

# Form ADV

June 1, 2012

Part 2A

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## Hays Advisory, LLC

CRD/IARD#: 113713  
301 Seven Springs Way, Suite 150  
Brentwood, TN 37027  
615-467-6070  
615-467-6078...fax  
info@haysadvisory.com  
haysadvisory.com

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This brochure ("Brochure") provides information about the qualifications and business practices of Hays Advisory, LLC ("Hays Advisory"). You should review this Brochure in conjunction with our separate brochure supplement ("Supplement"). The Supplement(s) has been prepared for the purpose of providing information about the qualifications and background of the supervised person(s) working with you on our behalf or who may otherwise participate in the advisory services provided to you. The information in this Brochure has not been approved or verified by the United States Securities and Exchange Commission ("SEC") or by any state securities authority.

If you have any questions about the contents of this Brochure or our Supplement(s), please contact us at 615-467-6070 or info@haysadvisory.com. Additional information about Hays Advisory or any of our supervised persons (who are registered under our firm) is also available on the SEC's Investment Adviser Public Disclosure ("IAPD") which can be found at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

The format/layout of this Brochure has been dictated by the SEC. As such, the Brochure's table of contents can be found after the "Material Changes" section of this Brochure, not at the beginning of the Brochure. The subsections appearing under each heading shall follow the mandated ordering of the items required to be addressed in this Brochure as set forth in the instructions and guidance issued by the SEC in regard to Part 2A of the Form ADV. Our response to each such item shall immediately follow each numbered item. We encourage any reader of this Brochure to also refer to the SEC's instructions and guidance related to Part 2A of the Form ADV. Throughout this Brochure, any references to "we," "our," "ours," "us," etc. are meant to refer to Hays Advisory.

## **II. Material Changes**

Filing date of last annual ADV update: March 28, 2012

There have been no material changes since the date of our last annual update.

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## Key Definitions

There are several terms used throughout this Brochure that are defined in the Glossary of the Form ADV. The full Form ADV and its glossary can be found on the SEC's web site at <http://www.sec.gov/about/forms/formadv.pdf>, however, several of the more important terms that are used throughout this Brochure are provided below for your reference. The definitions appear below as they appear in the glossary of the ADV so be mindful that all references made to "you," "your," or "yours" are intended to refer to Hays Advisory. Each term is presented in alphabetical order, not necessarily its order of appearance or use in this Brochure.

**Advisory Affiliate:** Your advisory affiliates are (1) all of your officers, partners, or directors (or any person performing similar functions); (2) all persons directly or indirectly controlling or controlled by you; and (3) all of your current employees (other than employees performing only clerical, administrative, support or similar functions).

**Control:** Control means the power, directly or indirectly, to direct the management or policies of a person, whether through ownership of securities, by contract, or otherwise. Each of your firm's officers, partners, or directors exercising executive responsibility (or persons having similar status or functions) is presumed to control your firm. A person is presumed to control a corporation if the person: (i) directly or indirectly has the right to vote 25 percent or more of a class of the corporation's voting securities; or (ii) has the power to sell or direct the sale of 25 percent or more of a class of the corporation's voting securities. A person is presumed to control a partnership if the person has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the partnership. A person is presumed to control a limited liability company ("LLC") if the person: (i) directly or indirectly has the right to vote 25 percent or more of a class of the interests of the LLC; (ii) has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the LLC; or (iii) is an elected manager of the LLC. A person is presumed to control a trust if the person is a trustee or managing agent of the trust.

**Management Persons:** Anyone with the power to exercise, directly or indirectly, a controlling influence over your firm's management or policies, or to determine the general investment advice given to the clients of your firm. Generally, all of the following are management persons: Your firm's principal executive officers, such as your chief executive officer, chief financial officer, chief operations officer, chief legal officer, and chief compliance officer; your directors, general partners, or trustees; and other individuals with similar status or performing similar functions; The members of your firm's investment committee or group that determines general investment advice to be given to clients; and If your firm does not have an investment committee or group, the individuals who determine general investment advice provided to clients (if there are more than five people, you may limit your firm's response to their supervisors).

**Person:** A natural person (an individual) or a company. A company includes any partnership, corporation, trust, limited liability company ("LLC"), limited liability partnership ("LLP"), sole proprietorship, or other organization.

**Related Person:** Any advisory affiliate and any person that is under common control with your firm.

**Self-Regulatory Organization or SRO:** Any national securities or commodities exchange, registered securities association, or registered clearing agency. For example, the Chicago Board of Trade ("CBOT"), FINRA and New York Stock Exchange ("NYSE") are self-regulatory organizations.

**Supervised Person:** Any of your officers, partners, directors (or other persons occupying a similar status or performing similar functions), or employees, or any other person who provides investment advice on your behalf and is subject to your supervision or control.

## IV. Advisory Business

### Item IV.(A). Hays Advisory at a Glance

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#### Firm Profile

Based in Brentwood, Tennessee, Hays Advisory invests for the long-term. Founded in 1999, this independent, employee-owned investment firm manages portfolios for both individual and institutional clients. Hays Advisory also offers stock market and economic commentary and research to individual and institutional clients.

Hays Advisory's strategy is to take advantage of opportunities at major market turning points. Because market expectations are often wrong at or near these turning points, emotional decision-making can lead to investor underperformance. Using a tactical asset allocation model, Hays Advisory's strategy attempts to remove emotion from the investment process.

#### Years in Business

Date of formation: November 20, 1999.

Date of initial investment adviser registration: August 3, 2001.

#### Principal Owners

The following party(s) maintains at least 25% direct/indirect ownership in Hays Advisory.

- Donald R. Hays

### IV.(B). Hays Advisory's Advisory Services

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In this section, we will describe the services we offer as well as the fees that correspond to those services.

#### Product Type Limitations

We generally provide investment advice in relation to the following specific types of securities/investments: Exchange listed equities, over the counter equities, equities of foreign issuers, corporate debt securities (other than commercial paper), commercial paper, certificates of deposit, municipal securities, mutual funds (closed-end and open-end funds), exchange traded funds, U.S. government securities, and options on securities.

#### Our Services

The members of Hays Advisory's Investment Committee utilize an asset allocation model methodology to guide our investment management decisions. The Investment Committee is comprised of Don Hays, Keith Hays, Jeff Hays and Mark Dodson. The asset allocation model determines the percentage of assets that are appropriate to invest in equities, bonds and cash at any given time for several different types of investors. The goal of our model-driven discipline is to move more assets away from stocks when the model indicates higher market risk and allocate more assets to stocks while in the early stages of the up cycles. This approach is not a short-term market timing strategy. It is also unlike a typical "style-box" strategy that remains fully invested in all market environments regardless of the risk/reward potential. The approach has an inherent long-term bullish bias, but its tactical nature allows the flexibility to move away from equity positions to cash or bonds when risk is deemed high.

We offer our clients the following investment model portfolio options:

**Long-term Growth-**The Long Term Growth strategy allows for a client's portfolio to be invested in as much as

100% equities with a minimum of 50% when market risk rises. Long-term Growth is an all-capitalization, growth-biased strategy which typically invests in 30 to 40 equity positions at any given time. When our asset allocation model recommends less equity exposure assets may be shifted to an increased cash position or Fixed income allocation.

**Moderate Growth-** The Moderate Growth strategy is balanced in its approach and allows for a client's portfolio to be invested in as much as 85% equities with a minimum of 40% when market risk rises. Moderate Growth is an all-capitalization, growth-biased strategy which typically invests in 30 to 40 equity positions at any given time. When our asset allocation model recommends less equity exposure assets may be shifted to an increased cash position or Fixed income allocation.

**Conservative Growth-** The Conservative Growth strategy is balanced in its approach and allows for a client's portfolio to be invested in as much as 65% equities with a minimum of 30% when market risk rises. Conservative Growth is an all-capitalization, growth-biased strategy which typically invests in 30 to 40 equity positions at any given time. When our asset allocation model recommends less equity exposure assets may be shifted to an increased cash position or Fixed income allocation.

**Pyramid-** The Pyramid strategy allows for a client's portfolio to be invested in as much as 100% equities with a minimum of 50% when market risk rises. This strategy is managed with the same principles as Long Term Growth, however, the Pyramid portfolio has historically been managed with a slightly stricter and at times more aggressive stock selection strategy. This portfolio is not actively marketed as a strategy to clients.

**Global ETF-** The Global ETF strategy allows for a client's portfolio to be invested in as much as 100% equity ETFs with a minimum of 0% when market risk rises with allocation constraints for Domestic ETFs of 0-75% and International ETFs of 0-75%. Global ETF is an actively managed portfolio which typically invests in 15 to 30 positions at any given time. When our asset allocation model recommends less equity exposure assets may be shifted to an increased cash position or Fixed income allocation.

**International ETF-** The International ETF strategy allows for a client's portfolio to be invested in as much as 100% International equity ETFs with a minimum of 0% when market risk rises. International ETF is an actively managed portfolio which typically invests in 7 to 15 positions at any given time. When our asset allocation model recommends less equity exposure assets may be shifted to an increased cash position or Fixed income allocation.

**Domestic ETF-** The Domestic ETF strategy allows for a client's portfolio to be invested in as much as 100% Domestic equity ETFs with a minimum of 0% when market risk rises. Domestic ETF is an actively managed portfolio which typically invests in 7 to 15 positions at any given time. When our asset allocation model recommends less equity exposure assets may be shifted to an increased cash position or Fixed income allocation.

**Tactical Multi Asset Class ETF Portfolio-** The TMAC ETF Portfolio allows for a client's portfolio to be invested in up to 50% equity ETFs. This portfolio may be fully invested in all asset classes using actively managed ETF positions or hold up to 100% cash. The TMAC ETF Portfolio is an actively managed portfolio that strategically utilizes diversification across less-correlated asset classes such as domestic stocks, international stocks, real estate, commodities, and fixed income along with our asset allocation model to try to reduce overall portfolio volatility.

