acting as a fiduciary.

In our wrap fee management program, the fee for advisory services (including asset management) and transaction cost (including ticket charges) are “wrapped” into one fee. Our Portfolio Management Services are considered a wrap fee program. Whenever a fee is charged for services described in this Wrap Fee Program Brochure, we will receive all or a portion of the fee charged.

When making the determination of whether one of the advisory programs available through Nepsis is appropriate for your needs, you should bear in mind that fee-based accounts, when compared with commission-based accounts, often result in lower costs during periods when trading activity is heavier, such as the year an account is established. However, during periods when trading activity is lower, the fee-based account arrangements may result in a higher annual cost for transactions. Thus, depending on a number of factors, the total cost for transactions under a fee account versus a commission account can vary significantly. Factors which affect the total cost include account size, amount of turnover, type and quantities of securities purchased or sold, commission rates and your tax situation. It should also be noted that lower fees for comparable service may be available from other sources. The exact fees and other terms will be outlined in the agreement between you and Nepsis.

You should discuss the advantages and disadvantages of fee-based and commission-based accounts with your adviser representative and you should read this Wrap Fee Disclosure Brochure carefully as it explains, in detail, our Portfolio Management Services.

### **Portfolio Management Services**

We provide discretionary portfolio management services where the investment advice provided is custom tailored to meet your individual needs. Your account will be managed by Nepsis based on your financial situation, investment objectives and risk tolerance. In our portfolio management services, you will be granting us discretion and authority to manage the account. Since you will have authorized us to provide Portfolio Management Services on a discretionary

basis, we will make all decisions to buy, sell or hold securities, cash or other investments in your managed account at our sole discretion without consulting with you before making any transactions. You must provide us with written authorization to exercise this discretionary authority and you can place reasonable restrictions and limitations on our discretionary authority.

Once the portfolio is constructed, Nepsis provides continuous supervision and re-optimization of the portfolio as changes in market conditions and client circumstances may require. We offer managed accounts with similar management styles for a percentage of assets under management that includes transaction and custodial charges. This program is referred to as a wrap fee program.

We recommend that your assets to be allocated to our portfolio management services be maintained in an account with E\*Trade Advisor Services or E\*Trade Securities, LLC member FINRA/SIPC. They are the qualified custodians for all accounts established through our Portfolio Management Services Program. You will appoint Nepsis as your investment adviser of record on specified accounts. Your account will consist only of separate account(s) held by the qualified custodian under your name. **Nepsis does not act as custodian and does not have direct access to your funds and securities except to have advisory fees deducted from your account with your prior written authorization.** The qualified custodian will maintain physical custody of all funds and securities of your Account, and you will retain all rights of ownership (e.g., right to withdraw securities or cash, exercise or delegate proxy voting and receive transaction confirmations) for your account.

Typically, asset management fees are deducted from your managed account, and you must provide the custodian holding your assets with written authorization to have the fees deducted and paid directly to us. If required by the client, Nepsis also has the ability to invoice you directly for all asset management fees. At least quarterly, the custodian sends you a statement showing all disbursements from the account, including any advisory fees deducted.

The annual fee for portfolio management services is billed quarterly in advance based on the asset value at the end of the previous quarter. Fees will be assessed pro rata in the event the portfolio management agreement is executed at any time other than the first day of a calendar quarter

Fees are prorated (based on the number of days service is provided during the initial billing period) for your account opened at any time other than the beginning of the billing period. If Portfolio Management Services are commenced in the middle of the billing period, then the prorated fee for that billing period is based on the value of the Account when services commence and is due immediately and will be deducted from Account when services commence.

We charge accounts a maximum annual advisory fee of 2.50% of the value of assets under management. This fee is negotiable at our discretion. Our services are offered as a wrap fee program. The specific level of services you will receive and the fees you will be charged will be specified in your advisory services agreement.

