

Empire Financial Management Company, LLC

A New York State Limited Liability Company registered with the U.S. Securities and
Exchange Commission as an Investment Adviser
CRD #146097

29 Broadway,
12th Floor
New York, New York 10006

Tel. 212-417-8247
Fax. 212-417-8229

THIS BROCHURE PROVIDES INFORMATION ABOUT THE QUALIFICATIONS AND BUSINESS PRACTICES OF EMPIRE FINANCIAL MANAGEMENT COMPANY LLC. IF YOU HAVE ANY QUESTIONS ABOUT THE CONTENTS OF THIS BROCHURE, PLEASE CONTACT US AT 212-417-8247.

THE INFORMATION IN THIS BROCHURE HAS NOT BEEN APPROVED OR VERIFIED BY THE U.S. SECURITIES AND EXCHANGE COMMISSION (“SEC”) OR ANY STATE SECURITIES AUTHORITY.

ADDITIONAL INFORMATION ABOUT EMPIRE FINANCIAL MANAGEMENT COMPANY LLC ALSO IS AVAILABLE ON THE SEC’S WEBSITE AT WWW.ADVISERINFO.SEC.GOV.

March 31, 2024

The delivery of this brochure (the “Brochure”) at any time does not imply that the Information contained herein is correct as of any time subsequent to the date shown above. This Brochure will supersede all other documents containing information about the Firm.

Material Changes

This Empire Financial Management Company, LLC's initial SEC Form ADV filing, as such, there are no material changes to report regarding our advisory business.

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I. Part 2A – DISCLOSURE ITEMS ABOUT FIRM

Item 4. Advisory Business:

(A) **Operational and Organizational Information:** Empire Financial Management Company, LLC (the “Firm”) is a registered with the SEC as an investment adviser. The Firm’s managing member, Gregg Zeoli (the “Managing Member”) is also a registered representative with Empire Asset Management Company (CRD# 143007) (the “BD”), a FINRA member firm and SEC registered broker-dealer. The BD is owned by Empire Investment Group Holdings LLC, which is controlled by Empire Asset Management, of NY Ltd. Advisory account assets may also be held with RBC Capital Markets, LLC (“RBC”), the custodian broker for BD and orders may be introduced through BD to RBC. As stated on the cover page of this brochure, registration as an investment adviser does not imply a level of skill or training. The Firm has been in business since January 2008.

(B) **Types of Advisory Services Offered:** The Firm offers a professional and flexible asset management program to separate account clients (“Clients”), which may involve discretionary and/or non-discretionary advice (“Services”). The terms of such Services are described in an investment management agreement (“IMA”) that is agreed upon between each Client and the Firm.

The Firm does not hold itself out as specializing in a particular type of advisory service. Please review the Firm’s investment guidelines, specified below under “Client Investment Guidelines and Parameters.”

(C) **Client Investment Guidelines and Parameters:** In certain instances, upon Client request, the Firm may tailor its advisory services to the individual needs of separately managed accounts. However, a minimum of \$100,000 of assets under management per account will typically be required in order for the Firm to offer Services. Clients may also impose restrictions on investing in certain securities or types of securities by specifying such restrictions in a written notice to Firm. Firm provides discretionary and/or non-discretionary investment advisory services to all fee paying Clients’ accounts. In connection with managing the investments of its Clients, such account’s investment management agreements provide investment guidelines and parameters that provide the context within which the Firm renders its investment management services, subject to such investment decisions being approved by the relevant Client.

(D) **Wrap Fee Programs:** Not applicable.

(E) **Client Assets Under Management:** *(rounded to the nearest \$100,000)*

Discretionary: \$461,000,000

Non-discretionary: \$24,000,000

Item 5. Fees and Compensation:

(A) **Generally:** All fees are individually negotiated. Circumstances considered when negotiating fees may include, without limitation, customary market rates, specialized guidelines, and other performance/incentive fee arrangements with the Client.

In general, Clients shall pay an annualized asset-based fee ranging between approximately .5% to 2.5% based on a sliding scale of assets under management (“Management Fee”), see Item 5(B). Asset based fees shall be calculated based on all of the applicable assets under management, including any margin balances and balances held by other money managers. Asset under management values will be determined using market values on the last day of the quarter priced according to the Client's brokerage/holding statement on the last day of the each quarter.

(B) **Payment of Fees:** Management fees are typically charged quarterly in arrears at the end of each applicable quarter based on the account's market value at such quarter.*

Management Fees: Assets under management values will be determined using market values on the last day of the quarter priced according to the Client's brokerage/holding statement on the last day of each quarter. The specific manner in which fees are charged by EFMC is established in a client's written Investment Management Agreement with EFMC.

*RBC Based Platforms can be charged in advance.

Additional Fees and Expenses:

A program involving outside money managers and/or mutual funds involves additional fees. Such a program may also result in higher commissions to the Client than if the Client did not participate and paid brokerage commissions on a per transaction basis. Accordingly, such higher commissions may not be suitable for certain Clients. Clients will incur brokerage and other transaction costs. Clients should review carefully Item 12, which discusses conflicts of interest related to brokerage practices. Brokerage commissions and/or transaction ticket fees charged by the custodian will be billed directly to the Client. The Firm will not receive any portion of such commissions or fees from the custodian or Client. In addition, Clients may incur certain charges imposed by third parties other than the Firm in connection with investments made through the account, including but not limited to, mutual fund sales loads, 12(b)-1 fees, and surrender charges, and IRA and qualified retirement plan fees. Management fees charged by the Firm are separate and distinct from the fees and expenses charged by investment company securities that may be recommended to Clients. A description of these fees and expenses are available in each investment company security's prospectus.

