



# Herbert J. Sims Capital Management, Inc.

## Part 2A of Form ADV The Brochure

CRD No. 134510

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This brochure provides information about the qualifications and business practices of Herbert J. Sims Capital Management, Inc (“HJSCM”). If you have any questions about the contents of this brochure, please contact us at (800) 527-6425 or [info@hjsims.com](mailto:info@hjsims.com).

This 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 Herbert J. Sims Capital Management, Inc. is also available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## Item 2 – Summary Material Changes

The following summarizes the material changes to the Brochure since the last amendment of this Brochure dated June 30, 2024:

- Item 4 - Advisory Business
  - Clarified role of Envestnet, a third-party service provider
  - Added Financial Planning services description section
  - Asset managed was updated. As of December 31, 2023, discretionary assets under management increased from \$104,018,947 to \$121,231,057 and non-discretionary assets decreased from \$35,888,659 to \$25,444,655.
- Item 5 - Fees and Compensation
  - Added Financial Planning services fee section
  - Changed minimum account size requirement for MPP accounts from \$25,000 to \$50,000

If you would like another copy of this Brochure, please download it free of charge from the SEC Website as indicated above or you may contact us at (203) 418-9020 or [info@hjsims.com](mailto:info@hjsims.com).

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## Item 4 - Advisory Business

### About the Firm

Herbert J. Sims Capital Management, Inc. (“HJSCM”)

was founded in 1995 and is a wholly owned subsidiary of Herbert J. Sims & Co, Inc. (“HJS”) a SEC registered and FINRA member broker-dealer. HJSCM primarily provides customized investment management services to high-net-worth individuals and associated trusts, estates, pension and profit sharing plans, and other legal entities.

These investment advisory services may be administered by representatives conducting business under various titles or designations. For purposes of this document these associates are designated as investment adviser representatives (“investment adviser representatives “or “IARs”).

HJSCM does not provide tax preparation, security rating and pension consulting or market timing services.

HJSCM manages investment advisory accounts for individuals, pension and profit-sharing plans, trusts, estates, corporations or other business entities pursuant to the HJSCM Managed Portfolio Programs (“MPP” or the “Program”). The MPP is a “wrap fee” advisory program (refer to the Wrap Fee Program Brochure for more details). MPPs are professionally-managed and tactically-oriented asset allocation portfolios and all equity model and all fixed income portfolios. IARs collect and analyzes client information concerning investment goals, risk tolerance, income requirements, other investments and investment restrictions and then will recommend one of several MPPs. As appropriate, each portfolio is comprised of various mutual funds, ETFs and ETNs for the applicable asset class. All investments are maintained in an investment advisory account with a third-party custodian. The MPP strategy is subject to investment guidelines agreed to by clients based on their investment objectives and risk tolerances and clients are able to impose reasonable restrictions on investing in certain securities or types of securities. Any such restrictions will be reflected in writing in the applicable client documentation.

Clients who wish to participate in the HJSCM Managed Portfolio Program will enter into an investment management agreement with HJSCM. HJSCM has retained a third-party service provider, Envestnet Asset Management, Inc. and/or its affiliates (collectively, “Envestnet”), for various administrative, investment advisory and/or other services available on Envestnet’s Platform (“Platform”). Envestnet has developed a comprehensive system of model, sleeve, and portfolio management services relating to the maintenance and administration of investment advisory accounts which it makes available to the clients of third-party investment advisers such as HJSCM. The Platform assists investment advisers in lowering the cost and complexity of building portfolios using third party managers. Envestnet will provide, as appropriate, co-advisory, trade order management, order aggregation, custodial trade file

routing, and other administrative and operational services.

HJSCM also has an agreement with Lockwood Advisors, Inc. (“Lockwood”) Third-Party Advisory Solutions (TAPS) whereby Lockwood, an affiliate of Pershing LLC and subsidiary of The Bank of New York Mellon Corporation (BNY), acts as program sponsor for third-party wrap fee programs.

### ***Types of HJSCM Advisory Services***

HJSCM currently offers discretionary and non-discretionary investment management programs. Under these programs, clients are able to invest in diversified portfolios containing one or more of the following types of securities: registered open-end investment companies (“mutual funds”); U.S. exchange-traded funds (“ETFs”); manager model portfolios (“manager models”) and other investment vehicles. The investments approved for use may differ from program to program (“Advisory Assets”).

### ***Individual Client Needs and Restrictions***

In providing its investment advisory services, the investment adviser representative (“investment adviser representative” or “IAR”) gathers customer profile and risk tolerance information by consulting with the client. The IAR performs client reviews that may include, but are not limited to: the determination of financial objectives, identification of financial situation, planned investment time horizons, liquidity needs, risk tolerance, considerations for tax sensitivity, investment experience and the source of funds to be invested to assess the client’s suitability for the investment advisory services HJSCM offers. Clients may impose reasonable restrictions on the investments in their accounts, including designating particular securities or types of securities that should not be purchased for an account. Any restrictions imposed by a client may cause the investment adviser representative to make different recommendations than he or she would in the absence of such restrictions. Thus, the account may not perform as well.