**Tactical Multi Asset Class Equity Focused ETF Portfolio-** The TMAC Equity Focused ETF Portfolio allows for a client's portfolio to be invested in up to 80% equity ETFs. This portfolio may be fully invested in all asset classes using actively managed ETF positions or hold up to 100% cash. The TMAC Equity Focused ETF Portfolio is an actively managed portfolio that strategically utilizes diversification across less-correlated asset classes such as domestic stocks, international stocks, real estate, commodities, and fixed income along with our asset allocation model to try to reduce overall portfolio volatility.

**Tactical Multi Asset Class Index ETF Portfolio-** The TMAC Index ETF Portfolio allows for a client's portfolio to be invested in up to 50% equity Index ETF positions. This portfolio may be fully invested in all asset classes using broad-based Index ETF positions or hold up to 100% cash. The TMAC Index ETF Portfolio is an actively managed portfolio that strategically utilizes diversification across less-correlated asset classes such as domestic stocks, international stocks, real estate, commodities, and fixed income along with our asset allocation model to try to

reduce overall portfolio volatility. This portfolio is not actively marketed as a strategy to clients.

**Tactical Multi Asset Class Leveraged ETF Portfolio-** The TMAC Leveraged ETF Portfolio starts with a 20% base position in five “sleeves” – Domestic Equity, International Equity, Commodities, REITs and Treasury Bonds. Each “sleeve” is allowed to grow to a maximum of 25% of the portfolio. This portfolio may be fully invested in all asset classes using broad-based Index ETF positions or hold up to 100% cash. This portfolio can use up to 2X leveraged index ETFs for the Domestic and International sleeve but it does not leverage the REIT, Commodity or Treasury positions. The TMAC Leveraged ETF Portfolio is an actively managed portfolio that uses an asset allocation model and technical tools called Market Trend Analyzers to identify opportunity and risk. This portfolio is not actively marketed as a strategy to clients.

\*While our goal is to always adhere to the recommended maximum and minimum asset allocation constraints, market conditions or other special situations may cause a greater variance.

All of our discretionary accounts are invested according to one of these model portfolios. Determining which model or models are appropriate for the client is based upon factors such as your investment objectives, risk tolerance, net worth, net income, age, time horizon, tax situation and other various suitability factors.

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Service:	<b><i>Hays Advisory Managed Portfolios</i></b>																		
Service description:	<p>We manage portfolios for both individual and institutional clients through separately managed accounts using Equity, ETF and Balanced portfolios. On a discretionary basis, we may design, revise and reallocate a custom investment portfolio for you.</p> <p>Investments are determined based upon factors such as your investment objectives, risk tolerance, net worth, net income, age, time horizon, tax situation and other various suitability factors.</p>																		
Use of discretion:	<p>Depending on your individual needs and the services you request of us, we may exercise full discretion as to the securities to be bought or sold, the amount of securities to be bought or sold, the timing as to when such securities are to be bought or sold, the broker-dealer and/or custodian to be used, and the commission rates to be paid for securities brokerage activities.</p> <p>We have instituted a practice of “trading away” in which we have the authority to select the executing broker to attempt to receive a more favorable execution price for the client. You should be aware that not all broker-dealers participate in this trading away process. As such, if your broker-dealer does not allow us to trade away, trades for your account will be placed after the trades of other clients whose broker-dealers do allow trade away executions. You should understand that our practice of trading away may result in certain clients paying and receiving different execution prices on the same security. Historical routing information will be made available upon request.</p> <p>Our specific discretionary authority will be described fully in your service agreement (“Agreement”) with us. Please refer also to Item XII for additional information about our brokerage practices.</p>																		
Service fees:	<p>For the service described above, we charge an annual, asset-based fee structure.</p> <table border="1"> <thead> <tr> <th>Account(s)/Portfolio Value</th><th>Annual Percentage</th></tr> </thead> <tbody> <tr> <td>On the first \$1,000,000</td><td>1.40 %</td></tr> <tr> <td>On the next \$2,000,000</td><td>0.75%</td></tr> <tr> <td>On the next \$2,000,000</td><td>0.65%</td></tr> <tr> <td>On assets over \$5,000,000</td><td>0.50%</td></tr> <tr> <td colspan="2">Other fee/account maintenance conditions...</td></tr> <tr> <td>Minimum account/portfolio balance (initial):</td><td> <input type="checkbox"/> None  <input checked="" type="checkbox"/> \$500,000 </td></tr> <tr> <td>Minimum account/portfolio balance (ongoing):</td><td>Should the market value of your account fall below the stated minimum, as agreed to in your Agreement, because of withdrawals, distributions, or your request to transfer account assets, we will have the right to require that additional monies be deposited to bring the account value up to the required minimum, or terminate the account. In some circumstances, minimum account values may be negotiable.</td></tr> <tr> <td>Minimum annual fee:</td><td> <input checked="" type="checkbox"/> None  <input type="checkbox"/> \$ </td></tr> </tbody> </table>	Account(s)/Portfolio Value	Annual Percentage	On the first \$1,000,000	1.40 %	On the next \$2,000,000	0.75%	On the next \$2,000,000	0.65%	On assets over \$5,000,000	0.50%	Other fee/account maintenance conditions...		Minimum account/portfolio balance (initial):	<input type="checkbox"/> None <input checked="" type="checkbox"/> \$500,000	Minimum account/portfolio balance (ongoing):	Should the market value of your account fall below the stated minimum, as agreed to in your Agreement, because of withdrawals, distributions, or your request to transfer account assets, we will have the right to require that additional monies be deposited to bring the account value up to the required minimum, or terminate the account. In some circumstances, minimum account values may be negotiable.	Minimum annual fee:	<input checked="" type="checkbox"/> None <input type="checkbox"/> \$
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Minimum annual fee:	<input checked="" type="checkbox"/> None <input type="checkbox"/> \$																		

Other fees:	<p>In addition to our service fees, you will also pay all account transaction commissions and other trading-related expenses as agreed upon between you and your account custodian. These fees will be paid directly to the custodian and will not be included in our management fee. In addition, you may also incur, relative to certain investment products (such as ETFs), charges imposed directly at the investment product level (i.e. ETFs charge an expense ratio which will be deducted from the daily value of the ETF in your account). The management fee for this type of account is negotiable at our sole discretion. Specific fee arrangements will be described fully in your Agreement with us.</p> <p>Refer to Item V.(E) and Item XII for additional information regarding other fees such as sales compensation, brokerage fees, custodial fees, etc.</p>
Fee collection:	<p>For the services described above, we receive our fees by automatic fee deduction via the custodian unless you otherwise request in writing to be invoiced quarterly. Regardless of the method you choose, you will be solely and directly responsible for all fees, including fees other than those related to the services we provide. Upon execution of the Agreement, you will be signing an authorization that will allow the custodian of any of your account(s) to debit the account(s) the amount of our service fee and remit the fee to us. The authorization will remain valid until we receive a written revocation of such authorization from you. In connection with this fee deduction process, the custodian will send you a statement, at least quarterly, indicating:</p> <ul style="list-style-type: none"> <li>• All amounts disbursed from the account, and</li> <li>• The amount of advisory fees paid directly to us.</li> </ul> <p>Specific fee arrangements will be described fully in your Agreement with us.</p>
Fee frequency/timing:	<p>For the service described above, the frequency and timing of our fee collection process occurs quarterly and in advance. Specific fee arrangements will be described fully in your Agreement with us.</p>
Advanced billing and refunds:	<p>As described above, our advisory fees may be charged in advance. Fees paid in advance will be considered earned and non-refundable to you up to the effective termination of your Agreement with us. The termination process is described in the Agreement. Upon receipt of a proper notice of termination we will calculate a prorated refund of any fees not yet earned by us after the effective termination date of the Agreement. The prorated refund will equal the total number of calendar days remaining in the billing period after the termination date to the end of that billing period divided by the total number of calendar days in that billing period. The result of that calculation will be multiplied by the total fee already paid for that billing period. The result of that calculation will represent the refund owed to you. Refunds shall be paid as soon as reasonably possible but not sooner than ten (10) business days after our receipt of a proper termination notice. Specific fee arrangements will be described fully in your Agreement with us.</p>

Service:	<i>Hays Advisory Wrap Program</i>
Service description:	We manage some accounts under a wrap fee program. This program is closed to new investors. Current clients with open accounts in Hays Advisory's Wrap Program may have the option to open additional accounts in this program. On a discretionary basis,