Operating Expenses: Client shall pay or reimburse the Firm and its affiliates for (i) all expenses incurred in connection with the ongoing offer and sale of Services, including, but not limited to, marketing expenses and documentation of performance (ii) all operating expenses of a Client such as tax preparation fees, governmental fees and taxes, administrator fees, communications with Clients, and ongoing legal, accounting, auditing, bookkeeping, consulting and other professional fees and expenses, (iii) all Client trading and investment related costs and expenses (e.g., brokerage commissions, margin interest, expenses related to short sales, custodial fees, clearing and settlement charges), and (iv) all fees and other expenses incurred in connection with the investigation, prosecution or defense of any claims, assertion of rights or pursuit of remedies, by or against a Client, including, without limitation, professional and other advisory and consulting expenses and travel expenses, and whether or not pursuant to bankruptcy or other legal proceedings, or participation in informal committees of creditors or other security holders of an issuer.

The Managing Member receives commissions from BD in connection with certain Services as further described below in Item 5(D).

- (C) **Fees Paid in Advance:** The Firm does permit Clients to pay fees in advance, but in no event shall such fees be made in excess of six months in advance and exceed \$1,200.

Termination of Services: The Firm or the Client may terminate their IMA within five days of the date of acceptance without penalty to the Client. After the five-day period, either party may terminate the IMA, upon written notice to the other. The Management Fee will be pro-rated for the quarter in which the cancellation notice was given, and any pro-rated fees will be deducted from the Client's account. Upon termination of accounts held at RBC, RBC delivers securities and funds held in the account as instructed by Client, unless Client requests that the account be liquidated. After the IMA has been terminated, transactions are processed at the prevailing brokerage rates. Client becomes responsible for monitoring their own assets and the Firm has no further obligation to act or provide advice with respect to those assets.

- (D) **Additional Compensation of Supervised Persons:** Supervised persons of the Firm, specifically, the Managing Member, accept compensation for the sale of securities in connection with their association with the BD. The Managing Member receives such compensation in his capacity as a registered representative of BD, not in his capacity as a supervised person of the Firm. The Managing Member is the owner and controlling person of both the Firm and BD and the affiliated insurance company Empire Asset Management Insurance Company. The Firm endeavors to disclose herein all conflicts of interest which could impair the rendering of unbiased and objective advice to Clients as a result of this relationship. Advisory account assets may also be held with RBC, the custodian broker for the BD, and orders may be introduced through BD to RBC. A program involving outside money managers and/or mutual funds involves additional fees. Such a program may also result in higher commissions which may not be suitable for certain Clients. Conflicts of interest related to accepting additional compensation in addition to advisory fees are described in Items D(1)-(4) below.

1. This practice presents a conflict of interest and gives the Firm or its supervised persons an incentive to recommend investment products based on the compensation received, rather than on a particular Client's needs. Lower fees for comparable services may be available from other sources. However, the Firm believes that Clients benefit from its relationship with BD and that its commission rates are less than the commission rates for comparable transactions generally charged by broker-dealers. The Firm believes that the

commission rates charged by BD to Clients are less than the commission rates for comparable transactions generally charged by broker-dealers. Whenever a related person effects a transaction as broker or agent, the commission charged is discounted off of standard commission rates and ranges from \$0.06 to \$0.08 per share which is determined by account value. Moreover, whenever a related person effects a transaction in which Client securities are sold to or bought from a brokerage customer, the securities are priced at the then prevailing market value. The Firm hereby informs any prospective Client which pays commissions and/or fees to BD of the following conflicts of interest:

- (a) A conflict exists between the interests of the Firm (and/or a related person) and the interests of the Client;
- (b) The Client is under no obligation to act upon Firm's (or a related person's) recommendation, and
- (c) If the Client elects to act on any of the recommendations, the Client is under no obligation to effect the transaction through the Firm (or a related person). In addition, regarding certain mutual fund recommendations, related persons may receive 12b-1 fees as disclosed by the mutual funds which offer such fees.

Clients whose un-invested cash balances are swept into money market funds or which are invested in mutual funds (or hedge funds or money managers) shall, in effect, be paying multiple advisory fees. For example, Clients may be paying a management fee on the portion of their assets that are invested in the money market funds/mutual funds to the fund's investment adviser plus a quarterly fee on the market value of assets under Firm's management which includes the assets invested in the money market funds/mutual funds. The related BD will share in rebates from clients whose un-invested cash balances are swept into money markets. Clients are encouraged to review carefully any relevant prospectus and/or offering document associated with the Firm's investment recommendations.

2. A conflict exists between the interests of the Firm (and/or a related person) and the interests of Clients. Client are under no obligation to act upon the Firm's (or a related person's) recommendation, and if Clients elects to act on any of the recommendations, such Clients are under no obligation to

effect the transaction through the Firm (or a related person). All Clients have the option to purchase investment products that the Firm recommends through other brokers or agents that are not affiliated with the Firm and/or not used by the Firm.