### ***Financial Planning Reports and Analyses***

Upon request, HJSCM will provide clients with reports and/or analyses on one or more financial planning topics, including cash flows, income needs, asset allocation, retirement and life insurance assessments, charitable giving, estate and wealth transfer, and business succession. Those clients seeking financial planning services will generally enter into a separate Financial Planning Services Agreement with HJSCM, which sets forth the specific financial planning services to be provided, the reports and analyses that HJSCM will provide, and the fees that the client agrees to pay. The

reports and analyses are for informational purposes only and are based upon information provided by the clients, and are intended to provide broad, general guidelines on the advantages of certain financial planning concepts. The reports and analyses do not constitute a recommendation of any particular technique or strategy, or of any particular investment type or investment opportunity. The reports and analyses do not provide ongoing investment advice and are current only as of the date of each respective report. It is each client’s responsibility to determine what action, if any, you wish to take based on the information provided, and you are not required to transact business with us if you choose to implement any aspects of a report. HJSCM will only act upon your specific instructions. We do not undertake to monitor your account assets in connection with providing these financial planning reports and analyses. Certain reports and analyses may provide projections based on various assumptions, are hypothetical in nature, are subject to important limitations, and are not a guarantee of investment returns. HJSCM may also provide one or more financial planning reports or analyses without a separate charge as part of the overall services provided to its clients.

### **HJSCM Advisory Programs**

#### ***HJSCM Managed Portfolio Program (“MPP”)***

HJSCM currently offers investment advisory consultant services to design and assist with the selection of portfolio manager models, the selection of investment strategies, and the allocation of assets among managers or strategies. HJSCM will have trading discretion over certain client e accounts but HJSCM has no discretion to move funds. The client will receive the disclosure brochure of each portfolio manager selected. Clients should read these programs carefully before deciding whether to invest through a particular program or select a particular portfolio manager and strategy. For additional information on the MPP, please refer to the program’s Wrap Fee Program Brochure (Part 2A), which is available upon request.

HJSCM has retained a third-party service provider, Envestnet Asset Management, Inc. and/or its affiliates (collectively, “Envestnet”), for various administrative, investment advisory and/or other services available on Envestnet’s Platform. Envestnet conducts investment and other due diligence on the model/strategy managers and their respective investment strategies and maintains approved or available strategy lists. HJSCM leverages this process in making recommendations to you.

The client and adviser will make all decisions regarding the specific third-party managed account service and/or strategies that are selected in your account. HJSCM will have no authority or discretion in choosing either the investment services or the specific investments on behalf

of clients in third-party advisory programs or management of selected strategies. Prior to enrolling in an account, HJSCM investment adviser representatives interview clients to determine their financial needs and objectives, gathering customer profile and risk tolerance information. The IARs' client review may include, but is not limited to, the client's financial situation, investment goals, liquidity needs, planned investment time horizon, investment restrictions, risk tolerance, consideration for tax sensitivity, investment experience and the source of funds to be invested.

The IAR analyzes the information and the prospective client is provided an Investment Proposal, which describes a recommended asset allocation and a diversified investment portfolio or managers and/or strategies.

### ***Third-Party Advisory Solutions ("TPAS")***

HJSCM advises clients with respect to the following third-party investment advisory programs:

- Lockwood Asset Allocation Portfolios ("LAAP")
- Lockwood AdvisorFlex Portfolios ("AFP") and
- Lockwood Investment Strategies ("LIS") and
- Lockwood SMA Program ("SMA") and
- Lockwood Third-Party Model Provider

Lockwood Advisors, Inc. ("Lockwood"), is the sponsor of the LAAP Program, AFP Program, LIS Program, the SMA offering and Third-Party Model Provider Programs. Lockwood Advisors are affiliates of Pershing LLC ("Pershing") and are subsidiaries of The Bank of New York Mellon Corporation ("BNY"). HJSCM is not affiliated with either Lockwood Advisors, Pershing or BNY.

The accounts which participate in the Programs will be invested generally in shares of mutual funds, ETF's, and short-term, liquid investments, including cash, money market funds, and other money market instruments; provided, Lockwood Advisors, and the managers, as appropriate, have the authority and discretion to invest an account in any other type of security permitted to be held in the Account by the Custodian.

HJSCM will provide the following services (the "Services") to the client with respect to each Third- Party Selected Program: (i) assisting client in establishing a brokerage account with Pershing for participation in each Selected Program; (ii) explaining the characteristics of each Selected Program and assisting client in establishing

investment objectives and identifying one or more portfolios, third-party investment managers, or investments within the Selected Program which are suitable for client; (iii) answering client's questions about the Selected Program; and (iv) conveying to Lockwood Advisors, as appropriate, material information regarding client's investment objectives, financial situation, and risk tolerance, to the extent such information is provided by client to HJSCM from time to time.

### **Assets Managed**

As of December 31, 2023, HJSCM managed \$25,444,655 on a non-discretionary basis and \$121,231,057 on a discretionary basis.