An additional asset-based pricing fee (ABP) is charged in lieu of paying standard ticket charges for security purchases & sells. The client will be responsible for any other miscellaneous charges incurred by the Custodian. That fee is calculated as follows:

<u>Assets Under Management</u>	<u>Annual Fees</u>
From \$0 to \$50,000	.30%
From \$50,001 to \$75,000	.25%
From \$75,001 to \$2,000,000	.15%
From \$2,000,000 and above	.10%

**E\*Trade Advisor Services and E\*Trade Securities Miscellaneous Fees for Services Offered (others may apply)**

1. Check Distribution \$25 (per check);
2. Overnight Services \$25 (per occurrence);
3. Paper Statements \$3.75 (per account quarterly);
4. Wiring \$35 (per occurrence); and
5. Alternative Investment \$300.00 (annually) Custody Fee.

Performance Reporting/Account Maintenance Fee (Per Account) Paid Quarterly are an additional \$21.25.

Nepsis believes that its annual fee is reasonable in relation to: (1) services provided and (2) the fees charged by other investment advisers offering similar services/programs. However, our annual investment advisory fee may be higher than that charged by other investment advisers offering similar services/programs. In addition to our compensation, you may also incur charges imposed at the mutual fund level (e.g., advisory fees and other fund expenses).

You can choose how to pay your investment advisory fees. The investment advisory fees can be deducted from your account and paid directly to our firm by the qualified custodian(s) of your account or you can pay our firm upon receipt of a billing notice sent directly to you.

If you choose to have the investment advisory fees deducted from your account, you must authorize the qualified custodian(s) of your account to deduct fees from your account and pay such fees directly to Nepsis.

You should review your account statements received from the qualified custodian(s) and verify that appropriate investment advisory fees are being deducted. The qualified custodian(s) will not verify the accuracy of the investment advisory fees deducted.

If you choose to pay the fees after receiving a statement, fees are due upon your receipt of a billing notice sent directly to you. The billing notice will detail the formula used to calculate the fee, the assets under management and the time period covered. Fees for the services of our firm will be due immediately after your receipt of the billing notice.

You may incur certain charges imposed by third parties other than Nepsis in connection with investments made through your account including, but not limited to, mutual fund sales loads, 12(b)-1 fees and surrender charges, variable annuity fees and surrender charges, IRA and qualified retirement plan fees, and charges imposed by the qualified custodian(s) of your account. Management fees charged by Nepsis are separate and distinct from the fees and expenses charged by investment company securities that may be recommended to you. A description of these fees and expenses are available in each investment company security's prospectus.

The Portfolio Management Services continue in effect until terminated by either party (i.e., Nepsis or you) by providing written notice of termination to the other party. Any prepaid, unearned fees will be promptly refunded by Nepsis to you. Fee refunds will be determined on a pro rata basis using the number of days services are actually provided during the final period.

### **Block Trading**

We may elect to purchase or sell the same securities for several clients at approximately the same time. This process is referred to as aggregating orders, batch trading or block trading and is used by our firm when Nepsis believes such action may prove advantageous to clients. If and when we aggregate client orders, allocating securities among client accounts is done on a fair and equitable basis. Typically, the process of aggregating client orders is done in order to achieve better execution, to negotiate more favorable commission rates or to allocate orders among clients on a more equitable basis in order to avoid differences in prices and transaction fees or other transaction costs that might be obtained when orders are placed independently.

Nepsis uses the average price allocation method for transaction allocation.

Under this procedure Nepsis will calculate the average price and transaction charges for each transaction included in a block order and assign the average price and transaction charge to each allocated transaction executed for the client's account.

If and when we determine to aggregate client orders for the purchase or sale of securities, including securities in which Nepsis or our associated persons may invest, we will do so in

accordance with the parameters set forth in the SEC No-Action Letter, *SMC Capital, Inc.* Neither we nor our associated persons receive any additional compensation as a result of block trades.