	<p>we may design, revise and reallocate a custom investment portfolio for you. Investments are determined based upon factors such as your investment objectives, risk tolerance, net worth, net income, age, time horizon, tax situation and other various suitability factors.</p> <p>A wrap fee program is a program that offers participants a suite of services such as asset allocation; portfolio management; trade execution; and certain administrative activities, all for a single fee – typically an annual, asset-based fee. A wrap fee program is designed to assist clients in obtaining professional asset management, brokerage, custodial, and administrative services for a convenient, "wrapped" fee.</p> <p>There are several main roles that can be served in relation to a wrap program.</p> <p><b>Lead Sponsor</b> – The lead sponsor is the investment adviser firm that principally organizes the wrap program and determines which program managers will be made available in the wrap program; which broker-dealers and/or custodians will be used in the wrap program; as well as the overall fee structure for the wrap program. The lead sponsor would also generally coordinate the engagement of other investment advisers (referring parties, or solicitors) who may refer clients of their own to participate in the wrap program. The lead sponsor in some cases may and in some cases may not provide the hands on management of a wrap client's assets within the wrap program. In some cases, the lead sponsor may be responsible for selecting the specific program manager that will be responsible for providing the hands on management of a wrap client's assets within the wrap program.</p> <p><b>Solicitor</b> – A solicitor generally does not serve as the lead sponsor and does not serve as a program manager within the wrap program. The solicitor simply recommends that its clients participate in the wrap program and in some cases, the solicitor may recommend one or more program managers made available within the wrap program. In certain circumstances, a solicitor may also be considered a sponsor but generally not the lead sponsor.</p> <p><b>Program Manager</b> – The program manager(s) are generally investment adviser firms that are responsible for the hands on management of a wrap client's assets within the wrap program. The program managers generally are selected by the lead sponsor as investment advisers available within the wrap program.</p> <p>In relation to wrap programs, we participate in the following manner.</p> <p><input checked="" type="checkbox"/> <b><u>Lead Sponsor and Sole Program Manager</u></b></p> <ul style="list-style-type: none"> <li>• Coordinate and organize the wrap program.</li> <li>• Determine the broker-dealer(s) that will be used in the wrap program.</li> <li>• Determine the custodian(s) that will be used in the wrap program.</li> <li>• Determine the overall fee structure for the wrap program.</li> <li>• Coordinate the engagement of solicitors.</li> <li>• Provide the hands on management (discretionary) of a wrap client's program assets. Our services in connection with our wrap fee program will not differ materially from our discretionary ongoing asset management services with the exception of the wrap fee component. We may design, revise, and reallocate a custom investment portfolio for you. Investments are determined based upon factors such as your investment objectives, risk tolerance, net worth, net income, age, time horizon, tax situation and other various suitability factors.</li> </ul> <p>We will offer a wrap fee brochure or other appropriate disclosure document to any advisory clients who are recommended to participate in a wrap program. The wrap fee</p>
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	brochure provides wrap program participants with important information about the wrap fee program itself. A wrap program participant should consider all of the information within the wrap fee brochure before participating in a wrap fee program.																				
Use of discretion:	<p>Depending on your individual needs and the services you request of us, we may exercise full discretion as to the securities to be bought or sold, the amount of securities to be bought or sold, the timing as to when such securities are to be bought or sold, the broker-dealer and/or custodian to be used, and the commission rates to be paid for securities brokerage activities.</p> <p>We have instituted a practice of “trading away” in which we have the authority to select the executing broker to attempt to receive a more favorable execution price for the client. You should be aware that not all broker-dealers participate in this trading away process. As such, if your broker-dealer does not allow us to trade away, trades for your account will be placed after the trades of other clients whose broker-dealers do allow trade away executions. You should understand that our practice of trading away may result in certain clients paying and receiving different execution prices on the same security. Historical routing information will be made available upon request.</p> <p>Our specific discretionary authority will be described fully in your Agreement with us. Please refer also to Item XII for additional information about our brokerage practices.</p>																				
Service fees:	<p>For the service described above, we charge an annual, asset-based fee structure.</p> <table border="1"> <thead> <tr> <th>Account Asset Value</th><th>Fee Rate*</th></tr> </thead> <tbody> <tr> <td>\$0 to \$249,999</td><td>2.00 %</td></tr> <tr> <td>\$250,000 to \$499,999</td><td>1.75%</td></tr> <tr> <td>\$500,000 to \$999,999</td><td>1.50%</td></tr> <tr> <td>\$1,000,000 to 1,999,999</td><td>1.25%</td></tr> <tr> <td>2,000,000 to \$4,999,999</td><td>1.00%</td></tr> <tr> <td>\$5,000,000 and up</td><td>Negotiable</td></tr> </tbody> </table> <p>Other fee/account maintenance conditions...</p> <table border="1"> <tr> <td>Minimum account/portfolio balance (initial):</td><td> <input type="checkbox"/> None  <input checked="" type="checkbox"/> \$500,000 </td></tr> <tr> <td>Minimum account/portfolio balance (ongoing):</td><td>           Should the market value of your account fall below the stated minimum, as agreed to in your Agreement, because of withdrawals, distributions, or your request to transfer account assets, we will have the right to require that additional monies be deposited to bring the account value up to the required minimum, or terminate the account. In some circumstances, minimum account values may be negotiable. </td></tr> <tr> <td>Minimum annual fee:</td><td> <input checked="" type="checkbox"/> None  <input type="checkbox"/> \$ </td></tr> </table> <p>*Fee rate applies to the total account value. Example - \$4,000,000 x 1.00% =\$40,000</p> <p>All fee arrangements are negotiable at our sole discretion. Specific fee arrangements</p>	Account Asset Value	Fee Rate*	\$0 to \$249,999	2.00 %	\$250,000 to \$499,999	1.75%	\$500,000 to \$999,999	1.50%	\$1,000,000 to 1,999,999	1.25%	2,000,000 to \$4,999,999	1.00%	\$5,000,000 and up	Negotiable	Minimum account/portfolio balance (initial):	<input type="checkbox"/> None <input checked="" type="checkbox"/> \$500,000	Minimum account/portfolio balance (ongoing):	Should the market value of your account fall below the stated minimum, as agreed to in your Agreement, because of withdrawals, distributions, or your request to transfer account assets, we will have the right to require that additional monies be deposited to bring the account value up to the required minimum, or terminate the account. In some circumstances, minimum account values may be negotiable.	Minimum annual fee:	<input checked="" type="checkbox"/> None <input type="checkbox"/> \$
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Minimum annual fee:	<input checked="" type="checkbox"/> None <input type="checkbox"/> \$																				

	will be described fully in your Agreement with us.
Other fees:	<p>You may also incur, relative to certain investment products (such as ETFs), charges imposed directly at the investment product level (i.e. ETFs charge an expense ratio which will be deducted from the daily value of the ETF in your account). The management fee for this type of account is negotiable at our sole discretion. Specific fee arrangements will be described fully in your Agreement with us.</p> <p>Refer to Item V.(E) and Item XII for additional information regarding other fees such as sales compensation, brokerage fees, custodial fees, etc.</p> <p>In the event of a withdrawal of funds or the termination of an account, any fees, commissions or other expenses associated with rebalancing or liquidating the account's holdings may be assessed to your account.</p>
Fee collection:	<p>For the services described above, we receive our fees by automatic fee deduction via the custodian unless you otherwise request in writing to be invoiced quarterly. Regardless of the method you choose, you will be solely and directly responsible for all fees, including fees other than those related to the services we provide. Upon execution of the Agreement, you will be signing an authorization that will allow the custodian of any of your account(s) to debit the account(s) the amount of our service fee and remit the fee to us. The authorization will remain valid until we receive a written revocation of such authorization from you. In connection with this fee deduction process, the custodian will send you a statement, at least quarterly, indicating:</p> <ul style="list-style-type: none"> <li>• all amounts disbursed from the account, and</li> <li>• the amount of advisory fees paid directly to us.</li> </ul> <p>Specific fee arrangements will be described fully in your Agreement with us.</p>
Fee frequency/timing:	For the service described above, the frequency and timing of our fee collection process occurs quarterly and in advance. Specific fee arrangements will be described fully in your Agreement with us.
Advanced billing and refunds:	<p>As described above, our advisory fees may be charged in advance. Fees paid in advance will be considered earned and non-refundable to you up to the effective termination of your Agreement with us. The termination process is described in the Agreement. Upon receipt of a proper notice of termination, we will calculate a prorated refund of any fees not yet earned by us after the effective termination date of the Agreement. The prorated refund will equal the total number of calendar days remaining in the billing period after the termination date to the end of that billing period divided by the total number of calendar days in that billing period. The result of that calculation will be multiplied by the total fee already paid for that billing period. The result of that calculation will represent the refund owed to you. Refunds shall be paid as soon as reasonably possible but not sooner than ten (10) business days after our receipt of a proper termination notice. In the event of a withdrawal of funds or the termination of an account, any fees, commissions (not charged or earned by Hays Advisory) or other expenses associated with rebalancing or liquidating the account's holdings may be assessed against your account. Specific fee arrangements will be described fully in your Agreement with us.</p>

Service:	<i>Third Party Wrap Program</i>
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Service description:	We also participate as a portfolio manager of separately managed accounts in several third-party wrap programs. On a discretionary basis, we may design, revise and reallocate a custom investment portfolio for you. Investments are determined based upon factors such as your investment objectives, risk tolerance, net worth, net income, age, time horizon, tax situation and other various suitability factors.								
Use of discretion:	<p>Depending on your individual needs and the services you request of us, we may exercise full discretion as to the securities to be bought or sold, the amount of securities to be bought or sold, the timing as to when such securities are to be bought or sold, the broker-dealer and/or custodian to be used, and the commission rates to be paid for securities brokerage activities.</p> <p>We have instituted a practice of “trading away” in which we have the authority to select the executing broker to attempt to receive a more favorable execution price for the client. You should be aware that not all broker-dealers participate in this trading away process. As such, if your broker-dealer does not allow us to trade away, trades for your account will be placed after the trades of other clients whose broker-dealers do allow trade away executions. You should understand that our practice of trading away may result in certain clients paying and receiving different execution prices on the same security. Historical routing information will be made available upon request.</p> <p>Our specific discretionary authority will be described fully in your Agreement with us. Please refer also to Item XII for additional information about our brokerage practices.</p>								
Service fees:	<p>A wrap fee generally includes execution and custodial services provided by the wrap program sponsor. We typically serve in the role of sub-advisor through the wrap program and receive annual fees from .25% - .50% of the value of accounts participating in a third-party wrap program. You should review the sponsor’s disclosure brochure for details regarding any specific wrap program.</p> <table border="1"> <thead> <tr> <th colspan="2">Other fee/account maintenance conditions...</th> </tr> </thead> <tbody> <tr> <td>Minimum account/portfolio balance (initial):</td><td> <input type="checkbox"/> None  <input checked="" type="checkbox"/> \$50,000 - \$100,000 depending on the particular program </td></tr> <tr> <td>Minimum account/portfolio balance (ongoing):</td><td>Should the market value of your account fall below the stated minimum, as agreed to in your Agreement with us (if applicable), because of withdrawals, distributions, or your request to transfer account assets, we will have the right to require that additional monies be deposited to bring the account value up to the required minimum, or terminate the account. In some circumstances, minimum account values may be negotiable.</td></tr> <tr> <td>Minimum annual fee:</td><td> <input checked="" type="checkbox"/> None  <input type="checkbox"/> \$ </td></tr> </tbody> </table>	Other fee/account maintenance conditions...		Minimum account/portfolio balance (initial):	<input type="checkbox"/> None <input checked="" type="checkbox"/> \$50,000 - \$100,000 depending on the particular program	Minimum account/portfolio balance (ongoing):	Should the market value of your account fall below the stated minimum, as agreed to in your Agreement with us (if applicable), because of withdrawals, distributions, or your request to transfer account assets, we will have the right to require that additional monies be deposited to bring the account value up to the required minimum, or terminate the account. In some circumstances, minimum account values may be negotiable.	Minimum annual fee:	<input checked="" type="checkbox"/> None <input type="checkbox"/> \$
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Minimum annual fee:	<input checked="" type="checkbox"/> None <input type="checkbox"/> \$								
Other fees:	You may also incur, relative to certain investment products (such as ETFs), charges imposed directly at the investment product level (i.e. ETFs charge an expense ratio which will be deducted from the daily value of the ETF in your account). The management fee for this type of account is negotiable at our sole discretion. Specific fee arrangements will be described fully in your Agreement with us. Refer to Item V.(E) and Item XII for additional information regarding other fees such as sales compensation, brokerage fees, custodial fees, etc.								
Fee frequency/timing/collection:	For the services described above, depending on the particular program, the wrap fee you pay may also include our service fee, which would be payable by the sponsor to us.								