## **Item 5 - Fees and Compensation**

### **HJSCM Advisory Programs**

Advisory fees are subject to negotiation. HJSCM will charge the advisory fee 90 days in advance based on the clients' asset under management as of the last business day of each quarter.

### **HJSCM Managed Portfolio Program ("MPP")**

The MPP is a "wrap fee" advisory program, whereby a "Wrap Fee" (also referred to as an "Advisory Fee" in HJSCM 's Brochures) is charged by HJSCM in an established written Client Service Agreement with HJSCM and the Sub-Advisor. HJSCM will generally bill its fees on a quarterly basis in advance. Clients elect and authorize HJSCM to directly debit fees from client accounts. HJSCM fees shall be prorated for each capital contribution and withdrawal made during the applicable calendar quarter. Accounts initiated during a calendar quarter will be charged a prorated fee based on the number of days remaining in the calendar quarter. Upon termination of any account, any prepaid, unearned fees will be promptly refunded, and any earned, unpaid fees will be due and payable.

The minimum account balance to enroll in the MPP is \$50,000. Additionally, HJSCM and its consultants may construct customized portfolios which will require assets greater than \$25,000 to establish an account. HJSCM may waive account minimums at its sole discretion. If a client withdraws funds from the MPP account in an amount that causes the total assets in the MPP account to fall below \$50,000, HJSCM may choose to terminate the MPP Account and/or offer converting it to a standard HJ SIMS brokerage account (see *Termination of Program* below).

<b>Value of Account Assets</b>	<b>Maximum Advisory Fee</b>
\$50,000 – \$500,000	2.50%
\$500,001 – \$1,000,000	2.00%
\$1,000,001 – \$2,500,000	1.75%
\$2,500,001 – \$5,000,000	1.50%
Over \$5,000,001	1.25%

These Advisory Fees (also refer to as Wrap Fees in our Brochures) are generally subject to negotiation and typically range from 1.25% to 2.50% of the initial value of the assets in the account per year, depending on the size of the account or household and services covered. Except as described herein, the annualized Wrap Fee is not intended to cover all expenses associated with the Account, including custodial fees and fees payable to the Sub-Advisor, Co-Advisor, or Third Party Sleeve Strategy or Model Manager. In the event the Adviser retains the services of a Sleeve Strategy or Model Manager, or Sub Advisor, the applicable fees for the Sleeve Strategy or Model Manager will be disclosed on the “Sleeve/Model Manager Addendum” and forwarded to the client prior to investing the clients’ funds in the Sleeve Strategy or Model.

The Advisory Fee does not include fees or expenses associated with the underlying investment vehicles (such as redemption fees or expense ratios).

In addition to the Advisory Fee and regardless of the actual quarterly Advisory Fee rate or the value of the assets in the account, Envestnet charges a flat annual operational fee of \$25 based on services provided.

### ***Additional Fees & Expenses***

The investment adviser representative will not receive any additional fees and expenses in his or her capacity as a registered representative of HJ SIMS. There is a conflict of interest in selecting mutual fund share classes with 12b-1 fees since the firm and its affiliated broker-dealer have a financial incentive to place advisory clients in higher-fee share classes over lower-fee share classes of the same mutual fund. Therefore, any such receipt of 12(b)-1 compensation will pass directly back to the Client and his/her account(s), thus, avoiding a conflict of

interest. However, in instances where the client decides to direct brokerage or a portion of the recommendations through a brokerage account at HJ SIMS, the client may also pay separate fees for any internal management operating fees or expenses imposed or incurred by a mutual fund or other pooled investment vehicle in which a client may invest. HJ SIMS may receive distribution or service (“trail”) fees from the sale of certain mutual funds (including money market funds) pursuant to a 12b-1 distribution plan or other such plan as compensation for distribution or administrative services and are distributed from the fund’s total assets. These fee arrangements will be disclosed upon request of a client and are available in the applicable fund’s prospectus.

HJ SIMS, as an affiliated broker of HJSCM, has an incentive with initial public offerings and secondary offerings as it collects the full gross spread on the transaction. For example, clients may purchase securities through broker-dealers in initial public offerings, and/or secondary offerings (“new issues”). If HJ SIMS acts as an underwriter or manager or as a member of the selling group for such offerings, it will receive compensation equal to either all or a portion of “gross spread” (the difference between the price the client pays for the security and the price at which HJ SIMS purchased the securities). The advisory fee is not reduced to offset this new issue securities compensation. The amount of the gross spread is described in the relevant prospectus, offering circular or official statement.

Additional Brokerage compensation information is described in “Brokerage Practices” below, which covers execution and conflicts of transactions through HJ SIMS as broker-dealer.

The MPP Programs may cost clients more or less than other programs. Factors bearing upon the cost of the MPP Program in relation to the cost of the other programs may include, among other things, trade activity, the size and type of the account, the historical or expected size of the account, and the number and range of supplemental services provided to the account. No party shall be compensated based on a share of capital gains upon, or capital appreciation of, funds or any portions of funds or other investments in an account.

Further information about the Program and Brokerage cost and fees are set forth in separate wrap program brochures that are available upon request.