### **Suitability and Investment Strategy**

Nepsis will assist clients in determining their objective(s), investment strategy, and investment suitability, prior and subsequent to opening an Asset Management account. Clients must contact us to notify of any changes in their investment objective(s) and/or financial situation. Investment strategies used to implement investment advice include, but are not necessarily limited to, long term purchases (investments held at least a year); and short-term purchases (investments sold within a year).

### **Client Assets Managed by Nepsis, Inc.**

We manage client assets. As of December 6, 2018, our discretionary assets under management were \$226,623,269.

## **Item 5 – Account Requirements and Types of Clients**

### **Minimum Account Size**

We require a minimum of \$250,000 to open and maintain an advisory account. We may waive this requirement at our discretion if, for example, the Client appears to have significant potential for increasing assets under our management. However, all clients are required to execute an agreement for services in order to establish a client arrangement with Nepsis.

### **Types of Accounts**

Nepsis generally provides investment advice to the following types of clients:

- Individuals
- High net worth individuals
- Pension and profit sharing plans
- Trusts, estates, or charitable organizations

You are required to execute a written agreement with Nepsis specifying the particular advisory services in order to establish a client arrangement with Nepsis.



## **Item 6 – Portfolio Manager Selection and Evaluation**

Nepsis and its Investment Adviser Representatives act as the portfolio manager(s) for accounts receiving our Portfolio Management Services which is offered as a wrap fee program. For this service, we do not allow the use of portfolio managers that are not associated with Nepsis. In other words, the only portfolio managers selected for managing client assets for our Portfolio Management Services are Investment Adviser Representatives of Nepsis. Therefore, conflicts of interest present in other wrap fee programs that make available both affiliated and unaffiliated portfolio managers are not present in our wrap fee program. Because our Portfolio Management Services program does not provide for outside portfolio managers, we do not have procedures designed to select outside portfolio managers.

### **Participation in Wrap Fee Programs**

Nepsis offers portfolio management services through a wrap fee management program. In our wrap fee management program, the fee for advisory services (including portfolio management or advice regarding selecting other investment advisers) and transaction services are provided for one fee. Whenever a fee is charged to a client for services described in this Wrap Fee Program Brochure, we will receive all or a portion of the fee charged.

### **General Description of Other Advisory Services**

The following are descriptions of the primary advisory services of Nepsis. Please understand that a written agreement, which details the exact terms of the service, must be signed by you and Nepsis before we can provide you the services described below.

**Financial Planning & Consulting Services** - Nepsis offers financial planning services, which involve preparing a written financial plan covering specific or multiple topics. We provide full written financial plans, which typically address the following topics: Retirement Planning, Tax Planning, and Education Planning. When providing financial planning and consulting services, the role of your investment adviser representative is to find ways to help you understand your overall financial situation and help you set financial objectives. Written financial plans prepared by us under this Agreement do not include specific recommendations of individual securities.

We also offer consultations in order to discuss financial planning issues when you do not need a written financial plan. We offer a one-time consultation, which covers mutually agreed upon areas of concern related to investments or financial planning. We also offer “as-needed” consultations, which are limited to consultations in response to a particular investment or financial planning issue raised or request made by you. Under an “as-needed” consultation, it will be incumbent upon you to identify those particular issues for which you are seeking our advice or consultation on.

Our financial planning and consulting services do not involve implementing any transaction on your behalf or the active and ongoing monitoring or management of your investments or accounts. You have the sole responsibility for determining whether to implement our financial planning and consulting recommendations. To the extent that you would like to implement any of our investment recommendations through Nepsis or retain Nepsis to actively monitor and manage your investments, you must execute a separate written agreement with Nepsis for our Portfolio Management Services.

### ***Sub-advisory Services***

We offer sub-advisory services to other investment advisory firms. When doing so, we will provide the other investment advisory firm, or its clients, with investment research or suggested trades. We may have investment discretion for the other advisory firm's clients. The advice we give to these clients may be similar or identical to the advice we give you.