3. The Firm must disclose whether more than 50% of its revenue comes from commissions or similar. The Firm must disclose whether it is also registered as a broker-dealer. **Not applicable**
4. The Firm must disclose whether it charges advisory fees in addition to commissions or markups. **Not applicable**

Item 6. Performance Based Fees and Side-By-Side Management: The Firm may charge performance based fees.

Item 7. Types of Clients: The Firm offers a professional and flexible asset management program to separate account Clients, which may involve discretionary and/or non-discretionary advice.

The Firm will obtain from its Clients a full, clear and complete understanding of the Client's current financial situation, financial holdings, investment objectives, risk tolerance, and investment needs and wants. The Client is responsible for the accuracy and adequacy of information, records, and data provided to the Firm.

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

- (A) **Methods of Analysis and Investment Strategies:** As stated above, the investment process starts with establishing and then monitoring each Client's appropriate asset allocation. Each Client's risk tolerance and financial objectives will be considered in tailoring an asset allocation that is suitable for the individual. This allocation will primarily include equities, fixed income and cash equivalents, but may from time to time include other areas such as gold, commodities, real estate, foreign currencies and high yield debt instruments. Certain strategies employed by the Firm may incur more risk than others may incur. The risk involved with these specific strategies should be evaluated by the Client prior to any Services being provided in order to ensure that the Client's goals, objectives, and financial situation is such that he or she is able to bear the risks inherent to these investments. Certain investment strategies may utilize a concentrated investment strategy. Concentrated portfolios generally hold the securities of a limited number of companies and, therefore, may be more volatile because the risk specific to each company may represent a larger portion of assets. It is likely that the performance of these portfolios will differ significantly from that of the broad equity market.

Investing in securities involves risk of loss that Clients should be prepared to bear.

- (B) **Risks Associated with Firm's Investment Strategies:** The Firm may offer personalized investment advisory Services to high net worth individuals, trusts, estates, corporations, and other business entities. As part of its Services, the Firm may choose or recommend mutual funds or other independent investment managers on behalf of Client accounts. The Firm will obtain from the Client a full, clear and complete understanding of the Client's current financial situation, financial holdings, investment objectives, risk tolerance, and investment needs and wants. Client is responsible for the accuracy and adequacy of information, records, and data provided to the Firm. Services involving outside money managers and/or mutual funds involve additional fees. Such Services may also result in higher commissions being charged to the Client than if the Client did not participate in the program and paid brokerage commissions on a per transaction basis. Accordingly, such higher commissions may not be suitable for certain Clients. The Firm also provides year-end information to assist the Client in tax reporting.

No assurances can be given that this objective can be achieved and investment results may vary substantially over time and from period to period.

Market Volatility: The profitability of the investments chosen by the Firm substantially depend upon the Firm correctly assessing the future price movements of stocks, bonds, options on stocks, and other securities and the movements of interest rates. The Firm cannot guarantee that it will be successful in accurately predicting price and interest rate movements.

Risks Associated with Investing in Options and Derivatives: In providing Services to Clients, the Firm may invest, from time to time, in options and derivative instruments, including buying and writing puts and calls on some of the securities held by Client accounts in an attempt to supplement income derived from those securities. The prices of many derivative instruments, including many options and swaps, are highly volatile. The value of options and swap agreements depend primarily upon the price of the securities, indexes, commodities, currencies or other instruments underlying them. Price movements of options contracts and payments pursuant to swap agreements are also influenced by, among other things, interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control

programs and policies of governments, and national and international political and economic events and policies. The cost of options is related, in part, to the degree of volatility of the underlying securities, currencies or other assets. Accordingly, options on highly volatile securities, currencies or other assets may be more expensive than options on other investments.

Put options and call options typically have similar structural characteristics and operational mechanics regardless of the underlying instrument or asset on which they are purchased or sold. A put option gives the purchaser of the option, upon payment of a premium, the right to sell, and the writer the obligation to buy, the underlying security, commodity, index, currency or other instrument or asset at the exercise price. A call option, upon payment of a premium, gives the purchaser of the option the right to buy, and the seller the obligation to sell, the underlying instrument at the exercise price.

If a put or call option purchased on behalf of a Client account by Firm were permitted to expire without being sold or exercised, the Client account would lose the entire premium it paid for the option. The risk involved in writing a put option is that there could be a decrease in the market value of the underlying instrument or asset caused by rising interest rates or other factors. If this occurred, the option could be exercised and the underlying instrument or asset would then be sold to the Firm on behalf of the Client account at a higher price than its current market value. The risk involved in writing a call option is that there could be an increase in the market value of the underlying instrument or asset caused by declining interest rates or other factors. If this occurred, the option could be exercised and the underlying instrument or asset would then be sold by the Firm on behalf of the Client account at a lower price than its current market value.

Purchasing and writing put and call options and, in particular, writing “uncovered” options are highly specialized activities and entail greater than ordinary investment risks. In particular, the writer of an uncovered call option assumes the risk of a theoretically unlimited increase in the market price of the underlying instrument or asset above the exercise price of the option. This risk is enhanced if the instrument or asset being sold short is highly volatile and there is a significant outstanding short interest. These conditions exist in the stocks of many companies. The instrument or asset necessary to satisfy the exercise of the call option may be unavailable for purchase except at much higher prices. Purchasing instruments or assets to satisfy the exercise of the call option can itself cause the price of the instruments or assets

to rise further, sometimes by a significant amount, thereby exacerbating the loss. Accordingly, the sale of an uncovered call option could result in a loss by the Client account of all or a substantial portion of its assets.

Short Selling: When deemed appropriate by the Firm, it will sell securities short on behalf of Client accounts. Short selling involves the sale of a security that the Client account does not own and must borrow in order to make delivery in the hope of purchasing the same security at a later date at a lower price. In order to make delivery to its purchaser, the Client account must borrow securities from a third party lender. The Client account subsequently returns the borrowed securities to the lender by delivering to the lender the securities it receives in the transaction or by purchasing securities in the open market. The Client account must generally pledge cash with the lender equal to the market price of the borrowed securities. This deposit may be increased or decreased in accordance with changes in the market price of the borrowed securities. During the period in which the securities are borrowed, the lender typically retains his right to receive interest and dividends accruing to the securities.

Risks Associated with Leverage: Generally, the Firm does not use leverage. However, in the event that the Firm determines that leverage is appropriate in its provision of Services, the Firm may use borrowed funds and/or investments in certain types of options, such as puts, calls and warrants, which may be purchased for a fraction of the price of the underlying securities while giving the purchaser the full benefit of movement in the market of those underlying securities. While such strategies and techniques increase the opportunity to achieve higher returns on the amounts invested, they also increase the risk of loss. To the extent Firm purchases securities for a Client account with borrowed funds, its net assets will tend to increase or decrease at a greater rate than if borrowed funds are not used. The level of interest rates generally, and the rates at which such funds may be borrowed in particular, could affect the operating results of an account. If the interest expense on borrowings were to exceed the net return on the investments made with borrowed funds, the Firm's use of leverage would result in a lower rate of return than if an account was not leveraged.

If the amount of borrowings outstanding for a Client account at any one time is large in relation to such account's capital, fluctuations in the market value of the account will have disproportionately large effects in relation to the account's capital and the possibilities for profit and the risk of loss will therefore be

increased. Any investment gains made with the additional monies borrowed will generally cause the net asset value of a Client account to rise more rapidly than would otherwise be the case. Conversely, if the investment performance of the additional monies borrowed fails to cover their cost to a Client account, the net asset value of the account will generally decline faster than would otherwise be the case.

Certain of the Firm's trading and investment activities may be subject to U.S. Federal Reserve Board ("FRB") margin requirements, which are computed daily by a self-clearing broker-dealer. At present, the FRB's Regulation T permits a broker to lend no more than 50% of the purchase price of "margin stock" bought by a Client. When the market value of a particular open position changes to a point where the margin on deposit does not satisfy maintenance margin requirements, a "margin call" on the Client is made. If the Client does not deposit additional funds with the broker to meet the margin call within a reasonable time, the Client's position may be closed out. In the event of a precipitous drop in the value of the assets managed by the Firm, it might not be able to liquidate assets quickly enough to pay off the margin debt and might suffer mandatory liquidation of positions in a declining market at relatively low prices, incurring substantial losses. With respect to the Firm's trading activities on behalf of a Client account, the account, and not the Firm, will be subject to margin calls.

Overall, the use of leverage, while providing the opportunity for a higher return on investments, also increases the volatility of such investments and the risk of loss. Clients should be aware that an investment program utilizing leverage is inherently more speculative, with a greater potential for losses, than a program that does not utilize leverage.

Risks Associated with Non-Diversification: The Firm intends to hold diversified positions; however, it is not subject to any formal policies regarding diversification. The Firm may sometimes concentrate holdings in industries, geographic regions or companies which, in light of investment considerations, market risks and other factors, that it believes will provide the best opportunity for attractive risk-adjusted returns. The concentration of assets in a small number of issuers, in any one industry or a small number of industries, or in a single industry would subject Clients to a greater degree of risk with respect to the failure of one or a few investments or with respect to economic variations in relation to such industry or industries.

Cyber Security Breaches and Identity: The Firm's information and technology systems may be vulnerable to damage or interruption from computer viruses, network failures, computer and telecommunication failures, infiltration by unauthorized persons and security breaches, usage errors by its professionals, power outages and catastrophic events such as fires, tornadoes, floods, hurricanes and earthquakes. Although the Firm has implemented various measures to manage risks relating to these types of events, if these systems are compromised, become inoperable for extended periods of time or cease to function properly, the Firm may have to make a significant investment to fix or replace them. The failure of these systems and/or of disaster recovery plans for any reason could cause significant interruptions in the Firm's operations and result in a failure to maintain the security, confidentiality or privacy of sensitive data, including personal information relating to account holder, beneficial owners or investors. Such a failure could harm the Firm's reputation, subject any such entity and its respective affiliates to legal claims and otherwise affect its business and financial performance.

Security-Specific Risks: Please see the response to Item 8(B), above.

Item 9. Disciplinary Information:

Neither the Firm nor any supervised person has been involved in any legal or disciplinary event that is material to a Client's or prospective Client's evaluation of the Firm's advisory business, management or Services.