### **Third-Party Account Solutions (“TPAS”) With Lockwood Advisors, Inc.**

Clients enrolled in programs will pay fees related to services received in the program. Fees are set forth in the applicable money manager, program agreement, or program brochure and other account opening documents prepared by Lockwood Advisors. These fees are

generally subject to negotiation and typically range from 0.55% to a maximum total fee of 3.00% of the value of the assets in the account per year, depending upon the money manager and/or program selected, the size of the account and the services covered. Programs are offered on an all-inclusive fee basis which covers account management, brokerage, clearance, custody and administrative services. In other programs the account may be charged separately for such services. HJSCM either receives a portion of the fee collected by the third-party program sponsor or it charges a separate fee for its consulting services.

The TPAS Program Fee does not include fees or expenses associated with the underlying investment vehicles (such as redemption fees or expense ratios). Please consult the Lockwood Advisors Program Brochure which outlines the specific fees and expenses within each applicable Program.

The minimum account balance to enroll in the TPAS Program is indicated in the table below.

Lockwood Asset Allocation Portfolios (“LAAP”)	\$50,000
Lockwood AdvisorFlex Portfolios (“AFP”)	\$50,000
Lockwood Investment Strategies (“LIS”)	\$250,000
Lockwood SMA Program (“SMA”)	\$100,000 - Equity & \$250,000 – Fixed Income
Lockwood Third-Party Model Provider	\$25,000

HJSCM may waive account minimums at its sole discretion. If a client withdraws funds from the program accounts in an amount that causes the total assets in the applicable Program account to fall below stated minimum, Lockwood and/or HJSCM may choose to terminate the Account and/or offer converting it to a standard HJ SIMS brokerage account (see *Termination of Program* below).

### Termination of Program

HJSCM and/or Sponsor reserves the right to terminate a client’s Account and related Client Agreement at any time by providing notice to the client. HJ SIMS separately has the right to terminate the underlying brokerage account thereby terminating the Advisory Account. If HJSCM terminates the Agreement, the account becomes an HJ SIMS commission-based brokerage account and the client will no longer receive ongoing monitoring and investment advice with respect to the account and will not be charged an advisory fee as of the date of termination. A client may terminate an Account by notice to HJSCM, and is responsible for any fees accrued up to the date of termination. Upon termination, the IAR does not act in an investment adviser capacity for the client with respect to the Account, but may act in a broker capacity as a registered representative of HJ SIMS. As a result, the client would no longer be charged an Account advisory fee, but the client would be charged transaction-based compensation (e.g. mark-ups/mark-downs and commissions) with respect to all transactions in the account. In addition, the IAR will not have any responsibility to monitor the account or to provide investment advice with respect to the account as of the date of termination.

HJSCM and Sponsor reserve the right to decline any new

account in the advisory program at any time for any reason in its sole discretion. The client may terminate the Agreement without penalty by giving notice within five business days after the account is enrolled.

### Financial Planning Reports and Analyses Fee

Those clients entering into a Financial Planning Services Agreement with HJSCM for planning reports and analyses are charged an hourly rate of \$300 with a minimum of 5 hours. This fee may be waived at the discretion of the IAR.

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

HJSCM does not charge any performance fees. Some investment advisers experience conflicts of interest in connection with the side-by-side management of accounts with different fee structures. However, these conflicts of interest are not applicable to HJSCM

### Item 7 - Types of Clients

HJSCM primarily provides customized investment management services to high-net-worth individuals and associated trusts, estates, pension and profit-sharing plans, and other legal entities. HJSCM does not provide tax preparation, security rating and pension consulting or market timing services.

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

Investing in securities involves risk of loss that clients should be prepared to bear. HJSCM does not represent or guarantee that our services or methods of analysis can or

will predict future results, successfully identify market tops or bottoms, or insulate clients from losses due to market corrections or declines. HJSCM cannot offer any guarantees or promises that any client's financial goals and objectives will be met. Past performance is in no way an indication of future performance.

### ***HJSCM Managed Portfolio Program ("MPP")***

For the HJSCM Managed Portfolio Program ("MPP"), HJSCM will use various sources to analyze the strategies, and work with a Sub-Advisor as applicable in selecting and monitoring third-party manager and strategist in the model manager program relative to certain market indices or asset allocation objectives, other money managers, strategies, and/or programs. Other factors include allocation and/or manager risk analysis, comparative expenses, and other qualitative factors and mandate analysis. For information about material risks related to the program or specific portfolio managers in the programs, see the appropriate disclosure Model Fact Cards or investor specific Proposals.

### ***Third-Party Account Solutions ("TPAS")***

Lockwood Advisors conduct research with respect to various third-party investment managers (the "Managers") and investment products, which includes proprietary processes for screening and evaluating Managers and other investments available through the Programs.

Lockwood Advisors' processes for researching Managers and investments are described in the Lockwood Advisors Brochure. Certain Managers available through the Programs are affiliates of Lockwood Advisors, Pershing, or BNY. Because the identity of these affiliates is subject to change, clients are directed to the Lockwood Advisors Brochure for complete information.