**Research Services – Nepsis** offers a variety of research services, including Research & Analysis, Portfolio Analytics, and Speaking Services. Our Research Services are designed for other financial advisors. These services are described below.

1. Research & Analysis that includes macro market commentary and is distributed in several documents.
  - a. Weekly Market Analysis PowerPoint known as “The Weekly Market Update”
  - b. Weekly Market Recap Word document known as “The Bottom Line”
  - c. Monthly global topical research Word document known as “The Compass”
  - d. Quarterly Economic Update PowerPoint known as “Economic Update & Market Outlook”
2. Portfolio Analytics includes the development of mutual fund, variable annuity and ETF model portfolios
  - a. Quarterly written summary in Word document of each fund category, why we have chosen each option, and if any changes are warranted.
  - b. Quarterly Fund Rankings Excel Spreadsheet Stoplight report highlighting the ranking of each fund, the return of each model and how they performed vs. the market
  - c. Morningstar Report of each model and each fund option
3. Speaking Services which includes educational workshops to the public and CE classes for Kaplan University
  - a. Financial Representatives may hire our representatives to speak at client educational workshops
  - b. Kaplan University may hire our representatives to teach Asset Allocation & Beyond to their Continuing Education classes

## **Limits Advice to Certain Types of Investments**

Nepsis provides investment advice on the following types of investments:

- Mutual Funds
- Exchange Traded Funds (ETFs)
- Variable Annuities
- Variable Life Insurance
- Equities and bonds

Although we generally provide advice only on the products previously listed, we reserve the right to offer advice on any investment product that may be suitable for each client's specific circumstances, needs, goals and objectives.

It is not our typical investment strategy to attempt to time the market, but we may increase cash holdings modestly as deemed appropriate based on your risk tolerance and our expectations of market behavior. We may modify our investment strategy to accommodate special situations such as low basis stock, stock options, legacy holdings, inheritances, closely held businesses, collectibles, or special tax situations.

## **Tailor Advisory Services to Individual Needs of Clients**

Nepsis' advisory services are always provided based on your individual needs. This means, for example, that when we provide Portfolio Management Services, you are given the ability to impose restrictions on the accounts we manage for you, including specific investment selections and sectors. We work with you on a one-on-one basis through interviews and questionnaires to determine your investment objectives and suitability information.

We will not enter into an investment adviser relationship with a prospective client whose investment objectives may be considered incompatible with our investment philosophy or strategies or where the prospective client seeks to impose unduly restrictive investment guidelines.

## **Performance-Based Fees and Side-By-Side Management**

Performance-based fees are defined as fees based on a share of capital gains on or capital appreciation of the assets held in a client's account. Nepsis **does not charge or accept performance-based fees**.

## Methods of Analysis

Nepsis uses the following methods of analysis in formulating investment advice:

Charting - This is a set of techniques used in technical analysis in which charts are used to plot price movements, volume, settlement prices, open interest, and other indicators, in order to anticipate future price movements. Users of these techniques, called chartists, believe that past trends in these indicators can be used to extrapolate future trends.

Charting is likely the most subjective analysis of all investment methods since it relies on proper interpretation of chart patterns. The risk of reliance upon chart patterns is that the next day's data can always negate the conclusions reached from prior days' patterns.

Also, reliance upon chart patterns bears the risk of a certain pattern being negated by a larger, more encompassing pattern that has not shown itself yet.

Fundamental – This is a method of evaluating a security by attempting to measure its intrinsic value by examining related economic, financial and other qualitative and quantitative factors. Fundamental analysts attempt to study everything that can affect the security's value, including macroeconomic factors (like the overall economy and industry conditions) and individually specific factors (like the financial condition and management of a company). The end goal of performing fundamental analysis is to produce a value that an investor can compare with the security's current price in hopes of figuring out what sort of position to take with that security (underpriced = buy, overpriced = sell or short). Fundamental analysis is considered to be the opposite of technical analysis. Fundamental analysis is about using real data to evaluate a security's value. Although most analysts use fundamental analysis to value stocks, this method of valuation can be used for just about any type of security.