- (A) A criminal or civil action in a domestic, foreign or military court of competent jurisdiction in which the Firm or a management person:
1. Was convicted of, or pled guilty or nolo contendere ("no contest") to: (a) any felony; (b) a misdemeanor that involved investments or an investment-related business, fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, or extortion; or (c) a conspiracy to commit any of these offenses. **Not applicable**
 2. Is the named subject of a pending criminal proceeding that involves an investment-related business, fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses. **Not applicable**
 3. Was found to have been involved in a violation of an investment-related statute or regulation. **Not applicable**

4. Was the subject of any order, judgment, or decree permanently or temporarily enjoining, or otherwise limiting, your firm or a management person from engaging in any investment-related activity, or from violating any investment-related statute, rule, or order. **Not applicable**

(B) An administrative proceeding before the SEC, any other federal regulatory agency, any state regulatory agency, or any foreign financial regulatory authority in which Firm or a management person:

1. Was found to have caused an investment-related business to lose its authorization to do business. **Not applicable**
2. Was found to have been involved in a violation of an investment-related statute or regulation and was the subject of an order by the agency or authority:
 - (a) Denying, suspending, or revoking the authorization of Firm or a management person to act in an investment-related business. **Not applicable**
 - (b) Barring or suspending Firm's or a management person's association with an investment-related business. **Not applicable**
 - (c) Otherwise significantly limiting Firm's or a management person's investment-related activities. **Not applicable**
 - (d) Imposing a civil money penalty of more than \$2,500 on Firm or a management person. **Not applicable**

(C) A self-regulatory organization (SRO) proceeding in which the Firm or a management person:

1. Was found to have caused an investment-related business to lose its authorization to do business. **Not applicable**
2. Was found to have been involved in a violation of the SRO's rules and was: (i) barred or suspended from membership or from association with other members, or was expelled from membership; (ii) otherwise significantly limited from investment-related activities; or (iii) fined more than \$2,500. **Not applicable**

Item 10. Other Financial Industry Activities and Affiliations:

- (A) The Managing Member is a registered representative with the BD, which is an affiliate of the Firm through common ownership and control. BD is registered as a broker-dealer with the SEC and is a FINRA member firm.
- (C) Please see Item 5(A) regarding broker-dealer affiliations. The Firm does not have an affiliation with a Futures Commission Merchant (FCM), Commodity Pool Operator (CPO), Commodity Trading Advisor (CTA) or other investment adviser.
- (D) The Firm and/or its management persons have a relationship or arrangements that are material to its Services or to its Clients are discussed below.

1. Broker-dealer, municipal securities dealer, or government securities dealer or broker. **The Firm is an affiliate of BD through common ownership. The Firm has a material relationship and arrangement with BD in that the Firm executes Client transactions through BD. For related conflicts of interest, refer to Item 5(E) and its subsections.**
2. 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). **Not Applicable - except as discussed at Item 4(A) and 4(B).**
3. Other investment adviser or financial planner. **Not Applicable - except as discussed at Item 4(A) and 4(B).**
4. Futures commission merchant, commodity pool operator, or commodity trading advisor. **Not Applicable**
5. Banking or thrift institution. **Not Applicable**
6. Accountant or accounting firm. **Not Applicable**
7. Lawyer or law firm. **Not Applicable**
8. Insurance company or agency. **Not Applicable**
9. Pension consultant. **Not Applicable**
10. Real estate broker or dealer. **Not Applicable**
11. Sponsor or syndicator of limited partnerships. **Not Applicable**

- (E) The Firm and/or related person may also charge a sales commission pertaining to investment recommendations. Any sales commission or fee earned shall be disclosed to the Client. Upon request, the commission schedule can be obtained for the Client's review. The Firm hereby informs any prospective Client which

pays commissions and/or fees to the BD of previously disclosed conflicts of interests that are referred in Item 5(D).

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

- (A) **Code of Ethics:** A copy of the code of ethics (“Code of Ethics”) is available upon request to Clients or prospective Clients.

The Code of Ethics sets forth the Firm’s policies and procedures with respect to material, non-public information and other confidential information, and the fiduciary duties that the Firm and each of its employees has to each of its Clients. The Code of Ethics is circulated at least annually to all employees, and each Employee, at least annually must certify in writing that he or she has received and followed the Code of Ethics and any amendments thereto.

The Code of Ethics requires all personnel to: (1) comply with all applicable laws and regulations; (2) observe all fiduciary duties and put Client interests ahead of those of the Firm; (3) observe the Firm's personal trading policies so as to avoid “front-running” and other conflicts of interests between the Firm and its Clients; (4) ensure that all personnel have read the Code of Ethics, agreed to adhere to the Code of Ethics, and are aware that a record of all violations of the Code of Ethics will be maintained by the Managing Member and that personnel who violate the Code of Ethics are subject to sanctions by the Firm, up to and including termination in the discretion of the Managing Member.

Other Policies and Procedures of Firm

Trade Error Policy: The Firm has internal controls in place to prevent trade errors from occurring. On those occasions when such an error nonetheless occurs, the Firm will use reasonable efforts to correct the error. The Firm will endeavor to maintain a record of each trade error, including information about the trade and how such error was corrected or attempted to be corrected.

Activities of Firm and its Affiliates: Neither the Firm, nor any affiliate or employee, is required to manage Client accounts as its sole and exclusive function. Each of them may engage in other business activities, including competing ventures and/or other unrelated employment. In addition to managing Client accounts, the Firm, and its respective affiliates or employees may provide investment advice to other parties and may manage other accounts in the future.

Privacy Policy: The Firm utilizes the BD's adopted privacy policy that explains the manner in which the Firm collects, utilizes and maintains nonpublic personal information about Clients, as required under federal legislation. The Firm maintains safeguards that comply with federal standards to protect Client information. The Firm restricts access to the personal and account information of Clients to those employees who need to know that information in the course of their job responsibilities. Third parties with whom the Firm shares Client information must agree to follow appropriate standards of security and confidentiality. Firm's privacy policy applies to both current and former Clients. Firm may disclose nonpublic personal information about a former Client to the same extent as for a current Client.

- (B) Associated persons of the Firm may recommend to Clients the purchase or sale of investment products in which it or a related person entity may have some financial interest, including but not limited to, the receipt of compensation. Records will be maintained of all securities bought and sold by associated persons or related entities.

Participation or Interest in Client Transactions and Personal Trading: The Firm recognizes that the personal securities transactions of its employees are conducted in a highly ethical manner, and the Firm requires that all such transactions be carried out in a way that does not endanger the interest of any Client. At the same time, the Firm believes that if investment goals are similar for Clients and for employees of the Firm, it is logical and even desirable that there be common ownership of some securities. Therefore, in order to address conflicts of interest, the Firm has adopted a set of procedures, included in its Code of Ethics, with respect to transactions effected by its officers, directors and employees (hereafter, "Employees") for their personal accounts. In order to monitor compliance with its personal trading policy, the Firm has adopted a quarterly securities transaction reporting system for all of its Employees. For purposes of the policy, an Employee's "personal account" generally includes any account (a) in the name of the Employee, his/her spouse, his/her minor children or other dependents residing in the same household, (b) for which the Employee is a trustee or executor, or (c) which the Employee controls, including the Firm's Client accounts which the Employee controls and in which the Employee or a member of his/her household has a direct or indirect beneficial interest.

Associated persons of Firm may recommend to Clients the purchase or sale of investment products in which it or a related

person may have some financial interest, including but not limited to, the receipt of compensation. Records will be maintained of all securities bought and sold by associated persons and related persons.

Additionally, the Code of Ethics sets forth the Firm's policies and procedures with respect to material, non-public information and other confidential information, and the fiduciary duties that the Firm and each of its Employees has to each of its Clients. The Code of Ethics is circulated at least annually to all Employees, and each Employee, at least annually must certify in writing that he or she has received and followed the Code of Ethics and any amendments thereto.

- (C) The Firm or a related person invests in the same securities (or related securities, e.g., warrants, options or futures) that the Firm or a related person recommends to Clients.

See our response to Items 11 (A)-(B), above.

- (D) The Firm or a related person recommend securities to Clients, or buys or sells securities for Client accounts, at or about the same time that the Firm or a related person buys or sells the same securities for its own (or the related person's own) account.

See our response to Items 11 (A)-(B), above.

Item 12. Brokerage Practices:

Factors that the Firm considers in selecting or recommending broker-dealers for Client transactions and determining the reasonableness of their compensation are described herein.

- (A) **Factors Considered in Selecting or Recommending Broker-Dealers:** Securities transactions for Client accounts are executed through brokers selected by the Firm in its sole discretion. In placing portfolio transactions, the Firm will seek to obtain the best execution for Client accounts, taking into account the following factors: the ability to effect prompt and reliable executions at favorable prices (including the applicable dealer spread or commission, if any); the operational efficiency with which transactions are effected and the efficiency of error resolution, taking into account the size of order and difficulty of execution; the financial strength, integrity and stability of the broker; special execution capabilities; clearance; settlement; reputation; on-line pricing; block trading and block positioning capabilities; willingness to execute related or unrelated difficult transactions in the future; order of call; on-line access to computerized data

regarding Clients' accounts; performance measurement data; the quality, comprehensiveness and frequency of available research and related services considered to be of value; the availability of stocks to borrow for short trades; and the competitiveness of commission rates in comparison with other brokers satisfying the Firm's other selection criteria. Client accounts shall bear brokerage costs as set forth in the relevant IMA.

1. "Soft Dollar" Policy.

In addition to research services, the Firm may be offered other non-monetary benefits by broker-dealers that it may engage to execute securities transactions on behalf of Clients. These benefits may take the form of special execution capabilities, clearance, settlement, online pricing, block trading and block positioning capabilities, willingness to execute related or unrelated difficult transactions in the future, order of call, online access to computerized data regarding Clients' accounts, performance measurement data, consultations, economic and market information, portfolio strategy advice, industry and company comments, technical data, recommendations, general reports, efficiency of execution and error resolution, quotation equipment and services, the availability of stocks to borrow for short trades, custody, travel, record keeping and similar services. These other services may also include payment of all or a portion of the Clients' or the Firm's or its affiliates' administrative costs and expenses of operation, such as office rent; office equipment and supplies; utilities (e.g., electricity, gas, oil, water); taxes; storage; employee salaries, including, but not limited to, bonuses, contingent salaries, and any other form of compensation determined by the Firm, and benefits (including medical, dental and worker's compensation insurance); temporary help; recruiting services; newswire and quotation equipment and services (e.g., Reuters, Bloomberg, Bridge, First Call); data processing charges; periodical subscription fees (e.g., The Financial Times, The Wall Street Journal, The New York Times, Investors Business Daily); computer equipment used for brokerage or research purposes (e.g., computers, computer hardware, software, hard drives, monitors, PDAs, LANs) and related technical support, repair and maintenance; television and cable services used for research purposes; telephone and facsimile charges, equipment and installation and maintenance costs (e.g., telephones, telephone lease, telephone and facsimile lines, cellular phones used for