### **Risk of Loss**

HJSCM by necessity relies on information, data and software provided by third parties, whose reliability, while believed to be accurate, cannot be guaranteed and losses may result from reliance upon them. These are normal risks for which we take no responsibility beyond the use of reasonable care. We do not represent or guarantee that our services or methods of analysis can or will predict future results, successfully identify market tops or bottoms, or insulate clients from losses due to market corrections or declines.

Each investment style, strategy, and product entails varying degrees of risk. Clients are to consult with their Investment Adviser to discuss the risks associated with the particular investment style and strategy employed in their accounts. There can be no assurance that a particular investment style or strategy will be successful or that

clients will not suffer losses. Results generated for each account will differ, and the investment advice provided to an individual will differ from client to client. Investment performance is not guaranteed, and past performance with respect to a client's account or other accounts does not predict future performance. Investing in securities involves risk of loss that clients should be prepared to bear. We cannot offer any guarantees or promises that your financial goals and objectives will be met.

Investors face certain investment risks, which include, but are not limited to the following:

- **Interest-rate Risk:** Fluctuations in interest rates may cause investment prices to fluctuate. For example, when interest rates rise, yields on existing bonds become less attractive, causing their market values to decline.
- **Market Risk:** The price of a security, bond, or mutual fund may drop in reaction to tangible and intangible events and conditions. This type of risk is caused by external factors independent of a security's particular underlying circumstances. For example, political, economic and social conditions may trigger market events.
- **Inflation Risk:** When any type of inflation is present, a dollar today will not buy as much as a dollar next year, because purchasing power is eroding at the rate of inflation.
- **Currency Risk:** Overseas investments are subject to fluctuations in the value of the dollar against the currency of the investment's originating country. This is also referred to as exchange rate risk.
- **Reinvestment Risk:** This is the risk that future proceeds from investments may have to be reinvested at a potentially lower rate of return (i.e. interest rate). This primarily relates to fixed income securities.
- **Business Risk:** These risks are associated with a particular industry or a particular company within an industry. For example, oil-drilling companies depend on finding oil and then refining it, a lengthy process, before they can generate a profit. They carry a higher risk of profitability than an electric company, which generates its income from a steady stream of customers who buy electricity no matter what the economic environment is like.
- **Liquidity Risk:** Liquidity is the ability to readily convert an investment into cash. Generally, assets are more liquid if many traders are interested in a standardized product. For example, Treasury Bills are highly liquid, while real estate properties are not.
- **Financial Risk:** Excessive borrowing to finance a business' operations increases the risk of profitability, because the company must meet the terms of its obligations in good times and bad.



During periods of financial stress, the inability to meet loan obligations may result in bankruptcy and/or a declining market value.

- **Margin Risk:** Leverage increases a portfolio's risk as price swings are amplified in a margin account and clients can lose more funds than deposited if value of securities decline.

Alternative investments are not available to and not suitable for all clients. Investing in alternative investments, including single-strategy hedge funds or funds that invest in hedge funds, involves substantial risk. The investment may generate substantial losses, including an entire loss of capital invested. The investments are speculative and intended for investors who are capable of and willing to bear the high economic risks of the investment, which can include: loss of all or a substantial portion of the investment due to leveraging, short-selling or other speculative investment practices; lack of liquidity in that there may be no secondary market for the investment and none expected to develop; volatility of returns; risks related to international investing and trading on foreign exchanges; and lack of diversification. Fees are typically higher than with other investments and may offset trading profits. Hedge funds are not subject to many of the regulations and standards applicable to registered investment companies. Single-strategy hedge funds may be highly concentrated in certain types of securities, economic and/or industrial sectors and/or specific securities.

Investing in REITs involves additional risk due to potential adverse developments affecting REITs, the real estate industry, and property value such as economic recession, changes in interest rates, oversupply, competition from other management companies, property acquisition risks, development overruns, project completion delays, rising borrowing costs and tightening of available capital, defaults and insolvencies of major tenants, property damage, security threats, natural disasters, environmental clean-ups and liability lawsuits. The impact of these risks on the share price of funds that concentrate in REIT investments can be high.

Although Exchange Traded Funds offer many advantages to investors, there are risks associated with ETFs, which include but are not limited to the following: Tracking Error, Discount or Premium trading to Net Asset Value (NAV), Foreign Exchange, Liquidity, Third-Party, and Options. For more information regarding the risks of options, please read the 'Characteristics and Risks of Standardized Options' brochure, which can be found at [www.optionsclearing.com](http://www.optionsclearing.com).

### **Tax Considerations**

Clients are responsible for contacting their tax adviser to determine the best accounting method appropriate for them. If your tax adviser believes another accounting

method is more advantageous, please provide written notice to our firm immediately and we will alert your account custodian of your individually selected accounting method. Please note that decisions about cost basis accounting methods will need to be made before trades settle, as the cost basis method cannot be changed after settlement.

Alternative investments can involve complex tax structures, investors may experience delay in tax reporting and an investor's tax liability may exceed cash distributions.