The risk associated with fundamental analysis is that it is somewhat subjective. While a quantitative approach is possible, fundamental analysis usually entails a qualitative assessment of how market forces interact with one another in their impact on the investment in question. It is possible for those market forces to point in different directions, thus necessitating an interpretation of which forces will be dominant. This interpretation may be wrong and could therefore lead to an unfavorable investment decision.

Technical – This is a method of evaluating securities by analyzing statistics generated by market activity, such as past prices and volume. Technical analysts do not attempt to measure a security's intrinsic value, but instead use charts and other tools to identify patterns that can suggest future activity. Technical analysts believe that the historical performance of stocks and markets are indications of future performance.

Technical analysis is even more subjective than fundamental analysis in that it relies on proper interpretation of a given security's price and trading volume data. A decision might be made based on a historical move in a certain direction that was accompanied by heavy volume; however, that heavy volume may only be heavy relative to past volume for the security in question, but not compared to the future trading volume. Therefore, there is the risk of a trading decision being made incorrectly, since future trading volume is an unknown. Technical analysis is also done through observation of various market sentiment readings, many of which are quantitative. Market sentiment gauges the relative degree of bullishness and bearishness in a given security, and a contrarian investor utilizes such sentiment advantageously. When most traders are bullish, then there are very few traders left in a position to buy the security in question, so it becomes advantageous to sell it ahead of the crowd. When most traders are bearish, then there are very few traders left in a position to sell the security in question, so it becomes advantageous to buy it ahead of the crowd. The risk in utilization of such sentiment technical measures is that a very bullish reading can always become more bullish, resulting in lost opportunity if the money manager chooses to act upon the bullish signal by selling out of a position. The reverse is also true in that a bearish reading of sentiment can always become more bearish, which may result in a premature purchase of a security.

There are risks involved in using any analysis method.

To conduct analysis, Nepsis gathers information from financial newspapers and magazines, inspection of corporate activities, research materials prepared by others, corporate rating services, timing services, annual reports, prospectuses and filings with the SEC, and company press releases.

### **Investment Strategies**

Nepsis uses the following investment strategies when managing client assets and/or providing investment advice:

Long term purchases. Investments held at least a year.

Short term purchases. Investments sold within a year.

### **Risk of Loss**

Past performance is not indicative of future results. Therefore, you should never assume that future performance of any specific investment or investment strategy will be profitable. Investing in securities (including stocks, mutual funds, and bonds, etc.) involves risk of loss. Further, depending on the different types of investments there may be varying degrees of risk. You should be prepared to bear investment loss including loss of original principal.

Because of the inherent risk of loss associated with investing, our firm is unable to represent, guarantee, or even imply that our services and methods of analysis can or will predict future results, successfully identify market tops or bottoms, or insulate you from losses due to market corrections or declines. There are certain additional risks associated with investing in securities through our investment management program, as described below:

- Market Risk – Either the stock market as a whole, or the value of an individual company, goes down resulting in a decrease in the value of client investments. This is also referred to as systemic risk.
- Equity (stock) market risk – Common stocks are susceptible to general stock market fluctuations and to volatile increases and decreases in value as market confidence in and perceptions of their issuers change. If you held common stock, or common stock equivalents, of any given issuer, you would generally be exposed to greater risk than if you held preferred stocks and debt obligations of the issuer.
- Company Risk. When investing in stock positions, there is always a certain level of company or industry specific risk that is inherent in each investment. This is also referred to as unsystematic risk and can be reduced through appropriate diversification. There is the risk that the company will perform poorly or have its value reduced based on factors specific to the company or its industry. For example, if a company's employees go on strike or the company receives unfavorable media attention for its actions, the value of the company may be reduced.
- Fixed Income Risk. When investing in bonds, there is the risk that the issuer will default on the bond and be unable to make payments. Further, individuals who depend on set amounts of periodically paid income face the risk that inflation will erode their spending power. Fixed-income investors receive set, regular payments that face the same inflation risk.
- Options Risk. Options on securities may be subject to greater fluctuations in value than an investment in the underlying securities. Purchasing and writing put and call options are highly specialized activities and entail greater than ordinary investment risks.
- ETF and Mutual Fund Risk – When investing in an ETF or mutual fund, you will bear additional expenses based on your pro rata share of the ETF's or mutual fund's operating expenses, including the potential duplication of management fees. The risk of owning an ETF or mutual fund generally reflects the risks of owning the underlying securities the ETF or mutual fund holds. You will also incur brokerage costs when purchasing ETFs.