business purposes, telephone call recording equipment, headsets, cordless phones, speaker phones, telephone switchboards and monthly and long distance telephone charges); facsimile machines and facsimile rental and repair costs; account record-keeping and related clerical services; printing services; messenger services; postal and courier expenses; car service; expenses incurred in connection with investigating and researching issuers of securities and attending research conferences (e.g., airfare, car rentals, taxi fares, conference fees and related expenses, hotel accommodations and meals); economic consulting services; placement fees and other marketing costs; legal and accounting fees; and other reasonable expenses as determined by the Firm.

The foregoing benefits may be available for use by the Firm in connection with transactions in which Clients will not participate. The availability of these benefits may influence the Firm to select one broker rather than another to perform services for Clients. Nevertheless, the Firm will attempt to assure either that the fees and costs for services provided to Clients by brokers offering these benefits are not materially greater than they would be if the services were performed by equally capable brokers not offering such services or that Clients also will benefit from the services.

The foregoing benefits may be available for use by the Firm in connection with transactions in which Clients will not participate. The availability of these benefits may influence the Firm to select one broker rather than another to perform services for Clients. Nevertheless, the Firm will attempt to assure either that the fees and costs for services provided to Clients by brokers offering these benefits are not materially greater than they would be if the services were performed by equally capable brokers not offering such services or that Clients also will benefit from the services.

The Firm has the option to use “soft dollars” generated by Client account transactions to pay for the research and non-research related services described above. The term “soft dollars” refers to the receipt by an investment adviser of products and services provided by brokers, without any cash payment by the investment adviser, based on the volume of brokerage commission revenues generated from securities transactions executed through those brokers on

behalf of the investment adviser's Clients. The products and services available from brokers include both internally generated items (such as research reports prepared by employees of the broker) as well as items acquired by the broker from third parties (such as quotation equipment). Section 28(e) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), provides a "safe harbor" to investment managers who use soft dollars generated by their advised accounts to obtain investment research and brokerage services that provide lawful and appropriate assistance to the investment adviser in the performance of investment decision-making responsibilities. In the event the Firm elects to use its soft dollars for payment of all or a portion of the Firm's or its affiliates' administrative costs and expenses of operation such as office rent, office equipment and supplies, utilities, employee benefits and salaries, newswire and quotation equipment, data processing charges, periodical subscription fees, computer equipment, telephone and facsimile charges and equipment costs, record-keeping services, consulting fees, issuer due diligence expenses, placement fees and other marketing costs, and legal and accounting fees, as more fully described above, such uses of soft dollars are not within the safe harbor afforded by Section 28(e) of the Exchange Act.

The use of brokerage commissions to obtain investment research services and to pay for the administrative costs and expenses of the Firm or its affiliates creates a conflict of interest between the Firm and Clients because the Clients pay for such products and services that are not exclusively for the benefit of Clients and that may be primarily or exclusively for the benefit of the Firm. To the extent that the Firm is able to acquire these products and services without expending its own resources (including management fees paid by Clients), the Firm's use of soft-dollars would tend to increase the Firm's profitability. In addition, the availability of these non-monetary benefits may influence Firm to select one broker rather than another to perform services for Clients. The Firm has an incentive to select or recommend a broker-dealer based on its interest in receiving the research or other products or services, rather than on a Client's interest in receiving the most favorable execution. Moreover, the Firm may cause Clients to pay commissions (or markups or markdowns) higher than those charged by other broker-dealers in return for soft dollar benefits. In the event that the Firm uses soft dollar benefits, the Firm will use such benefits to service all

Client accounts rather than only those accounts that paid for the benefits.

The Firm reserves the right to pay a fee or commission, in its sole discretion, to brokers or other persons who introduce Clients to the Firm, provided that any such fee or commission will be paid solely by the Firm or its affiliates and no portion thereof will be paid by Clients.

- a.** When the Firm uses Client brokerage commissions (or markups or markdowns) to obtain research or other products or services, the Firm receives a benefit because the Firm does not have to produce or pay for the research, products or services. *Please refer to Item 12.(A)(1).*
- b.** The Firm may have an incentive to select or recommend a broker-dealer based on the Firm's interest in receiving the research or other products or services, rather than on Clients' interest in receiving most favorable execution. *Please refer to Item 12.(A)(1).*
- c.** The Firm may cause Clients to pay commissions (or markups or markdowns) higher than those charged by other broker-dealers in return for soft dollar benefits (known as paying-up). *Please refer to Item 12.(A)(1).*
- d.** The Firm may use soft dollar benefits to service all Clients or only those Clients that paid for the benefits. The Firm may or may not seek to allocate soft dollar benefits to Clients proportionately to the soft dollar credits the accounts generate. *Please refer to Item 12.(A)(1).*
- e.** The types of products and services the Firm or any related persons acquired with Client brokerage commissions (or markups or markdowns) within Firm's last fiscal year were: *Please refer to Item 12.(A)(1).*
- f.** The procedures the Firm used during its last fiscal year to direct transactions to a particular broker-dealer in return for soft dollar benefits the Firm received were: *Please refer to Item 12.(A)(1).*

2. Brokerage for Client Referrals:

- (a) The Firm reserves the right to pay a fee or commission, in its sole discretion, to brokers or other persons who introduce Clients to the Firm, provided that any such fee or commission will be paid solely by the Firm or its affiliates and no portion thereof will be paid by Clients. As a result, the Firm may have an incentive to select or recommend a broker based on the Firm's interest in receiving Client referrals rather than on Clients' interest in receiving most favorable execution. Because such referrals, if any, are likely to benefit the Firm but will provide an insignificant (if any) benefit to Clients, the Firm will have a conflict of interest with Clients when allocating Client brokerage business to a broker who has referred investors to a Client. To prevent Client brokerage commissions from being used to pay referral fees, Firm will not allocate Client brokerage business to a referring broker unless the Firm determines in good faith that the commissions payable to such broker are not materially higher than those available from non-referring brokers offering services of substantially equal value to Clients.
- (b) During the last fiscal year, the Firm reserved the right to provide direct compensation to brokers who referred Clients to the Firm for participation in the proprietary strategy in the form of a portion of the fees received by adviser. This compensation did not result in any additional charges being imposed on a Client.

3. Directed Brokerage:

- (a) The Firm does not recommend, request, or require a Client to direct the Firm to execute transactions through a specified broker-dealer. However, in many cases, the Firm will execute transactions through the Firm's affiliate, BD, which creates a material conflict of interest between the Firm and its Clients. By directing brokerage to BD, Firm may be unable to achieve the most favorable execution of Client transactions, which could result in a higher cost to Clients.

- (b) The Firm does not permit a Client to direct the Firm to execute transactions through a specified broker-dealer except if agreed to in the relevant IMA.

(B) **Aggregation of Orders:** Transactions implemented by the Firm for accounts may be effected independently or on an aggregated basis. The Firm anticipates that frequently it will decide to purchase or sell the same securities for several Clients at approximately the same time. The Firm will aggregate orders when it believes aggregation may prove advantageous to Clients. When the Firm aggregates Client orders, the allocation of securities among Client accounts will be 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. Under this procedure, transactions will be averaged as to price and execution cost and will be allocated among the Firm's Clients in proportion to the purchase and sale orders placed for each Client account on any given day. When the Firm aggregates Client orders for the purchase or sale of securities, including securities in which its associated person(s) may invest, the Firm will do so in a fair and equitable manner. It should be noted that Firm does not receive any additional compensation or remuneration as a result of aggregation.

Item 13. Review of Accounts:

- (A) All accounts managed by the Firm are reviewed, at least on a quarterly basis by the Managing Member of the Firm, to assure conformity with Client objectives and guidelines. In addition, all accounts are reviewed in light of emerging trends and developments as well as market volatility. Separate account Clients are responsible for keeping the Firm informed as to any changes in their personal financial condition. Firm cannot make any material changes to a Client's portfolio if it is not informed of the Client's particular developments.
- (B) The calendar is the main triggering factor of a review of an account, although more frequent reviews may be also be triggered by changes in a Client's circumstances, Client request, or unusual market activity. Clients may be contacted periodically by the Firm to discuss the management and performance of their account.

- (C) Monthly, quarterly and/or annual reports covering an account's holdings and activity will be provided by the custodian firm, e.g., RBC. These reports, including trade confirmations and/or monthly statements, will typically identify the account holdings and a current valuation of such holdings. The Managing Member will be available to assist the account holder in reviewing and understanding such reports.

Item 14. Client Referrals and Other Compensation:

- (A) The Firm does not receive any economic benefit associated with advising Clients, such as sales awards or prizes.
- (B) The Firm reserves the right to pay a fee or commission, in its sole discretion, to brokers or other persons who introduce Clients to the Firm, provided that any such fee or commission will be paid solely by the Firm or its affiliates and no portion thereof will be paid by Clients. Firm may use independent third party solicitors to refer Clients and pay a portion of its advisory fees to such solicitors, in accordance with the Advisers Act.

Item 15. Custody:

The Firm maintains Client accounts at RBC. As stated above in Item 13, Review of Accounts, Firm's qualified custodian will send monthly account statements directly to Clients which Clients should carefully review. Clients are urged to compare statements that are received from the qualified custodian to statements received directly from the Firm.

Item 16. Investment Discretion:

The Firm may have discretionary investment authority over Client assets that are managed by the Firm.

Item 17. Voting Client Securities – Proxy Policy:

The Firm does not have the authority to vote proxies.

Item 18. Financial Information:

- (A) The Firm does not solicit prepayment of management fees on a monthly basis. Firm does not solicit prepayment of more than \$1200 in fees per Client six months or more in advance, and thus has not provided a balance sheet according to the specifications of 17 CFR Parts 275 and 279.

- (B) Because the Firm has discretionary authority over and/or custody of Client fund or securities, Firm has disclosed, as follows, any financial condition that is reasonably likely to impair its ability to meet contractual commitments to Clients: None.
- (C) The Firm has not been the subject of a bankruptcy petition during the past ten years.

**Item 19. Requirements for State-Registered Investment Advisers:
Not Applicable**