### **Item 9 - Disciplinary Information**

In July 2021, Herbert J. Sims & Co. Inc. ("Sims"), a controlling affiliate of HJSCM, consented, without admitting or denying, to the entry of an order by the U.S. Securities and Exchange Commission ("SEC") regarding its investigation of the sale of certain variable interest rate structured products ("VRSPs") during the period January 2015 and April 2018. Sims agreed to the entry of an Order ("Order"), without admitting or denying the findings by the SEC, that Sims violated Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 and failed to reasonably supervise its personnel to prevent these violations, in connection with the sale of certain VRSPs. Sims agreed to cease and desist from committing any future violations in this regard, to pay a fine of \$250,000, and to hire an Independent Consultant to review Sims' policies relating to the sale of VRSPs. The Order also censured Sims.

In January 2023, Herbert J. Sims & Co. Inc. ("Sims"), a controlling affiliate of HJSCM, consented, without admitting or denying, to the sanctions and to the entry of findings by the Financial Industry Regulatory Authority ("FINRA") that it failed to establish and implement an anti-money laundering (AML) program that was reasonably designed to detect and cause the reporting of suspicious cyber-events, as the Firm did not reference any requirement to review cyber-events for AML purpose nor had a process in place for conducting reviews of such events. The Firm's IT department conducted forensic investigations of each of the five events that occurred during the period (2016 to 2019) but the Firm did not recognize at the time that the nature of the incidents and the assets put at risk potentially necessitated the filing of Suspicious Activity Reports (SARs). The Firm has subsequently amended its AML program and paid a fine of \$100,000.

There are no legal or disciplinary events updates related to HJSCM's advisory business or the integrity of its management.

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

#### **In General**



HJSCM's officers and IARs are also associated persons of Herbert J. Sims & Co. Inc. (HJ SIMS) and are licensed to sell securities (and some are licensed to sell insurance and annuities). Because HJ SIMS and HJSCM's associated persons will receive additional compensation and other direct and indirect economic benefits from the sale of securities and insurance products, a conflict of interest exists. Although HJSCM and its IARs will endeavor to place the interests of the client first, the existence of this additional compensation may influence their decisions with respect to recommendations made or actions taken for an account. Clients are under no obligation to purchase securities or insurance through HJ SIMS to implement any recommendations made by HJSCM IARs. Time spent selling securities and insurance products on behalf of HJ SIMS, and time spent on behalf of HJSCM advisory services will vary with each financial professional.

HJ SIMS acts as a dealer with respect to certain securities, and as such, may execute transactions for HJSCM clients as principal. As a dealer, HJ SIMS may receive a "mark-up," "mark-down," and/or spread in the net price at which principal transactions are executed. This compensation is in addition to other compensation that client pays to HJSCM and its affiliates under the MPP Programs. Thus, HJSCM has a conflict of interest in recommending or deciding to execute trades through HJ SIMS on a principal basis. HJSCM addresses this conflict of interest in the following ways. After receiving disclosures about a specific principal transaction with HJ SIMS, clients have the opportunity to reject the transaction before it is completed, to the extent required by applicable law.

In addition, HJSCM has policies and procedures in place to assure that clients receive best execution with respect to principal trades, regardless of whether the trade is executed by HJS or an unaffiliated dealer. HJSCM may also recommend that clients invest in securities issued in an initial public and/or secondary offerings ("new issues") for which HJ SIMS acts as a manager, underwriter and/or a member of the selling group. HJSCM has a conflict of interest in recommending these securities for several reasons. First, HJ SIMS receives all or a portion of the gross spread – the difference between the price that the client pays for the security and the price that HJ SIMS purchases the security for -- in connection with such sales. This gross spread can be between 1 and 3% based on the offering.

HJSCM investment adviser representatives generally receive a portion of this compensation as broker-dealer representatives of HJ SIMS. In addition, HJ SIMS has a substantial interest—both financial and with respect to its reputation—in assuring that the offering is successful by having a large number of the securities purchased.

Finally, in connection with certain offerings, HJ SIMS

has an obligation to purchase and resell a certain number of securities. Thus, because of its affiliation with HJ SIMS, HJSCM has incentives to recommend these investments in these offerings for these reasons, rather than based on a client's needs. To address these conflicts, HJSCM has policies and procedures in place to make sure that securities in initial public offerings are recommended only to clients for whom they are suitable given the client's investment objectives and assets. In addition, clients are generally given transaction specific disclosure prior to the client's decision to invest in such securities. Securities acquired in initial public and secondary offerings may be oversubscribed and HJSCM has policies and procedures in place for the allocation process.

Certain HJSCM IARs are licensed to sell life and annuity insurance products through HJSCM (a wholly owned subsidiary of HJ SIMS). HJ SIMS, as well as the appropriately licensed IARs will receive compensation for the sale of such products. The IARs may recommend the purchase of insurance products. Clients are under no obligation to purchase insurance products through any particular insurance agency or representative.

Further information about Lockwood and the Sub-Advisor is set forth in separate wrap program brochures from each advisor respectively and are available upon request.