	<p>Other programs may require us to enter into a separate agreement with you, in which case you would pay us directly by automatic fee deduction via the custodian unless you otherwise request in writing to be invoiced quarterly. Regardless of the designated method, you will be solely and directly responsible for all fees, including fees other than those related to the services we provide. Upon execution of the Agreement, you will be signing an authorization that will allow the custodian of any of your account(s) to debit the account(s) the amount of our service fee and remit the fee to us. The authorization will remain valid until we receive a written revocation of such authorization from you. In connection with this fee deduction process, the custodian will send you a statement, at least quarterly, indicating:</p> <ul style="list-style-type: none"> <li>• All amounts disbursed from the account, and</li> <li>• The amount of advisory fees paid directly to us.</li> </ul> <p>Specific fee arrangements will be described fully in your Agreement with us.</p>
Advanced billing and refunds:	<p>As described above, our advisory fees may be charged in advance. Fees paid in advance will be considered earned and non-refundable to you up to the effective termination of your Agreement with us. The termination process is described in the Agreement. Upon receipt of a proper notice of termination, we will calculate a prorated refund of any fees not yet earned by us after the effective termination date of the Agreement. The prorated refund will equal the total number of calendar days remaining in the billing period after the termination date to the end of that billing period divided by the total number of calendar days in that billing period. The result of that calculation will be multiplied by the total fee already paid for that billing period. The result of that calculation will represent the refund owed to you. Refunds shall be paid as soon as reasonably possible but not sooner than ten (10) business days after our receipt of a proper termination notice.</p> <p><i>Use of other Investment Advisers:</i></p> <p>If another investment adviser(s) is used to manage your assets, any available refund process for fees that may be collected in advance will be dictated by such other investment adviser's disclosure document(s) and/or service agreement(s) with you.</p> <p>Specific fee arrangements will be described fully in your Agreement with us.</p>

Service:	<b><i>Recommendations for use by Other Financial Entities</i></b>
Service description:	We also provide Model Portfolio recommendations to broker/dealers, investment advisers, or other financial services companies who, in turn, offer the Model Portfolio to their respective clients.
Use of discretion:	Model Portfolio recommendations are provided on a non-discretionary basis and we have no supervisory or oversight responsibilities with regards to the clients' assets invested according to the Model Portfolio.
Service fees:	Fees for Model Portfolio recommendations are negotiable and we do not maintain a standard fee schedule for such services.
Fee frequency/timing/ collection:	For the services described above, your broker/dealer, investment adviser, or other financial services company will make arrangements with you to invoice you or automatically deduct our service fee from your account, which would be payable by the that firm to us. Specific fee arrangements will be described fully in your agreement with your financial advisor, broker/dealer and/or custodian.
Advanced billing and refunds:	Specific fee arrangements will be described fully in your agreement with your financial advisor, broker/dealer and/or custodian.

Service:	<b><i>Preparation of Research Reports or other Publications</i></b>
Service description, fees, fee collection, and refunds:	<p>We provide stock market and economic commentary and research to individual and institutional clients. These materials may be utilized by our clients in their own investment decision-making processes.</p> <p><b><u>Individual Subscription</u></b> The Individual subscription provides subscribers with 1 – 2 stock market or economic commentaries per week with a guarantee of 80 reports a year. In addition, subscribers have access to over 50 market related charts and our sector analysis.</p> <p><b>Service Fees-Individual Subscription</b></p> <p>The Individual subscription is \$250 annually or \$35 monthly. The annual subscription fee is not negotiable and is paid yearly in advance of publication. There is no early cancellation/ refund policy for this type of subscription. Subscribers will be opted into an auto-renewal process for future renewals (this applies only to the annual Individual Subscription). Subscribers will have a chance to opt-out of this auto-renewal process via a notice that will be sent 14 days prior to each renewal.</p> <p><b><u>Institutional Subscription</u></b> The Institutional subscription provides users with at least 140 market related reports a year. In addition, users have personal access to Don Hays and other members of our investment committee.</p> <p><b>Service Fees-Institutional Subscription</b> The Institutional subscription may be purchased for an annual subscription fee of \$20,000 for up to five users. Each additional user is \$1,000. The annual subscription</p>



	fee is negotiable and paid either annually, semi-annually, or quarterly, in advance. The subscription for the research service may be canceled by written notice. Upon cancellation, a prorated portion of the subscription fee less a \$100 administration fee will be refunded.
Other fees:	Aside from the fees described above, it is not anticipated that you will experience any additional fees as a result of receiving this service.  Refer to Item V.(E) and Item 12 for additional information regarding other fees such as sales compensation, brokerage fees, custodial fees, etc.
Use of discretion:	We will not possess or exercise investment discretion in relation to this service type.

#### **IV.(C). Customization of Advisory Services**

To the fullest extent possible, we will endeavor to tailor our advisory services to meet the specific needs of each and every client. In order to determine a suitable course of action for you, we will perform a review of your financial circumstances and other factors that may influence the investment recommendations we may make from time to time. Such review may include, but would not necessarily be limited to, investment objectives, consideration of your overall financial condition, income and tax status, personal and business assets, risk profile, and other factors unique to your particular circumstances.

In making investment recommendations on your behalf, we will rely on a data gathering document or other questionnaire, which would be completed based on information you provide.

You are allowed to place reasonable restrictions upon the investments held in your account(s). We consider reasonable restrictions to include those that do not affect more than 10% of the model holdings. If restrictions affect more than 10% of the model holdings, we reserve the right to refuse or terminate the account at our discretion. Also, a restriction placed on a specific stock, industry group or sector is considered reasonable. An example of a restriction that would be deemed unreasonable would be a restriction against owning/buying a security that is below \$10 /share or restricting owning/buying companies whose ticker symbols start with "T."

#### **IV.(D). Wrap Fee Program Participation**

Refer to item IV.(B). above as well as our separate wrap brochure for details as to our participation/involvement with wrap programs.

#### **IV. (E). Assets Under Management<sup>1</sup> ("AUM")**

AUM (discretionary): \$818,039,880  
AUM (non-discretionary): \$0  
Total AUM: \$818,039,880  
Date of AUM calculation: December 31, 2011

### **V. Fees and Compensation**

#### **V.(A). Hays Advisory Fees**

Refer above to Item IV.(B).

<sup>1</sup> The term, "assets under management" shall carry the same meaning as that term is defined by Form ADV.

## **V.(B). Fee Collection Process**

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Refer above to Item IV.(B).

## **V.(C). Other Fee/Expenses.**

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Refer above to Item IV.(B).

## **V.(D). Fees Charged in Advance**

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Refer above to Item IV.(B).

## **V.(E). Additional Compensation**

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We do not charge or share in brokerage commissions. When trades are made in your account, any brokerage commission is paid to the broker effecting the trade in accordance with its “posted” commission rates. We will not sign any agreements with broker-dealers for processing or placing trades for client’s investments. These agreements are between you and your broker-dealer.

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

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We do not charge performance-based fees.

## **VII. Types of Clients**

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We will generally provide our services to the following types of clients:

- Individuals
- High net worth individuals
- Municipal or government entities
- Pension plans / profit sharing plans
- Foundations / charitable organizations
- Trusts for natural persons
- Estates for natural persons
- Other investment advisers
- Banking or thrift institutions
- Broker-dealers

For information on any minimum fees, minimum initial/ongoing account balances, or other conditions we may impose, please refer to Item IV.(B).

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

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## **VIII.(A). Methods of Analysis**

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In the course of our management process, the Investment Committee implements the Hays Asset Allocation model which largely depends on technical and quantitative methods of analysis. We closely examine numerous market indicators in three main categories: Investor Psychology, Monetary Conditions, and Market Valuation. Correlated to past market performance, these indicators are measured, scored, and weighted based on their historical utility and produce the firm’s long-term market outlook. At its core, this quantitative model’s indicators are designed to reveal how investors feel, how liquidity can impact the market, and how equities are valued. These categories are

complimented by the fourth leg of the Hays investment process: the Market Trend Analyzer, a proprietary tool that utilizes moving averages and price movement to recommend defensive moves in the portfolio in the event significant market declines occur when the core indicators are not suggesting a defensive stance.

This unemotional approach directs the asset allocation moves of the Investment Committee; there is very little subjectivity involved. The model makes it possible to raise cash when data suggests market risks are high and then add to equity positions as the long-term outlook improves.

After the members of Investment Committee decide how to divide money between the different asset classes, it performs additional fundamental/quantitative and technical screens designed to identify individual stocks which are potentially attractive investments for our clients' accounts.

Lastly, Investment Committee members examine several factors including technical and fundamental analysis to determine which stock among these candidates will be added to the portfolios.

In general, we use fundamental/quantitative and technical analysis to determine if a position is vulnerable to decline. Similar to our purchase considerations, we are regularly monitoring specific indicators of the stocks that we own. If we see significant deterioration in one or more of these, we will examine the stock's technical characteristics. Finally, we will consider our market analysis as well as overbought/oversold condition to determine if a position needs to be sold.

#### **Charting / Technical –**

The terms “charting” and “technical” analysis are generally used synonymously and therefore, for the purpose of this document, we will use the term, “technical analysis.” In most cases, technical analysis involves the evaluation of historical market data such as price and volume of a particular security or investment instrument. Technical analysis often times involves the use of charts, graphs, and other tools to evaluate historical factors relating to the investment instrument and perhaps the market as a whole. The goal of technical analysis is to try to identify historical trading patterns that suggest future trading activity or price targets. We specifically examine moving averages and relative strength in our investment process.

Key risk(s): Economic Risk, Financial Risk, Inflation Risk, Interest Rate Risk, Legal/Regulatory Risk, Market Risk, Operational Risk, and Strategy Risk.

#### **Fundamental**

Fundamental analysis is generally the considered the opposite approach to technical analysis. Fundamental analysis involves the attempt to identify the intrinsic value (i.e. the actual, true/real value) of an investment instrument by examining any related economic, financial, and other quantitative/qualitative factors relevant to that instrument. Fundamental analysis can take into account anything that may impact the underlying value of the instrument. Examples of such things may include large-scale economic issues such as the overall condition or current cycle of the economy, industry-specific or sector-specific conditions, etc. Other company/issuer-specific factors may also be taken into consideration such as the company's/issuer's current financial condition, management experience and capabilities, legal/regulatory matters, the overall type and volume of current and expected business, etc.

One of the goals of fundamental analysis is to attempt to derive a value that can be compared to the current market price for a particular financial instrument in hopes of determining whether the instrument is overpriced (time to sell) or underpriced (time to buy). We specifically analyze relative valuation and focus on stocks with a strong return on capital and earnings yield.

Key risk(s): Economic Risk, Financial Risk, Inflation Risk, and Interest Rate Risk.

Investing in securities or other investment products involves the risk of loss and you should be prepared to bear such losses.

## **VIII.(A). (cont.) Investment Strategies**

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In the course of our management process and as appropriate on a case by case basis, we will employ any of the following investment strategies. For a description of the risks related to each particular investment strategy, see the information following each strategy description. The codes used below relate to risks described further below in this section.

### **Long-Term Purchases**

Long-term purchases generally involve the acquisition of an investment instrument and holding it for a period of at least one year.

Key risk(s): Capital Risk, Economic Risk, Financial Risk, Inflation Risk, Interest Rate Risk, Legal/Regulatory Risk, Liquidity Risk, Market Risk, Operational Risk, Strategy Risk.

### **Short-Term Purchases**

Short-term purchases generally involve the acquisition of an investment instrument and holding it for a period of not more than one year.

Key risk(s): Capital Risk, Economic Risk, Financial Risk, Higher Trading Costs, Interest Rate Risk, Legal/Regulatory Risk, Liquidity Risk, Market Risk, Operational Risk, Strategy Risk.

### **Trading**

Trading generally involves the acquisition of an investment instrument and holding it for a period of at not more than thirty days.

Key risk(s): Capital Risk, Economic Risk, Financial Risk, Higher Trading Costs, Interest Rate Risk, Legal/Regulatory Risk, Liquidity Risk, Market Risk, Operational Risk, Strategy Risk.

### **Margin Trading**

Margin trading, or “trading on margin,” as it is generally stated, involves the ability to purchase a dollar value of securities that is greater than the dollar value of funds you have available for the purchase. Essentially, trading on margin means that you can borrow additional funds, generally from the firm that holds your brokerage account, to purchase investment instruments that exceed the amount with which you have funded your account.

Key risk(s): Capital Risk, Economic Risk, Financial Risk, Interest Rate Risk, Legal/Regulatory Risk, Liquidity Risk, Margin Risk, Market Risk, Operational Risk, Strategy Risk.

### **Option Writing** (including covered/uncovered options or spreading strategies)

We will also employ the use of options trading in the event that such trading complements an investment strategy we may be carrying out for a particular client. An option is the right either to buy or sell a specified amount or value of a particular underlying investment instrument at a fixed price (i.e. the “exercise price”) by exercising the option before its specified expiration date. Options giving you the right to buy are called “call” options. Options giving you the right to sell are called “put” options. When trading options on behalf of a client, we may use covered or uncovered options or various strategies such as spreads and straddles. Covered options involve options trading when you own the underlying instrument on which the option is based. Uncovered options involve options trading when you do not own the underlying instrument on which the option is based. Spread options are options whose values are derived from the difference in price of two different underlying assets or components.

Key risk(s): Capital Risk, Economic Risk, Financial Risk, Higher Trading Costs, Interest Rate Risk, Legal/Regulatory Risk, Liquidity Risk, Market Risk, Operational Risk, Strategy Risk.

Investing in securities or other investment products involves the risk of loss and you should be prepared to bear such losses.

## **VIII.(B). Risk Disclosures**

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### **Capital Risk**

Capital risk is one of the most basic, fundamental risks of investing; it is the risk that you may lose 100 percent of your money. All investments carry some form of risk and the loss of capital is generally a risk for any investment instrument.

### **Credit Risk**

Credit risk can be a factor in situations where an investment's performance relies on a borrower's repayment of borrowed funds. With credit risk, an investor can experience a loss or unfavorable performance if a borrower does not repay the borrowed funds as expected or required. Investment holdings that involve forms of indebtedness (i.e. borrowed funds) are subject to credit risk.

### **Currency Risk**

Fluctuations in the value of the currency in which your investment is denominated may affect the value of your investment and thus, your investment may be worth more or less in the future. All currency is subject to swings in valuation and thus, regardless of the currency denomination of any particular investment you own, currency risk is a realistic risk measure. That said, currency risk is generally a much larger factor for investment instruments denominated in currencies other than the most widely used currencies (U.S. dollar, British pound, Euro, Japanese yen, etc.).

### **Economic Risk**

The prevailing economic environment is important to the health of all businesses. Some companies, however, are more sensitive to changes in the domestic or global economy than others. These types of companies are often referred to as cyclical businesses. Countries in which a large portion of businesses are in cyclical industries are thus also very economically sensitive and carry a higher amount of economic risk. If an investment is issued by a party located in a country that experiences wide swings from an economic standpoint or in situations where certain elements of an investment instrument are hinged on dealings in such countries, the investment instrument will generally be subject to a higher level of economic risk.

### **Financial Risk**

Financial risk is represented by internal disruptions within an investment or the issuer of an investment that can lead to unfavorable performance of the investment. Examples of financial risk can be found in cases like Enron or many of the "dot com" companies that were caught up in a period of extraordinary market valuations that were not based on solid financial footings of the companies.

### **Higher Trading Costs**

For any investment instrument or strategy that involves active or frequent trading, you may experience larger than usual transaction-related costs. Higher transaction-related costs can negatively affect overall investment performance.

### **Inflation Risk**

Inflation risk involves the concern that in the future, your investment or proceeds from your investment will not be worth what they are today. Throughout time, the prices of resources and end-user products generally increase and thus, the same general goods and products today will likely be more expensive in the future. The longer an investment is held, the greater the chance that the proceeds from that investment will be worth less in the future than what they are today. Said another way, a dollar tomorrow will likely get you less than what it can today.

### **Interest Rate Risk**

Certain investments involve the payment of a fixed or variable rate of interest to the investment holder. Once an investor has acquired or has acquired the rights to an investment that pays a particular rate (fixed or variable) of interest, changes in overall interest rates in the market will affect the value of the interest-paying investment(s) they hold. In general, changes in prevailing interest rates in the market will have an inverse relationship to the value of existing, interest paying investments. In other words, as interest rates move up, the value of an instrument paying a particular rate (fixed or variable) of interest will go down. The reverse is generally true as well.

**Legal/Regulatory Risk**

Certain investments or the issuers of investments may be affected by changes in state or federal laws or in the prevailing regulatory framework under which the investment instrument or its issuer is regulated. Changes in the regulatory environment or tax laws can affect the performance of certain investments or issuers of those investments and thus, can have a negative impact on the overall performance of such investments.

**Liquidity Risk**

Certain assets may not be readily converted into cash or may have a very limited market in which they trade. Thus, you may experience the risk that your investment or assets within your investment may not be able to be liquidated quickly, thus, extending the period of time by which you may receive the proceeds from your investment. Liquidity risk can also result in unfavorable pricing when exiting (i.e. not being able to quickly get out of an investment before the price drops significantly) a particular investment and therefore, can have a negative impact on investment returns.

**Margin Risk**

- You can lose more funds than you deposit in a margin account. A decline in value of securities that are purchased on margin may require you to provide additional funds to the custodian holding your margin account in order to avoid a forced sale of those securities or other securities in your account.
- The custodian holding your margin account can force the sale of securities in your margin account. If the equity in your account falls below the margin maintenance level required by law or below the custodian's "house" requirement, the custodian can sell the securities in your account to cover the margin deficiency. You will be responsible for any shortfall in the account after such sale.
- Securities can be sold without contacting you prior to sale. Some investors mistakenly believe they must be contacted before a margin call becomes valid and that securities in their accounts cannot be liquidated to meet the call unless they have been contacted ahead of time. Most firms will attempt to notify you of margin calls, however, they are not required to do so. Even if the custodian has contacted you to provide a specific date by which you can meet a margin call, the custodian can still take necessary steps to protect its financial interests, including immediately selling the securities without notice to you.
- You are not entitled to choose which securities in your margin account are liquidated or sold to meet your margin call. Because the securities are used as collateral for the margin loan, the custodian has the right to decide which securities to sell in order to protect its interests.
- The custodian can increase its "house" maintenance requirement at any time and is not required to provide you with advance, written notice. These changes in policy can take effect immediately and may result in the issuance of a margin maintenance call. Your failure to satisfy this call may cause a forced liquidation in your account.
- You are not entitled to an extension of time on a margin call. While an extension of time to meet margin requirements may be available to clients under certain conditions, a client does not have the right to the extension.

**Market Risk**

The market value of an investment will fluctuate as a result of the occurrence of the natural economic forces of supply and demand on that investment, its particular industry or sector, or the market as a whole. Market risk may affect a single issuer, industry or sector of the economy or may affect the market as a whole. Market risk can affect any investment instrument or the underlying assets or other instruments held by or traded within that investment instrument.

**Operational Risk**

Operational risk can be experienced when an issuer of an investment product is unable to carry out the business it has planned to execute. Operational risk can be experienced as a result of human failure, operational inefficiencies, system failures, or the failure of other processes critical to the business operations of the issuer or counter party to the investment.

### Past Performance

Charting and technical analysis are often used interchangeably. Technical analysis generally attempts to forecast an investment's future potential by analyzing its past performance and other related statistics. In particular, technical analysis often times involves an evaluation of historical pricing and volume of a particular security for the purpose of forecasting where future price and volume figures may go. As with any investment analysis method, technical analysis runs the risk of not knowing the future and thus, investors should realize that even the most diligent and thorough technical analysis cannot predict or guarantee the future performance of any particular investment instrument or issuer.

### Strategy Risk

There is no guarantee that the investment strategies discussed in this document will work under all market conditions and you should evaluate your ability to maintain any investment you are considering in light of your own investment time horizon. Investments are subject to risk, including possible loss of principal.

## VIII.(C). Investment-Specific Risks

There is no single type of investment instrument that we predominantly recommend, however, please be mindful that all investments carry some form and degree of risk. Certain types of investments carry greater types and levels of risk than others and you should make sure that you fully understand not only the investment product itself but also the attendant risk factors associated with such products.

## IX. Disciplinary Information

The purpose of this section is for us to disclose to you any legal, disciplinary, or other events that you may consider material in your evaluation of our firm or the integrity of our management. Following each of the items below, we shall provide details as to each applicable matter or we will answer "No." This information is presented in a question and answer format. The time period required to be covered by our answers in this section is ten years from the date of the events requiring disclosure.

### IX.(A). Criminal or Civil Action

In any domestic, foreign, or military court of competent jurisdiction, has Hays Advisory or any of its management persons...		
Been 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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Been identified as 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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Been found to have been involved in a violation of an investment-related statute or regulation; or	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Been 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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

## IX.(B). Administrative Proceedings

Has Hays Advisory or any of its management persons been the subject of an administrative proceeding before the SEC, any other federal regulatory agency, any state regulatory agency, or any foreign financial regulatory authority in which Hays Advisory or any of its management persons...		
Was found to have caused an investment-related business to lose its authorization to do business; or	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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...		
denying, suspending, or revoking the authorization of Hays Advisory or one of its management persons to act in an investment-related business;	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
barring or suspending Hays Advisory or one of its management person's association with an investment-related business;	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
otherwise significantly limiting Hays Advisory or one of its management person's investment-related activities; or	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
imposing a civil money penalty of more than \$2,500 on Hays Advisory or one of its management persons?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

## IX.(C). SRO Proceedings

Has Hays Advisory or any of its management persons been involved in a SRO proceeding in which Hays Advisory or any of its management persons ...		
Was found to have caused an investment-related business to lose its authorization to do business; or	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

## X. Other Financial Industry Activities and Affiliations

The following information will address any active or pending financial industry affiliations that you need to know about for the purpose of identifying any related conflicts of interest that you might consider material in regard to letting us handle your investment advisory needs.

### X.(A). Broker-Dealers

Neither Hays Advisory nor any of our management persons is registered as a broker-dealer nor do either parties have an application pending or otherwise in process for the purpose of seeking registration as a broker-dealer. Further, none of our management persons are registered as or currently seeking registration as a registered representative of a broker-dealer.

### X.(B). Futures Commission Merchants, Introducing Brokers, Commodity Trading Advisors, Commodity Pool Operators

Neither Hays Advisory nor any of our management persons is registered as a futures commission merchant, an introducing broker, a commodity trading adviser, or a commodity pool operator, nor do either parties have an application pending or otherwise in process for the purpose of seeking registration as any of these types of firms.



Further, none of our management persons are registered as or currently seeking registration as associated persons of any of these types of firms.

## **X.(C). Related Persons**

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The purpose of this section is to address any relationship or arrangement (that is material to (1) our advisory business or (2) our clients) that we or any of our management persons have with any of our related persons that meet certain categories as identified by the Form ADV. Those categories are listed below and in the event that we have a related person that is included in one of those categories, we will address not only the relationship or arrangement that is material to our advisory business or our clients but also any conflict(s) arising out of this relationship/arrangement and how we address such conflict(s). It should be understood that if the checkbox immediately preceding a category is unselected, that category shall be deemed not applicable for the purpose of this item X.(C).

- ☐ Broker-dealer, municipal securities dealer, or government securities dealer or broker
- ☐ 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)
- ☐ Other investment adviser or financial planner
- ☐ Futures commission merchant, introducing broker, commodity pool operator, or commodity trading advisor
- ☐ Banking or thrift institution
- ☐ Accountant or accounting firm
- ☐ Lawyer or law firm
- ☐ Insurance company or agency
- ☐ Pension consultant
- ☐ Real estate broker or dealer
- ☐ Sponsor or syndicator of limited partnerships

## **X.(D) Use of Other Investment Advisers**

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In the course of managing our TMAC featuring Alphadex ETF portfolio and Global ETF portfolio, we have informally joined in a strategic partnership with First Trust Advisors, L.P., an unaffiliated third-party, in which we may purchase for your account securities issued by First Trust. First Trust is sharing with us the role of marketing our TMAC featuring Alphadex strategy and Global ETF strategy to various broker/dealers for inclusion in Separately Managed Accounts platforms. You should be aware that we may choose to purchase First Trust’s ETFs even though other similar securities may be suitable for your account. You should also be aware that we may receive material benefits as a result of First Trust’s marketing effort in that new clients may hire us to manage their accounts using our TMAC featuring Alphadex strategy or Global ETF Strategy. Solely at our own discretion, not all clients’ accounts invested according to the TMAC or Global model may own First Trust ETFs. While we believe other similar securities to be comparable, clients’ returns may or may not be different.

We address this conflict by disclosing it to you in this brochure. As a matter of policy, we aggressively discourage activities that put your interests anywhere but first. Additionally, we have instituted a comprehensive supervisory process, detailed in our Written Supervisory Procedures (“WSPs”) that was designed to address, among other things, conflicts of interest such as the relationship between our Firm and First Trust Advisors, L.P. In addition, we have designated a Chief Compliance Officer, as set forth on Schedule A of our Form ADV, to be the party responsible for

the overall application and oversight of our supervisory process and our WSPs. Our Chief Compliance Officer has the authority to delegate certain supervisory responsibilities to other supervised persons within our firm in order to ensure that our overall system of supervision is being carried adequately out and in a timely manner.

As we stated above, in an effort to inform you of these conflicts of interest, we have prepared this Brochure and have provided it to you, in part, for the purpose of disclosing these conflicts. You are always welcome to request a current copy of our Brochure. We are obligated to provide you a copy of this Brochure no later than the time you sign our Agreement and on an annual basis, we are required to provide you either (1) a copy of our current Brochure or (2) a set of instructions as to how you can request a copy of our current Brochure.

## **XI. Code of Ethics, Participation or Interest in Client Transactions and Personal Trading**

### **XI.A Code of Ethics**

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We take great pride in our commitment to serving our clients' needs and the integrity with which we conduct our business. In our recent history, the financial services industry has come under significant scrutiny, especially in the area of the inherent responsibility of financial professionals to behave in the best interests of their clients.

We have developed a Code of Ethics ("Code") as a means of memorializing our vision of appropriate and professional conduct in carrying out the business of providing investment advisory services. Our Code addresses issues such as the following:

- Standards of conduct and compliance with applicable laws, rules, and regulations
- Protection of material non-public information
- The addressing of conflicts of interest
- Employee disclosure and reporting of personal securities holdings and transactions
- The firm's IPO and private placement policy
- The reporting of violations of the Code
- Educating employees about the Code
- Enforcement of the Code

Each of our representatives has been furnished with a copy of our Code and has signed their name to a written acknowledgement attesting to their understanding of the Code and acceptance of its terms. A copy of our Code is available to all current and/or prospective clients upon request.

### **XI.(B) Participation in Client Trading**

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The information in this item is intended to address situations in which we or one of our related persons may have a material financial interest in the investment instruments we may recommend to you. No such arrangements exist.

### **XI.(C) Trading Alongside Our Clients**

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On occasion, we may invest for our own accounts or have a financial interest in the same securities or other investments that we recommend or acquire for your account(s) or the accounts of our other clients. Further, we may also engage in transactions that are the same as or different than transactions recommended to or made for your account(s). Such transactions are permitted if effected, pre-cleared and reported in compliance with our policy on personal securities transactions. Generally, pre-clearance requests for personal securities transactions will not be approved when an order for the same or a related security is pending for the account of a client. Our Designated Supervisor reviews reports of personal securities transactions by all of our associated persons quarterly or more frequently if required.

## Investment Policy

Our employees are permitted to effect personal securities transactions in their own accounts and/or in accounts in which they may have beneficial interest as long as these transactions are done in accordance with the following procedures:

- Employees must report their personal securities holdings within ten days of becoming an employee and annually thereafter.
- Employees may buy or sell securities that we also recommend to clients, but employees must follow the requirements of our pre-clearance policy prior to executing trades for their own personal accounts. Pre-clearance is required so as to prevent employees from trading ahead of client accounts.
- Duplicate confirmations and monthly statements for all employees' personal accounts are required to be sent directly to the chief compliance officer by the broker or bank where the accounts are custodied. Securities transactions are reviewed by the CCO or Designated Supervisor within 30 days of the end of each calendar quarter.

In conjunction with the procedures described in the preceding points, we may include our own order(s) as well as those of our employees in a batch order with other client orders that would involve average pricing for the entire batch. The purpose of this practice is such that we and/or our employees would receive the same pricing as all other clients participating in the batch.

It is the primary intent of these procedures to ensure that your best interests are always served over that of our own. Trading on our own behalf that results in our own interests being served over that of our clients could be considered a breach of our fiduciary duty and thus, is aggressively discouraged.

EXCEPTIONS: 1) Certain employees may have accounts that are managed by Hays Advisory under one of our investment model portfolios. In such cases, these individuals shall not be required to obtain pre-clearance for transactions effected in their managed account(s) on a discretionary basis as recommended by the Investment Committee. Employee accounts that are managed by Hays Advisory are traded along with client orders in order to prevent the occurrence of any conflicts of interest. Our employees' accounts do not receive preferential treatment in the trade allocation process. 2) Transactions effected in open-end investment company funds (specifically open-end mutual fund shares and exchange-traded products including funds "ETFs," notes "ETNs," and commodities "ETCs") are not subject to the pre-clearance policy requirements. These exceptions to the pre-clearance policy **do not negate any other requirements** contained in Hays Advisory's Code of Ethics.

## **XI.(D) Trading Around the Same Time as Clients**

The information in this item is intended to address situations in which we or any of our related persons may invest in the investment instruments we may recommend to you.

Transactions for your account generally will be effected independently, unless we decide to purchase or sell the same securities for several clients at the same or approximately the same time. We may (but are not obligated to) combine or "batch" such orders in order to obtain best execution or to negotiate more favorable transaction rates. Whenever we decide to batch client orders for the purchase or sale of securities, including securities in which our associated persons may invest, we will generally do so in accordance with the parameters set forth in SEC No-Action Letter, *SMC Capital, Inc.* We will not receive any additional compensation or remuneration as a result of a batched order.

## **XII. Brokerage Practices**

The purpose of this Item is to present to you the factors that we take into consideration when (1) selecting or recommending broker-dealers to you for the purpose of effecting transactions on your behalf and (2) for determining the reasonableness of such broker-dealers' compensation related to such transactions.

The following discussion applies only to clients of Hays Advisory Managed Portfolios or the Hays Advisory Wrap Program. This does not apply to anyone who participates in a Third Party Wrap program as those programs make their own custodial arrangements prior to entering into an agreement with us. Refer to Item XII(B) for details regarding our trading practices.

Unless you direct otherwise, we will generally recommend that your account(s) be maintained at, by, or through certain other firms that are unaffiliated with us. Although not all-inclusive, we may recommend the following brokers of record and their corresponding custodian:

Broker of Record	Custodian
Charles Schwab & Co., Inc.	
TD AMERITRADE, Inc.	TD AMERITRADE Clearing, Inc.

Factors that we consider in recommending certain broker-dealers or custodians to you may include such entity's financial strength, reputation, execution capability, commission rates, other trading and/or custodial services, and service/responsiveness. Accordingly, although we will seek competitive rates, we may not necessarily obtain the lowest possible commission rates for your account transactions.

From time to time, we may consider directing client brokerage business to broker-dealers and/or custodians other than Schwab or TD Ameritrade. In such cases, the same general criteria described above will be taken into consideration with other such broker-dealers and/or custodians.

As mentioned above, we may recommend that you establish a brokerage account(s) with the TD Ameritrade Institutional division of TD Ameritrade, Inc. We participate in the TD Ameritrade Institutional program. TD Ameritrade Institutional is a division of TD Ameritrade, Inc. ("TD Ameritrade"), and FINRA/SIPC member. TD Ameritrade is an independent and unaffiliated SEC-registered broker-dealer and FINRA member. TD Ameritrade Institutional may be contacted at 4075 Sorrento Valley Blvd., San Diego, CA, 92121. TD Ameritrade offers services to independent investment advisors which include custody of securities, trade execution, clearance and settlement of transactions. We receive some benefits from TD Ameritrade through our participation in the program. There is no direct link between our participation in the program and the investment advice we give to clients, although we receive certain benefit through its participation in the program. These benefits include:

- receipt of duplicate client confirmations;
- access to a trading desk
- serving advisor participants;
- access to block trading (which provides the ability to aggregate securities transactions for execution and then allocate the appropriate shares to client accounts);
- the ability to have advisory fees deducted directly from client accounts;
- access to an electronic communications network for client order entry and account information;
- access to mutual funds with no transaction fees and to certain institutional money managers; and
- discounts to industry events or seminars and discounts regarding travel and lodging arrangements associated with such events.

Our receipt of any of the benefits described above is not contingent upon the volume of brokerage business we direct to TD Ameritrade or the amount of commissions earned by TD Ameritrade as a result of that brokerage business. We receive no particular benefits that are not also available to any other investment advisers that direct client brokerage business to TD Ameritrade.

As part of our fiduciary duties to clients, we endeavor at all times to put your interests first. You should be aware, however, that our receipt of economic benefits in and of itself creates a potential conflict of interest.

As mentioned above, we may recommend that you establish brokerage account(s) with the Schwab Institutional division of Charles Schwab & Co., Inc. (Schwab), a registered broker-dealer, member of SIPC, to maintain custody of your assets and to effect trades for your account(s). Schwab Institutional may be contacted at 1958 Summit Park Drive, Suite 500, Orlando, FL 32810-5938. Hays Advisory is independently owned and operated and not affiliated

with Schwab. Schwab provides us with access to its institutional trading and custody services, which are typically not available to Schwab retail investors. These services generally are available to independent investment advisors on an unsolicited basis, at no charge to them so long as a total of at least \$10 million of the advisor's clients' assets is maintained in accounts at Schwab Institutional and is not otherwise contingent upon us committing to Schwab any specific amount of business, either assets in custody or trading. Schwab's services include brokerage, custody, research and access to mutual funds and other investments that are otherwise generally available only to institutional investors or would require a significantly higher minimum initial investment.

For our clients' accounts maintained in its custody, Schwab generally does not charge separately for custody but is compensated by account holders through commissions or other transaction-related fees for securities trades that are executed through Schwab or that settle into Schwab accounts.

Schwab also makes available to us other products and services that assist us in managing and administering clients' accounts. These products and services include technology that provides access to client account data (such as trade confirmations and account statements); facilitation of trade execution (and allocation of aggregated trade orders for multiple client accounts); provision of research, pricing information and other market data; facilitation of payment of fees from our clients' accounts; and assistance with back-office functions, recordkeeping and client reporting.

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## **XII.(A).(1). Research and Soft Dollar Benefits**

Soft dollar benefits are items such as research or other products or services (aside from the typical execution and other brokerage services available to all other investment advisers) that an investment adviser may receive from a broker-dealer(s) or other party in connection with the client securities transactions that are directed to that particular broker-dealer(s). These sorts of arrangements are known as "soft dollar arrangements." We do not participate in soft dollar arrangements.

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## **XII.(A).(2). Brokerage for Client Referrals**

In certain circumstances, firms like ours may receive client referrals as a result of recommending particular broker-dealers or other service providers. We, however, do not participate in any formal arrangements in which we receive client referrals from any particular broker-dealer in return for selecting or recommending that broker-dealer.

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## **XII.(A).(3). Directed Brokerage**

This item is intended to address situations where we may recommend, request, or require you to provide us instructions as to how to direct brokerage activity on your behalf.

### ***XII.(A).(3)(a). Directed Brokerage – Recommended, Requested, or Required***

Not all investment advisers require their clients to direct brokerage activity through any particular broker-dealer. We do not routinely recommend, request, or require that you direct us as to how to execute brokerage transactions on your behalf (i.e. using a particular broker-dealer for execution purposes).

### ***XII.(A).(3)(b). Directed Brokerage – Permitted***

Unless you direct us to use a particular registered representative or brokerage firm and **not** negotiate commission rates, we will use our best efforts to negotiate the most favorable rates based on the size and the anticipated trading activity in your account.

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## **XII.(B). Order Batching**

Transactions for your account generally will be effected independently, unless we decide to purchase or sell the same securities for several clients at the same or approximately the same time. We may (but are not obligated to) combine or "batch" such orders in order to obtain best execution or to negotiate more favorable transaction rates.

Batching may allow us to achieve a more favorable price on average for all clients. Batching doesn't guarantee the lowest possible price for execution, however, it is intended to reduce the overall volatility in execution price for a large number of orders that if not batched together, may experience significantly different execution prices. Conversely, in the event that we do not batch a group of orders that otherwise may be a prime candidate for a batched order, the resulting cost for some clients may be higher or lower than what we might be able to achieve by batching those same orders.

Whenever we decide to batch client orders for the purchase or sale of securities, including securities in which our associated persons may invest, we will generally do so in accordance with the parameters set forth in SEC No-Action Letter, *SMC Capital, Inc.* We will not receive any additional compensation or remuneration as a result of a batched order.

In addition to a broker's ability to provide the "best execution," we may decide to institute a practice of "Trading Away" in which we have the authority to select the executing broker to attempt to receive a more favorable execution price for the client. You should be aware that not all broker-dealers participate in this "trading away" process. As such, if your broker-dealer does not allow us to "trade away," then your trades will be placed after the trades of other clients whose broker-dealers do allow "trade away" executions. You should understand that our practice of "trading away" may result in certain clients paying and receiving different execution prices on the same security. Historical routing information will be made available upon request.

We have implemented written trading procedures in order that the risk that any particular client would be or could be systematically advantaged or disadvantaged would be minimized. To that effect, when entering batched securities transactions we follow a pre-defined order-entry rotation schedule through which the order of priority in which accounts go first is rotated over time. If we make the determination to "trade way," the order-entry rotation schedule first requires entering those orders for clients' accounts whose custodians permit "trading-away." Within this block of orders, a sub-set order-entry rotation schedule rotates which custodian/firm goes first. Secondly, orders for accounts at custodians which do not permit "trading away" are entered. Again, within this block of orders, a sub-set order-entry rotation schedule rotates which custodian/firm goes first.

Depending on trading requirements established by the individual firms, the submissions of model portfolio recommendations are incorporated into the order-entry rotation schedule, as well. In some cases, we must comply with your firm's procedures related to the submission of model portfolio recommendations which may supersede our own rotational schedule, and as a result, you may pay and receive different execution prices on the same security. When extenuating circumstances exist, we may alter the order-entry rotation schedule at our sole discretion. Extenuating circumstances may include (but will not be limited to) low trading volume for a specific security, or our attempt to prevent a client from having to pay multiple transaction fees due to an execution being filled over more than one day.

When selecting the executing broker for our "trade away" transactions, we generally utilize the services of one particular third-party firm and this practice can potentially affect our ability to document that you are receiving the best execution on the trades in your account. While we may have the option to "trade away" to alternative broker/dealers, we consider the following factors that have influenced this choice: competitive commission rates, consistent, quality executions, and back-office efficiency.

We regularly evaluate the quality of the executions received, as well as the factors described above, and we may choose to utilize another firm(s) or combination of firms if we determine that better executions may be obtained.

We will not receive any additional compensation or remuneration as a result of "trading away" to this or any third-party executing broker.

## **XIII. Review of Accounts**

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### **XIII.(A). Review of Accounts or Financial Plans**

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#### **Review of client accounts.**

The model portfolios are reviewed regularly by a member or members of our Investment Committee made up of Don Hays, Keith Hays, Jeff Hays and Mark Dodson. A typical review of our equity or balanced portfolios includes examining the asset allocation mix and stock and bond holdings. For the ETF portfolios, a member or members of the investment committee reviews the asset allocation mix as well as the individual ETF holdings. These reviews include fundamental quantitative analysis as well as technical analysis of the overall stock market, sectors and individual holdings in the portfolios.

#### **Hays Advisory Managed Portfolios and Hays Advisory Wrap Program Accounts**

For all Hays Advisory Managed Portfolios accounts and Hays Advisory Wrap Program accounts, your questions regarding situations specific to your account(s) are typically handled by Jeff Wilson, a senior vice-president at our firm. In addition to handling incoming questions from clients, Jeff Wilson will e-mail or call you 2 – 4 times per year to offer a review of your account(s). Operational issues for your account(s) are handled by Laura Brooks, our operations manager. Jeff Hays and Keith Hays are available for consultations with clients as well. We provide you with a quarterly report outlining performance, relative performance and current market and portfolio commentary in addition to monthly or quarterly statements provided by your custodian.

#### **Third Party Wrap Programs**

For all accounts invested with us through a third-party wrap program, we have minimal direct contact with you; however, free access to market research and commentary is available at [www.haysadvisory.com](http://www.haysadvisory.com) for interested clients. We do communicate regularly with the financial advisor at the third-party firm that recommended or made available the Hays Advisory portfolio to you. We have three marketing representatives that communicate with the financial advisors. Our marketing staff consists of Jeff Wilson, Ken Myrick, and Kirsten Coleman. In addition to the regular contact, financial advisors may request a meeting or conference call for you with a member of the marketing staff or Jeff or Keith Hays. We do not typically provide a quarterly report outlining performance, relative performance and current market and portfolio commentary to clients invested through a third-party wrap program because these types of reports are written and delivered by your financial advisor at the third-party firm.

The periodic review process described above will be performed by the Hays Advisory personnel with the following titles.

- Senior Vice President

#### **Review of Financial Plans.**

Since we do not offer financial planning, this section is not applicable to us.

### **XIII.(B). Non-Periodic Account Reviews**

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Events that may trigger further client account reviews in addition to the standard review process may include, but would not be limited to, the performance of an individual account being an outlier to the performance of accounts with similar investment objectives, the asset allocation of an individual account being an outlier to the recommended percentages for accounts with similar investment objectives, and deposits or withdrawals occurring in an account. Other factors may include customer complaints or requests by a client to effect transactions in his/her accounts where such transactions may appear to be inconsistent with the client's previously stated investment objectives.

### **XIII.(C). Reports to Clients**

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Account statements will be provided no less frequently than quarterly by the custodian, not by us. Account statements will identify account positions, balances, and transaction details. We urge you to carefully review your account statements for accuracy, and also compare your statements to quarterly performance reports you may receive from us and/or, if applicable, your third-party financial advisor.

## **XIV. Client Referrals and Other Compensation**

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### **XIV.(A). Compensation we Receive**

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Other than the compensation arrangements described above in Item IV.(B), we do not receive any other compensation in connection with the investment advisory services provided to you or any of our clients.

### **XIV.(B). Compensation we Pay**

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Under certain circumstances, firms like ours may compensate other parties for having referred clients or potential investment advisory clients them. These sorts of arrangements are generally referred to as “solicitor” arrangements. We do not participate in any solicitor arrangements.

## **XV. Custody**

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We engage in certain activities including automatic fee deduction from your brokerage or other trading accounts that result in us being deemed to have custody of certain of our client’s funds and/or securities. We do not engage in other activities which include physical possession or control (even if temporary) of client funds or securities, nor do we have the ability to gain access to any client funds and/or securities. Furthermore, none of our related persons have custody of funds and/or securities subject to our investment advisory services, nor do we or any of our related persons serve as the general partner, managing member or similar type control person to an investment fund to which we provide investment advisory services.

As stated previously in Item XIII.(C), your account statements will be provided by the qualified custodian that maintains physical possession of your accounts/assets. In the event that we also provide you information related to your accounts, you are urged to review that information and compare it to the information contained on the account statements or other statements received from the qualified custodian.

## **XVI. Investment Discretion**

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In connection with our investment advisory services, we will generally seek and obtain your authorization to carry out part of our services on a purely discretionary basis. We will memorialize your authorization of our discretionary authority in our investment advisory agreement.

If you have authorized us to do so, we will exercise discretion over the following areas.

- 1) The specific securities to be bought or sold on your behalf
- 2) The amount of securities to be bought or sold on your behalf
- 3) Timing as to when such securities are to be bought or sold
- 4) The particular broker or dealer to be used for arranging your securities transactions
- 5) Commission rates to be paid in relation to securities transactions effected on your behalf

We will have authority to exercise complete discretion with regard to the above named factors without restriction. If done so on a non-discretionary basis, we will make certain recommendations that must be authorized by you prior to our facilitation of any such transactions. As may be separately agreed to in writing, we will observe any other specific limitations that may be imposed by you in relation to this discretionary authority.



## **XVII. Voting Client Securities**

### **XVII.(A). Proxy Voting**

#### **Proxy Voting Policies and Procedures and Client Instruction**

In response to the passage of rule 206(4)-6 of the Advisers Act, we have implemented the following guidelines regarding the voting of proxies and compliance with these procedures will be the responsibility of our chief compliance officer (CCO):

Because we do not serve as custodian for your securities, proxies for securities held in your account(s) will be provided to you by your broker/custodian, except as required under applicable ERISA regulations, unless you request that we receive and vote the proxies. In such cases your broker/custodian will forward all proxies and related materials to us for processing.

- To avoid excessive storage space, we will retain only one copy of each annual report and proxy statement received from the reporting companies. Beginning in January 2007, these documents will be retained electronically within the firm's Sharepoint files. All hard copies received will be discarded.
- Beginning in January 2007, proxy ballots will also be retained electronically within the firm's Sharepoint files along with each company's annual report and proxy statement.
- We retain the services of Egan-Jones Proxy Services, an unaffiliated company that provides company research, annual report and proxy statement reviews, and voting recommendations to us for all client securities.
- Once a company issues shareholder proposals, the annual report and proxy statement, and has established a meeting date, Egan-Jones issues a detailed Proxy Report. Our Director of Research reviews this report and upon approval, forwards the report along with the voting recommendations to the CCO or her designee for voting. (See exception noted below.) The Director of Research has the authority to disagree with Egan-Jones' report and recommendations, and at his discretion, may choose to vote on one or any proposals in the manner he deems appropriate. The Director of Research will then note his reasons for disagreeing with the Egan-Jones recommendation on such report.
- All proxy voting is completed electronically. We subscribe to Broadridge's Proxy Edge and Mediant Communications for submitting our votes on your behalf.
- After proxy ballots have been voted, the CCO or her designee will review the electronic confirmation showing that the votes have been submitted. Beginning in January 2007, these reports will also be retained electronically within the firm's Sharepoint files.
- The reporting company's annual report, proxy statement and ballots will be maintained and available for retrieval if requested by any client/shareholder. In addition, the same documentation is available on Broadridge's Proxy Edge and Mediant Communications for electronic retrieval.
- If a conflict of interest exists (or is possible) between us and our clients, we will defer voting and disclose such conflict to you and ask for instructions on how you wish to vote.
- We have implemented a policy of voting proxies "with management" when the client proxies are in regard to money market funds and other similar cash instruments.
- To request a copy of our proxy voting record please submit a written request to the attention of the Chief Compliance Officer, 301 Seven Springs Way, Suite 150, Brentwood, TN, 37027.

### **Conflicts of Interest...**

We recognize that conflicts of interest may arise when voting your proxies. A conflict of interest exists when your best interests are contrary to our best interests due to some relationship between the us and/or our associated persons and a company that is soliciting a proxy. Some examples may include:

- The spouse of one of our associated persons is a board member of a company whose management is soliciting proxies to vote on a salary increase for the board.
- We are an affiliated company of a company that has issued a proxy notice to individuals who are our clients.
- We or one or more of our affiliates may manage a pension plan, administer employee benefit plans, or provide brokerage, underwriting, insurance, or banking services to a company whose management is soliciting proxies.

It is our policy to vote proxies in the best interests of our clients regardless of the existence of any conflict of interest.

As authorized in our Agreement, we may exercise complete discretionary voting authority in relation to proxy notices that we receive on your behalf. If no apparent conflict of interest exists in relation to our exercise of our voting authority on your behalf, we shall vote all such proxies as we see fit and in your best interest.

Under certain circumstances, the most prudent action on our part may be NOT to vote a proxy(s). Under such circumstances, we shall ensure that appropriate records are maintained so as to justify not having voted such proxy(s).

## **XVII.(B). Proxy Voting**

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If you have authorized us to vote proxies on your behalf, we will do so in accordance with the information provided above in XVII.(A). Proxies related to the securities you own will be disseminated as dictated by the issuer, transfer agent, or as otherwise established in the account opening paperwork you completed for the custodian holding your account/assets. If you have questions related to a particular proxy notice, please call us at 615-467-6070.

## **XVIII. Financial Information**

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### **XVIII.(A). Balance Sheet**

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We do not require or solicit prepayment of more than \$1,200 in fees per client, six months or more in advance. As a result, we are not required to provide our clients with a copy of our balance sheet from our most recently completed fiscal year.

### **XVIII.(B). Adverse Financial condition**

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In the event that we have discretionary authority or custody of any of our clients' assets or if we require or solicit prepayment of more than \$1,200 in fees per client, six months or more in advance, we are required to disclose any financial condition that is reasonably likely to impair our ability to meet contractual commitments with our clients. No such conditions exist.

### **XVIII.(C). Bankruptcy-Related Matters**

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Hays Advisory has never been the subject of a bankruptcy petition.

## **XIX. Requirements for State-Registered Advisers**

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As a federally-registered investment adviser, this section of our Brochure is not applicable to us.