- **Management Risk** – Your investment with our firm varies with the success and failure of our investment strategies, research, analysis and determination of portfolio securities. If our investment strategies do not produce the expected returns, the value of the investment will decrease.

### **Voting Client Securities**

Nepsis does not vote proxies on behalf of Clients. We have determined that taking on the responsibilities for voting client securities does not add enough value to the services provided to you to justify the additional compliance and regulatory costs associated with voting client securities. Therefore, it is your responsibility to vote all proxies for securities held in Account.

You will receive proxies directly from the qualified custodian or transfer agent; we will not provide you with the proxies. You are encouraged to read through the information provided with the proxy-voting documents and make a determination based on the information provided. Although we do not vote client proxies, if you have a question about a particular proxy feel free to contact us. However, you will have the ultimate responsibility for making all proxy-voting decisions.

With respect to any of your assets subject to sub-advisory relationships, we do not perform proxy-voting services on your behalf. You will need to refer to each sub-advisor's disclosure brochure to determine whether the sub-adviser will vote proxies on your behalf. You may request a complete copy of sub-advisor's proxy voting policies and procedures as well as information on how your proxies were voted by contacting Nepsis at the address or phone number indicated on Page 1 of this disclosure document.

### **Item 7 – Client Information Provided to Portfolio Managers**

Only Investment Adviser Representatives of Nepsis serve as portfolio managers for our Portfolio Management Services Program. Our associated Investment Adviser Representatives are responsible for gathering all information provided by you. We will interview and work with you to gather all information needed relative to your investment objectives and needs in order to provide management services through our Portfolio Management Services Program. You are responsible for promptly contacting your Investment Adviser Representative to notify us of any changes to your financial situation that will impact or materially influence the way we manage your accounts. Since we do not use any outside portfolio managers, we do not share your information with any outside portfolio managers.

## **Item 8 - Client Contact with Portfolio Managers**

Only Investment Adviser Representatives of Nepsis serve as portfolio managers for our Portfolio Management Services Program. There are no restrictions placed on your ability to contact and consult with their portfolio managers. It is the policy of Nepsis to provide for open communications between the Investment Adviser Representatives and clients. You are encouraged to contact your Investment Adviser Representative whenever you have questions about the management of your account(s).

## **Item 9 - Additional Information**

### **Disciplinary Information**

We have no legal or disciplinary events that are material to a client's or prospective client's evaluation of our business or the integrity of our management.

### **Other Financial Industry Activities and Affiliations**

Nepsis is **not** and does **not** have a related person that is a broker/dealer, municipal securities dealer, government securities dealer or broker, an investment company or other pooled investment vehicle (including a mutual fund, closed-end investment company, unit investment trust, private investment company or "hedge fund," and offshore fund), a futures commission merchant, commodity pool operator, or commodity trading advisor, a banking or thrift institution, an accountant or accounting firm, a lawyer or law firm, a pension consultant, a real estate broker or dealer, and a sponsor or syndicator of limited partnerships.

We are an independent registered investment adviser and only provide investment advisory services. We are not engaged in any other business activities and offer no other services except those described in this Disclosure Brochure. However, while we do not sell products or services other than investment advice, our representatives may sell other products or provide services outside of their role as investment adviser representatives with Nepsis.

### **Other Business Activity of the Company Principal**

For the time period of May 2013 to May 2016 (while Ecoark was a private company) the company president, Mark Pearson was a member of the advisory board of Ecoark Holdings, Inc. As a member of the Advisory Board Mr. Pearson was compensated with 62,500 shares of Ecoark stock as compensation for advising Ecoark management on strategic decisions and direction for the company, including the purchase of Zest Labs, Inc. Significant positions of Ecoark Holdings, Inc stock have been included in



client's investment advisory portfolios managed by Nepsis on a discretionary basis. Nepsis clients have also invested in the shares of Ecoark Holdings, Inc. outside of their managed accounts. The receipt of the shares of stock as compensation created a conflict of interest for Mr. Pearson since he was providing advice on the strategic direction of the company. Mr. Pearson addressed this conflict of interest at the time by only placing the shares of Ecoark Holdings, Inc. in to the portfolios of clients whose financial situations and risk tolerance were suitable for an investment in to a private and speculative stock position.

Because of Mark Pearson's extensive experience in investing in companies based in China, on November 15, 2016 Mark Pearson entered into a consulting agreement with China Rapid Finance Limited that terminated on March 15, 2017. The purpose of the consulting agreement was to assist analysts, shareholders and management of China Rapid Finance with the following:

1. Formulation of certain investor communications as well as assisting the company with managing investor relations.
2. Assist the Company with the conduct of market analysis by the company.
3. Assist the Company with analyzing the effect trends in the People's Republic of China market on the U.S.
4. Assist the Company with performing an investment feasibility analysis.
  - a. Providing expertise on Chinese Companies/ Stocks and input/ insights on valuation methodology and market opportunity.

### **Interest in Client Transactions and Code of Ethics**

According to the *Investment Advisers Act of 1940*, an investment adviser is considered a fiduciary and has a fiduciary duty to all clients. Nepsis has established a Code of Ethics to comply with the requirements of Section 204(A)-1 of the *Investment Advisers Act of 1940* that reflects its fiduciary obligations and those of its supervised persons. The Code of Ethics also requires compliance with federal securities laws. The Code of Ethics covers all individuals that are classified as "supervised persons". All employees, officers, directors and investment adviser representatives are classified as supervised persons. Nepsis requires its supervised persons to consistently act in your best interest in all advisory activities. Nepsis imposes certain requirements on its affiliates and supervised persons to ensure that they meet the firm's fiduciary responsibilities to you. The standard of conduct required is higher than ordinarily required and encountered in commercial business.

This section is intended to provide a summary description of the Code of Ethics of Nepsis. If you wish to review the Code of Ethics in its entirety, you should send us a written request and upon receipt of your request, we will promptly provide a copy of the Code of Ethics to you.

## **Affiliate and Employee Personal Securities Transactions Disclosure**

Nepsis or associated persons of the firm may buy or sell for their personal accounts, investment products identical to those recommended to clients. This creates a potential conflict of interest. It is the express policy of Nepsis that all persons associated in any manner with our firm must place clients' interests ahead of their own when implementing personal investments. Nepsis and its associated persons will not buy or sell securities for their personal account(s) where their decision is derived, in whole or in part, by information obtained as a result of employment or association with our firm unless the information is also available to the investing public upon reasonable inquiry.

We are now and will continue to be in compliance with applicable state and federal rules and regulations. To prevent conflicts of interest, we have developed written supervisory procedures that include personal investment and trading policies for our representatives, employees and their immediate family members (collectively, associated persons):

- Associated persons cannot prefer their own interests to that of the client.
- Associated persons cannot purchase or sell any security for their personal accounts prior to implementing transactions for client accounts.
- Associated persons cannot buy or sell securities for their personal accounts when those decisions are based on information obtained as a result of their employment, unless that information is also available to the investing public upon reasonable inquiry.
- Associated persons are prohibited from purchasing or selling securities of companies in which any client is deemed an "insider".
- Associated persons are discouraged from conducting frequent personal trading.
- Associated persons are generally prohibited from serving as board members of publicly traded companies unless an exception has been granted to the Chief Compliance Officer of Nepsis.

Any associated person not observing our policies is subject to sanctions up to and including termination.

## **Account Reviews**

Managed accounts are reviewed at least quarterly. While the calendar is the main triggering factor, reviews can also be conducted at your request. Account reviews will include investment strategy and objectives review and making a change if strategy and objectives have changed. Reviews are conducted by Mark Pearson, with reviews performed in accordance with your investment goals and objectives.

## **Account Statements and Reports**

For our Portfolio Management Services, you are provided with transaction confirmation notices and regular quarterly account statements directly from the qualified custodian.

Whether reports by an outside money manager are provided to you will depend upon the outside money manager.

You are encouraged to always compare any reports or statements provided by us, a sub-adviser or third-party money manager against the account statements delivered from the qualified custodian. When you have questions about your account statement, you should contact our firm and the qualified custodian preparing the statement.

## **Client Referrals**

Outside persons, called Solicitors, who are directly responsible for bringing a Client to us, may receive compensation from Nepsis. Such agreements will comply with the requirements set out in Rule 206(4)-3 of the Investment Advisers Act of 1940, including the requirement that the relationship between the solicitor and the investment adviser be disclosed to you at the time of the solicitation or referral. Under these arrangements, you do not pay higher fees than our typical advisory fees.

We enter into marketing arrangements with affiliated and unaffiliated investment advisory firms pursuant to which representatives of their firms, offer our services to the public. Through these arrangements, we will pay a cash referral fee both to the solicitor and to the firm based on a percentage of our advisory fee under the terms of a written agreement. The amount of the fee may vary depending on the agreement executed with the firm. Those firms may in turn share a portion of the referral fee with other individuals or entities from whom the referral was generated.

In any case, applicable state laws may require these persons to become licensed either as our representatives or as an independent investment adviser representative. We will request that our clients acknowledge this solicitor arrangement prior to acceptance of the Clients' account for advisory services.

When a client is referred to us by a referring party, the referring party provides the client with a copy of our Disclosure Brochure as required by the *Investment Advisers Act of 1940*. The client also will complete a Solicitor's Disclosure Statement document. If the referring party is an unaffiliated registered investment adviser firm, then the client will also receive a copy of the referring party's Form ADV Part 2 Disclosure Brochure. If a referred client enters into an investment advisory agreement with Nepsis, a referral fee is paid to the referring party. The

referral relationship will not result in clients being charged any fees over and above the normal advisory fees charged for the advisory services provided.

The referral agreements between Nepsis and referring parties are in compliance with state and federal securities rules regarding paid solicitor arrangements.

### **Financial Information**

Nepsis does not require or solicit prepayment of more than \$1200 in fees per client, six months or more in advance. Therefore, we are not required to include a balance sheet for the most recent fiscal year. We are not subject to a financial condition that is reasonably likely to impair our ability to meet contractual commitments to clients. Finally, Nepsis has not been the subject of a bankruptcy petition at any time.

### **Item 10 - Customer Privacy Policy Notice**

Protecting Client privacy is very important to Nepsis. We view protecting your private information as a top priority and pursuant to the requirements of the Gramm-Leach Bliley Act, the firm has instituted policies and procedures to ensure that customer information is kept private and secure.

Nepsis does not disclose any nonpublic personal information about its customers or former customers to any nonaffiliated third parties, except as permitted or required by law. In the course of servicing a Client's account, Nepsis may share some information with its service providers, such as transfer agents, custodians, broker-dealers, accountants and lawyers.

Nepsis restricts internal access to nonpublic personal information about the client to those employees who need to know that information in order to provide products or services to the Client. As emphasized above, it has always been and will always be the firm's policy never to sell information about current or former customers or their accounts to anyone. It is also the firm's policy not to share information unless required to process a transaction, at the request of a customer, or as required by law.