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

As described above, HJSCM's affiliate, HJ SIMS is a broker-dealer, that will typically be the introducing broker-dealer for Program accounts. In such capacity, HJ SIMS and its representatives may receive typical compensation for their execution and related brokerage services. HJSCM has adopted a Code of Ethics expressing the firm's commitment to ethical conduct. HJSCM's Code of Ethics describes the firm's fiduciary duties and responsibilities to clients, and sets forth HJSCM's practice of supervising the personal securities transactions of supervised persons with access to client information. Individuals associated with HJSCM may buy or sell securities for their personal accounts identical to or different than those recommended to clients. It is the expressed policy of HJSCM that no person employed by HJSCM shall prefer his or her own interest to that of an advisory client or make personal investment decisions based on the investment decisions of advisory clients. Subject to the Code of Ethics, HJSCM and its employees are permitted to trade for their own accounts in block transactions (see below) with the firm's clients in the same securities, and at the same time.

However, neither HJSCM nor its employees are

permitted to trade for their own accounts on the same day in the same security with respect to which such persons are aware of unsolicited client orders to buy or sell such security. To supervise compliance with its Code of Ethics, HJSCM requires that anyone associated with the firm who has access to information regarding client investment recommendations or transactions must provide an initial and annual securities holdings report and quarterly transaction reports to the firm's Chief Compliance Officer. HJSCM requires such access persons to also receive approval from the Chief Compliance Officer prior to investing in any IPOs.

HJSCM requires that all individuals must act in accordance with all applicable Federal and State regulations governing investment advisory activities. HJSCM's Code of Ethics also includes the firm's policy prohibiting the use of material non-public information. Any individual who fails to abide by the firm's Code of Ethics may be subject to discipline. A copy of HJSCM's Code of Ethics is available to advisory clients or prospective advisory clients upon request to the Chief Compliance Officer, at HJSCM's principal office address.

The Code of Ethics is enforced through compliance monitoring activities and surveillance. In cases where the firm discovers that an employee has violated a firm policy and/or procedure, the firm's code of business conduct or code of ethics, a state or federal law, regulation of FINRA, the SEC, or other regulatory agency, the Compliance Department will take appropriate steps to investigate the circumstances and will take action commensurate with the manner of the violation. Such actions could take the form of a written warning to the employee in conjunction with the firm's Legal Department, or be as serious as disciplinary action up to and including termination. Any such investigations will be brought to the appropriate regulator's attention, if necessary, which may result in a disclosure of the violation on the employee's U-4 form, if required.

A copy of the HJSCM Code of Ethics may be obtained by writing to Herbert J. Sims Capital Management, Inc., 2150 Post Road, Suite 301, Fairfield, CT 06824.

## **Item 12 - Brokerage Practices**

HJSCM recommends that clients arrange for their assets to be held with Pershing LLC. HJ SIMS has a fully disclosed clearing agreement with Pershing LLC.

### ***HJSCM Managed Portfolio Program ("MPP")***

Under the provisions of the Client Service Agreement, MPP clients elect to direct all brokerage transactions executed through Pershing LLC and clients cannot designate or select a different broker. Not all investment advisers require clients to direct their accounts to utilize a broker that has been selected by the investment adviser or

sub-advisor. There are no trading commissions charged to clients enrolled in HJSCM wrap fee programs. By charging a single wrap fee, which includes the costs associated with trade execution, HJSCM discloses and tries to mitigate the conflicts of interests that are presented by using an affiliated broker-dealer. Additionally, Sub-Advisors, and third-party managers may combine orders for more than one client's account to form a "block" order for the purpose of seeking a better price and or execution. When a block order is executed, the broker/dealer executing the order typically allocates an average execution price to all shares in the block order, which is then allocated to each customer's account position on a pro rata basis. Should a block order only be partially filled, available shares are distributed in a manner fair to all accounts. Further information about HJSCM Managed Portfolio Program and the Sub-Advisor is set forth in separate program brochures from each advisor respectively and are available upon request.

### ***Third-Party Account Solutions ("TPAS")***

Under the provisions of the Agreement TPAS clients elect to direct all brokerage transactions executed through HJ SIMS via Pershing LLC and clients cannot designate or select a different broker. If Lockwood were to execute a transaction through a broker-dealer other than HJ SIMS, the expense of commissions or other transaction costs for the associated services provided by another broker or dealer would be an additional expense not included in the program fee. The Selection of Trading Counterparties by Lockwood Advisors require clients participating in the Programs to establish their Accounts with Pershing, and Pershing will effect all transactions for the Accounts, except in limited circumstances described further in the Lockwood Advisors Brochure.

### **Client Referrals**

HJSCM does not compensate Pershing LLC or any other custodian or broker/dealer for referring client accounts.

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

### ***HJSCM Managed Portfolio Program ("MPP")***

The investment adviser representative is primarily responsible for reviewing the accounts on an on-going basis to ensure that the asset allocation, model manager, or strategies selected continue to be suitable for the client, taking into account any changes to the information provided by the client.

Accounts are reviewed in the context of each client's stated investment objectives and guidelines. More frequent reviews may be triggered by material changes in variables such as the client's individual circumstances, or the market, political or economic environment. Clients are referred to the Third Party Sleeve Strategy or Model Managers disclosure documents for information regarding the account review policies of the accounts. In addition to the monthly statements and confirmations of

transactions that clients receive from their custodian, upon request HJSCM will provide quarterly reports on MPP account performance, balances and holdings. HJSCM via the Sub-Advisor also makes available a web-based performance reports for those clients that so desire.

HJSCM or the IAR may provide clients with quarterly performance reviews of the Program accounts. HJSCM and the investment adviser representative may not provide tax advice, and nothing in the performance review should be construed as advice concerning any tax matter. Performance reviews are not a substitute for regular monthly account statements received from the custodian or Form 1099. Performance reviews should not be used to calculate fees or to complete income tax returns.

### ***Third-Party Account Solutions (“TPAS”)***

All third-party advisory accounts are monitored periodically by HJSCM’s product department and the sponsor or sub-advisor for compliance with the established account parameters, and to ensure the Accounts are correctly allocated according to client’s selected portfolio and separately imposed restrictions. All Accounts are monitored continuously by Lockwood Advisors, or the Managers, as described in the Lockwood Advisors Brochure. In addition, the Advisers also review the Accounts periodically or upon request of the client. More frequent reviews may be triggered by material changes in variables such as the client’s individual circumstances, or the market, political or economic environment. To the extent specifically described in the Lockwood Advisors Brochure, Lockwood Advisors will make available performance reports regarding the Accounts. In addition, all clients will receive statements at least quarterly from Pershing or independent Custodian reflecting all transactions, fees, expenses, holdings, and balances in the Program Accounts.

Clients receive account statements directly from their custodian on at least a quarterly basis. HJSCM may supplement these custodial statements with reports provided during client meetings or as requested. Clients are encouraged to notify HJSCM’s main office if there are any apparent inconsistencies or if they have any questions.

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

HJSCM may enter into agreements with third parties that will solicit clients for HJSCM and receive compensation for referring clients to HJSCM. In such instances, the third party solicitor will receive either a percentage of, or a set fee from, the fee charged to the client. If a solicitor is used in connection with a client’s account, the structure and arrangement of the solicitation agreement, as well as

the compensation paid to the solicitor, will be fully disclosed to the client, which disclosure will be acknowledged in writing by the client when participating in a HJSCM program. The fee charged to a client is not affected by the use of a third-party solicitor in connection with client accounts, and a client will not be charged any additional fees for the use of such services.

### **Item 15 - Custody**

Pershing LLC is the unaffiliated custodian for the majority of accounts with HJSCM. A smaller amount of assets is held at other unaffiliated custodians (see Form ADV part I Section 5.k.(s)). Neither HJ SIMS nor HJSCM have custody of client assets. Account custodians send statements directly to the account owners on at least a quarterly basis. Clients should carefully review these statements, and should compare these statements to any account information provided by HJSCM.

HJSCM has the ability to act as co-advisor on accounts held at other unaffiliated custodians.

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

#### ***HJSCM Managed Portfolio Program (“MPP”)***

Depending on the service agreement, sub-advisors and third-party managers used to manage client accounts or portions of client accounts may be hired or terminated by HJSCM and sub-advisors using discretionary authority granted by a client. Such sub-advisors and third-party managers also have authority granted by the client to purchase and sell securities at their discretion as described above.

#### ***Third-Party Account Solutions (“TPAS”)***

Clients grants Lockwood Advisors trading discretion. Clients can place reasonable restrictions on Lockwood Advisors’ investment discretion. For example, some clients have asked Lockwood Advisors not to buy securities issued by companies in certain industries, or not to sell certain securities where the client has a particularly low tax basis.

### **Item 17 - Voting Client Securities**

HJSCM shall have no obligation or authority to take any action or render any advice with respect to the voting of proxies solicited by or with respect to issuers of securities held by an Account, and HJSCM is expressly precluded from taking any action with respect to the voting of any such proxies. You, the client expressly retain the authority and responsibility with respect to voting proxies for the Account(s) or will delegate discretion with respect to voting such proxies to a third party. If HJSCM receives any proxy materials that pertain to securities held in the Account, HJSCM will forward the materials to person designated by client. Clients are expected to vote their own proxies and receive their proxies directly from their custodian or transfer agent.

With respect to Lockwood Programs, Lockwood votes proxies in a manner designed to be consistent with its written proxy voting policy. Lockwood's proxy voting policy is further described in Lockwood's Sponsored Programs Wrap Fee Program Brochure. A copy of the policy summary, the voting history associated with investment holdings and the methodologies used to address potential conflicts of interest can be made available upon request. In the case of an Account subject to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"), the plan fiduciary expressly retains the authority and responsibility for voting proxies if such responsibility is not accepted.

### **Item 18 - Financial Information**

Registered investment advisers are required in this Item to provide you with certain financial information or disclosures about HJSCM's financial condition. HJSCM has never filed for bankruptcy and is not aware of any financial condition that is expected to affect its ability to manage client accounts.

This Brochure is available upon request (contact us at (800) 527-6425 or [info@hjsims.com](mailto:info@hjsims.com)) and on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov)