

## **Birch Hill Investment Advisors LLC Part 2A of Form ADV The Brochure**

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This brochure provides information about the qualifications and business practices of Birch Hill Investment Advisors LLC (also referred to in this brochure as Birch Hill). If you have any questions about the contents of this brochure, please contact us at 617-502-8300 or [info@birchhilladvisors.com](mailto:info@birchhilladvisors.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.

Additional information about Birch Hill is also available on the SEC's website at: [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

While Birch Hill may be referred to as a "registered investment adviser" please note that registration does not imply a certain level of skill or training.

**Material Changes since the filing of the last ADV Part 2A in March of 2012**

There have been no material changes since the last filing of the ADV Part 2A.

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## **Item 4**

### **Advisory Business**

#### a.) Description of Birch Hill

Birch Hill is an investment management firm founded in June of 2007 and wholly owned by its principals, all of whom are actively engaged in the business. We have broad experience in investment research, portfolio management, taxation and trust administration and have a long history of working with clients and coordinating financial solutions with their attorneys, accountants and other professionals. Clients have direct access to the Principal who manages their portfolio. The assets of the accounts managed by Birch Hill are held by independent custodians, as further described in Item 15 below.

The Principals of Birch Hill are Miner Crary, Gary Mikula, Robert O'Neil, Thomas Reilly and John Stiles.

#### b.) Services Offered

Birch Hill provides investment advisory services to individuals, trusts, IRA's and other employee benefit plans, endowment and foundations accounts. Birch Hill works with each client to establish their goals, objectives, risk tolerance and investment time horizon and devises a plan to structure a portfolio to meet their goals within the appropriate risk profile. Investment solutions primarily employ individual stocks and bonds, but may include mutual funds and exchange traded funds for certain asset classes, for example, international stocks. Birch Hill may also enter into non-discretionary consulting arrangements whereby it will provide review, supervision, and recommendations regarding the selection of third party investment advisers retained by a client. The advice provided by Birch Hill often goes beyond the portfolio and will include coordination with other professionals, including attorneys and accountants, in areas such as income and estate tax planning, giving strategies and other matters.

Birch Hill provides research services to another Registered Investment Advisory firm which is owned by a law firm. This firm manages accounts on a discretionary basis and provides advice to client Trustees of trusts that are generally managed for the benefit of individuals. Birch Hill's research service includes providing a list of actively followed companies along with supporting information. At the invitation of the other firm, Birch Hill analysts also attend meetings with client Trustees to provide an opportunity for dialogue about the companies we follow. Our compensation for this service includes an annual retainer amount as well as hourly fees for the meetings we attend.

c.) Services tailored to meet the needs of our clients

Birch Hill believes in building portfolios customized to reflect the individual circumstances and needs of each client. Central to the approach is knowing each client well, understanding their needs, and investing to meet objectives for growth, income and risk tolerance. Establishing the investment strategy begins with a discussion with each client about their goals, objectives, and risk parameters. We work with each client to define their investment horizon, to understand how much they will spend and when, and to assess an acceptable level of volatility. The investment strategy incorporates portfolio growth objectives and expected financial needs.

What is an acceptable level of volatility? The answer is different for each client and not easily determined. We invest in securities that can and do go down in value, so our clients can lose money. Our goal is to structure portfolios for our clients that reflect the right amount of risk for them. For example, a client with a low risk level would generally have a higher percentage of their account in bonds. In a year when the stock market is down significantly, the bonds would generally reduce the amount of the decline. A client more able and inclined to have a higher risk level might have a larger percentage in stocks. This client would generally lose more in the years when stocks are down but perform better in the years when stocks are up significantly. The key conversation is to determine the right mix for each client for the long term. We try to ensure that clients are not suddenly changing their asset allocation at times of market extremes.

Birch Hill manages some client portfolios with significant investment restrictions. For example, with some clients we may construct and manage a portfolio that addresses their social responsibility concerns. Other clients may be actively engaged in a business or venture, and Birch Hill will tailor their investment portfolio to reduce exposure to other companies in the same industry, or construct a portfolio focused on low risk, low volatility to offset some of the risk in the client's business.

Each client's investment strategy is periodically reviewed and updated with the client to ensure it remains appropriate for their situation.

d.) Birch Hill does not participate in any wrap fee programs.

e.) Amount of client assets managed by Birch Hill as of December 31, 2012

	<u>Amount</u>	<u>Number of Accounts</u>
Discretionary:	\$1,033,725,898	861
Non-Discretionary:	\$25,792,382	35
Total:	\$1,059,518,280	896

The above totals include \$24,663,398 of assets managed by third party investment advisors where Birch Hill reviews, supervises and recommends, on a non-discretionary basis, the advisors retained by the client.

## **Item 5**

### **Fees and Compensation**

a.) Compensation to Birch Hill

Birch Hill's compensation is based on a percentage of the value of the assets managed. Each quarter the annual fee is calculated based on the prior month's ending market value for the account and one fourth is charged in arrears. The standard annual fee schedule is as follows:

1.00% on the first \$2 million, plus  
0.75% on the next \$3 million, plus  
0.50% on the balance of market value  
Minimum annual fee: \$10,000

Birch Hill may from time to time, depending on individual circumstances, charge a fee less than the stated minimum, or reduce its standard investment management fee. We may also seek additional annual compensation of up to ¼ of 1% of the market value when a Principal of Birch Hill serves as a trustee of client accounts. Where appropriate, Birch Hill may charge an administrative fee of up to \$1,000 per year per account. Generally this fee will be charged when, due to the small size of the account, Birch Hill is not charging its regular asset-based fee. Birch Hill may also charge an additional hourly fee where the services are more than usually provided or for special circumstances.

Birch Hill receives fees based on the value of client accounts, and, for this reason and others, it is important that client portfolios are priced accurately. Birch Hill uses prices provided by the custodians that hold client securities or a reliable third party vendor if the custodians do not provide a price. If the custodians and the pricing service cannot provide a price, Birch Hill will obtain a price on a best efforts basis. In such cases the source of the price is documented.

In the case of non-publicly traded holdings, Birch Hill may price the holding at original cost, zero value or a reasonable valuation method. For situations in which neither an exchange nor a broker, dealer or market maker issues a price for a security, and the security is not being priced at cost or zero value, Birch Hill may apply "fair valuation" procedures which it has adopted.

Birch Hill provides investment research to another Registered Investment Advisor. Our compensation for this service includes an annual retainer amount as well as hourly fees for the meetings we attend.

b.) Fee deducted directly from client account

For all Birch Hill clients except a few special circumstances, the fee is computed by Birch Hill and deducted directly from the client account by the qualified custodian per invoice from Birch Hill. The client also receives a copy of the invoice.

c.) Other fees or expenses

Additional charges paid by our clients, but not received by Birch Hill, include the costs of employing a bank or brokerage firm as custodian to hold the securities, process transactions, and generate reports; brokerage charges to effect security transactions; and management fees charged within a mutual fund or exchange traded fund. If a client account holds mutual funds or exchange traded funds, in most cases two fees are paid: one to Birch Hill for the overall management and supervision of the holding and the account, and a second within the mutual fund or exchange traded fund taken by the manager of the fund. Birch Hill will generally use no-load mutual funds. Please see section 12 below for more information regarding brokerage transactions.

d.) Fees are generally charged quarterly in arrears.

Birch Hill discourages clients from paying fees in advance.

e.) Birch Hill does not receive asset-based sales charges or service fees nor any other compensation for the sale of securities or other investment products.

## **Item 6**

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

Birch Hill does not accept performance based fees (generally fees calculated on gains or performance in excess of a benchmark). Such fee arrangements may create a conflict of interest, as a firm may favor accounts paying a higher fee to the investment manager (side by side management). These conflicts do not apply to the services offered by Birch Hill.

## **Item 7**

### **Types of Clients**

Birch Hill provides investment advisory services primarily to individuals, trusts and certain non-taxable accounts. While Birch Hill does not have a stated minimum account size, the stated minimum annual fee of \$10,000 implies a minimum account size of \$1 million based on our standard fee schedule. As noted above, Birch Hill may from time to time, depending on individual circumstances, charge a fee less than the stated minimum.

## **Item 8**

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

The following principles are central to the investment process at Birch Hill:

**Fundamental Analysis:** We believe that evaluating the opportunities and understanding the risks produces a basis for obtaining higher returns across individual securities and the total portfolio.

**Quality:** We believe that companies with strong financial characteristics protect their superior profitability for years.

**Invest for the Long Term:** We believe long term investing with low turnover and tax sensitivity produces superior total returns.

**Risk Control:** We believe a prudent approach to asset allocation, sector weights and security diversification are key to long term performance.

As noted above in Item 4 c.), the first step in managing a client portfolio is to establish an investment strategy focused on attaining client goals with the appropriate level of risk. Formulating the strategy begins with a discussion of each client's goals, objectives, and risk parameters.

Every investment entails some risk of loss, ranging from significant to quite small. The goal of Birch Hill is to ensure that the risk level of the portfolio is appropriate for each client. Generally, the longer the investment horizon and the lesser the need for funds from the account in the near term, the greater the ability to withstand market value and income volatility to attain higher returns long term. Every client has to be comfortable with the approach taken in their account and understand there is a risk of loss.

#### **Investment Strategies:**

We employ three equity strategies which are long term in approach and focus primarily on high quality growth companies: Capital Preservation; Core Growth; and High Growth. The strategies differ by level of risk which is controlled, in part, by market sector weights and individual company selection. The goal of these strategies is to



provide a return in excess of the Standard and Poor's 500 Index. A fourth strategy, the Birch Hill Exchange Traded Fund (ETF) Portfolio, aims to achieve an above average return versus its benchmark over a market cycle by investing in a select group of exchange traded funds.

Equity Investments Employed: We select growth investments based on their fundamental prospects for long-term growth and attractive current valuations. Factors considered include: sales growth, profitability, balance sheet strength, competitive position, management record, industry characteristics, and certain quality measures. From time to time, low cost mutual or exchange traded equity funds may be used to participate in certain asset categories, for example, international or small capitalization companies. Higher yielding, lower growth equities, such as utilities or real estate investment trusts, may also be used where appropriate.

Securities are sold when, among other factors, the articulated reasons for the original purchase are no longer valid; there has been a change in the long-term prospects; and/or the valuation of the security is no longer justified by its prospects or risks.

Fixed Income Investments Employed: Bonds are used in portfolios, to the degree required, for current income, stability and diversification. Selected securities may include: government, agency and higher-quality corporate bonds; preferred stocks; convertible securities; and broad based and high yield bond mutual funds and exchange traded funds.

Other securities: Where appropriate, we may also use real estate partnerships, hedge funds, private equity and venture capital. These types of investments generally have a higher level of risk due to their concentrated nature, lack of liquidity and other reasons.

## **Item 9**

### **Disciplinary Information**

Birch Hill and its Principals and employees have not been involved in any legal or disciplinary events.

## **Item 10**

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

Neither Birch Hill nor its Principals and employees has a formal relationship or business affiliation with any broker-dealer, registered representative, futures Commission merchant, Commodity pool operator, other investment advisor, law firm, accounting firm, insurance company or agent, investment company or pension consultant. While Birch Hill is not affiliated with any of these organizations or individuals, Birch Hill works with custodians, attorneys, accountants and other professionals retained by its clients.

In response to an inquiry from a client, Birch Hill may refer a client to one or more of these professionals if we believe that the professional will provide the service sought by the client and that the client is likely to be pleased with the service provided by this individual or firm. These individuals and firms may also occasionally refer clients to Birch Hill. No referral fees are paid.

The majority of Birch Hill clients establish an account with Charles Schwab & Co. serving as the Qualified Custodian to hold the assets of the account. Please see below in Item 12 a full description of Charles Schwab's role as custodian and the potential conflicts Birch Hill has as a result of this relationship.

## **Item 11**

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

Birch Hill has a Code of Ethics and a policy on personal trading that all employees are required to follow. Birch Hill and its employees are fiduciaries and must always act in the best interests of our clients. Accordingly, employees must avoid activities, interests and relationships that might interfere or appear to interfere with making decisions in the best interests of our Clients. Each year every employee receives a copy of the Code of Ethics. Every employee acknowledges receiving a copy, understanding it, and agreeing to comply with its provisions.

Training sessions on the Code of Ethics have been held for all employees.

From time to time Members and employees of Birch Hill may purchase or sell in their own personal accounts the same securities that are purchased, sold or held for clients. The intent of the Code of Ethics is to ensure that the interests of the client always come ahead of the personal interest of any Member or employee. Personal transactions that require pre-approval include a trade in excess of \$50,000 in value, in an Initial Public Offering (IPO), a Limited Offering (private security), or a security with a market capitalization less than \$1 billion. Birch Hill may institute blackout periods for trading in certain stocks to ensure client accounts have the opportunity to effect transactions before the accounts of Birch Hill employees. For example, a blackout period may apply to a stock recently added to Birch Hill's coverage and recommended for purchase.

Birch Hill receives and reviews quarterly reports of any security transactions in certain reportable securities for all Members and employees. The Chief Compliance Officer compares personal trades to Birch Hill client trades to confirm any personal trading does not violate our duty to our clients or even give the appearance of such a violation.

The Code of Ethics also addresses the dissemination of material non-public information concerning publicly traded companies. Federal Securities Law prohibits the buying or selling of such securities while in the possession of this information about the subject company. The Code of Ethics includes a procedure to follow should we find that we have

such information. The Code also includes sections pertaining to gifts, to and from clients, to help ensure the personal interests of Members and employees do not interfere with their responsibilities to Birch Hill and its clients.

Please call us at the telephone number on the cover page of this brochure if you would like to receive a copy of the Birch Hill Code of Ethics.

## **Item 12**

### **Brokerage Practices**

The Birch Hill Investment Advisory Agreement signed by the client allows Birch Hill to buy and sell stocks, bonds and other securities through brokers, dealers and banks selected by Birch Hill, or, in the alternative, designates a primary broker-dealer through whom to execute trades in the account. For example, if Charles Schwab is the qualified custodian retained by the client, Schwab is the designated primary broker-dealer. In the Agreement the client acknowledges that although a primary broker or dealer has been designated, from time to time Birch Hill may execute securities transactions with other brokers and dealers. In executing such transactions Birch Hill may agree to commissions that are higher than those that might be negotiated otherwise in consideration of research services that may benefit Birch Hill's clients generally, in accordance with Section 28(e) of the Securities Exchange Act of 1934, or in order to obtain better net cost and overall execution. While Birch Hill does not require that a client use a specific qualified custodian and designated broker-dealer, Birch Hill does retain the power to direct trades to a broker-dealer other than the one designated by the client.

While a client may direct Birch Hill to place trades primarily with a specific broker, this practice may result in the lost opportunity to negotiate commissions, obtain volume discounts, achieve the best trade executions and obtain the most favorable order of trade execution for aggregated trades. These potential disadvantages have to be weighed against potentially lower standard brokerage charges, the absence of a separate custodian fee and other services the broker may provide to the client.

#### Best Execution and Soft Dollars

In executing trades for its clients, Birch Hill seeks "best execution." This term means that Birch Hill may take into consideration the trading capability, the quality and reliability of the brokerage services, the value of the research and investment information provided by the broker-dealer selected, and other factors in addition to the commission rate payable on the trade. Note that Birch Hill may agree to brokerage commissions that are higher than those that might be negotiated otherwise in order to obtain research services that may benefit Birch Hill clients. These research services must provide Birch Hill with lawful and appropriate assistance in performing our investment decision responsibilities or trade execution, and the commissions paid must be reasonable in relation to the services received. The term "soft dollars" generally refers to using brokerage commissions to pay for research services.

These “soft dollars” pay for research services that include written reports on individual companies, the economy and the overall stock and bond markets and may also include meetings with corporate managements and brokerage firm security analysts.

These arrangements create a potential conflict of interest between Birch Hill and its clients, because Birch Hill’s decisions to use a particular broker-dealer may in part be based on the broker-dealer’s ability and/or willingness to provide certain research products and services, and not merely on the broker-dealer’s ability to provide the best trade execution for the best price on a particular trade in a client account. Although Birch Hill believes that its client accounts benefit from many of the brokerage and research products and services obtained with soft dollars generated by client trades, some client accounts may not benefit. Brokerage and research products and services generated by trading on behalf of one client account may benefit other accounts that have not contributed to the cost. Birch Hill uses research obtained through soft dollars commissions to benefit all of its clients, not just the clients for whom the order is being executed.

Using soft dollars to pay for research presents an additional conflict, because the client is paying for the research that in some cases Birch Hill may be able to obtain by paying for it itself. Some clients who have directed Birch Hill to use a specific broker-dealer and do not participate in soft dollar arrangements may benefit from soft dollars paid by other clients. They receive this benefit even though they do not generate trades that help pay for these resources.

#### Periodic internal review

Birch Hill portfolio managers and traders periodically review the use of soft dollars to ensure the broker-dealers used are providing best execution and that the commissions paid are reasonable in relation to the value of the brokerage and research services provided. Birch Hill uses brokerage commissions to pay for proprietary research (created or developed by the broker-dealer) and third party research provided by firms that do not have brokerage operations. Third party research used by Birch Hill is paid for by a broker dealer who arranges to have the third party deliver research to Birch Hill. The periodic review of soft dollars considers the quality of research provided and verifies that the research or service is eligible for soft dollar use. To qualify for soft dollar use, Birch Hill verifies that the research provides us with appropriate assistance in performing our investment decision responsibilities and that the commissions paid are reasonable in relation to the services received.

#### Trade Errors

As a fiduciary, Birch Hill is expected to exercise the highest degree of care and diligence with respect to Client assets and appropriately correct errors incurred as a result of human mistakes, systems limitations, breakdowns in communication, or any other reasons that may expose Birch Hill or any Client to potential risks associated with a trade error. We have a fiduciary duty to identify, communicate, negotiate and resolve trade errors in a manner consistent with the best interests of our Clients, regardless of the cause or origin of the error or whether it is attributable to Birch Hill or a third party. Trade errors shall be corrected

promptly. Birch Hill shall determine the appropriate remedial action and document the actions taken. Trade errors attributable to a third party, including the executing broker, shall be corrected by the third party at the third party's expense. Birch Hill shall not absorb or otherwise be responsible for losses resulting from such errors. Birch Hill shall compensate the client for any trading errors made by Birch Hill that harm the client. Birch Hill shall not benefit from any trading errors that result in a financial benefit.

#### Charles Schwab

Birch Hill may recommend that clients establish brokerage accounts with the Schwab Institutional® division of Charles Schwab & Co., Inc. (Schwab), a FINRA-registered broker-dealer, member SIPC, to maintain custody of clients' assets and to effect trades for their accounts. The client decides whether to retain Schwab as the qualified custodian and signs a separate agreement with Charles Schwab. Birch Hill is independently owned and operated and not affiliated with Schwab. In recent years most of our new clients have selected Schwab as their qualified custodian and directed broker, and many existing clients have switched to Schwab from other broker-dealers and custodian banks.

Birch Hill receives benefits as a result of clients retaining Schwab as custodian, and this arrangement presents a conflict. Schwab provides Birch Hill 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 are maintained in accounts at Schwab Institutional. Schwab's brokerage services include the execution of securities transactions, 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 Birch Hill client accounts maintained in its custody, Schwab generally does not charge separately for custody services but is compensated by account holders through commissions and other transaction-related or asset-based fees for securities trades that are executed through Schwab or that settle into Schwab accounts.

Schwab Institutional also makes available to Birch Hill other products and services that benefit Birch Hill but may not directly benefit its clients' accounts. Schwab's products and services that assist Birch Hill in managing and administering clients' accounts include software and other technology that (i) provide access to client account data (such as trade confirmations and account statements); (ii) facilitate trade execution and allocate aggregated trade orders for multiple client accounts; (iii) provide research, pricing and other market data; (iv) facilitate payment of Birch Hill's fees from its clients' accounts; and (v) assist with back-office functions, recordkeeping and client reporting, including pricing of securities.

Schwab Institutional also offers other services intended to help Birch Hill manage and further develop its business enterprise, including compliance and practice management.

In addition, in the case of a trading error by Birch Hill that results in a loss of less than \$100, Charles Schwab has an exception for small errors where they will absorb the loss to avoid the time and administrative expense of correcting the trade.

In evaluating whether to recommend that clients retain Schwab as custodian, Birch Hill may take into account the availability of some of the foregoing products and services and other arrangements as part of the total mix of factors it considers, and not solely the nature, cost or quality of custody and brokerage services provided by Schwab.

Since the Birch Hill Investment Advisory Agreement signed by the client directs Birch Hill to trade primarily, not exclusively, with the directed broker (in this case, Charles Schwab), Birch Hill periodically, on a random basis, directs trades to brokers other than Schwab to pay for research (soft dollars). Birch Hill traders periodically decide that on a certain day all Schwab trades will “trade away” from Schwab to another broker for soft dollar credit. The portfolio managers are advised of the “trade aways” after the close of trading on the selected day.

#### Blocking of Trades

When possible and appropriate, Birch Hill will aggregate open orders for multiple client accounts in an effort to improve execution for all participating client accounts. The accounts in the block order, and their allocable portion of the trade, are determined before the trade is placed. Each account that participates in an aggregated security order generally will participate at the average share price for such order, with transaction costs shared pro rata based on each account’s participation.

While Birch Hill intends to allocate the opportunity to purchase or sell the security among the accounts on an equitable basis, Birch Hill is not required to assure equality of treatment among all clients in connection with every trade. Birch Hill may allocate orders of such a block trade to accounts on a random basis, in which case some accounts would complete the order, some partial, and others would be allocated no shares for the trades that day. If the trading desk of Birch Hill has orders for the same security but some accounts allow Birch Hill to select the broker and others direct Birch Hill to use a specific broker, the trades in which Birch Hill has discretion in selecting brokers generally will be done first. If the trading desk has orders for the same security but the accounts have different directed brokers, on a best efforts basis, the order of execution will vary among the client accounts directing brokerage. The degree of automation, responsiveness of the directed broker, size of the trade, other trades on the blotter and other considerations may affect the order of execution among directed broker accounts.

Birch Hill does not direct brokerage to firms in return for referrals of new business prospects.

#### Cross Trading of Bonds

Birch Hill has internal procedures for the cross trading of bonds. Periodically Birch Hill may find that it has to sell a bond (generally a corporate or municipal bond) of one of its clients for a reason unique to that client, such as a need to raise cash. The bond being sold may meet

the parameters set for another Birch Hill client with an ongoing program or need to buy a bond. If the bond were sold in the secondary market, to a broker, and then purchased by Birch Hill for the second client account, the two clients would each pay a separate transaction cost. In order to reduce the total cost to both clients, Birch Hill may engage in a cross trade. The third party broker, knowledgeable and active in this market, will determine the fair market price for the bond, based on market activity. The broker will then sell the bond from one client to the other with a transaction fee shared equally by the two clients. Both clients receive a benefit. Birch Hill will cross trade only bonds, not stocks. Please note that cross trading is not allowed for any ERISA, including IRA, accounts. Birch Hill has no obligation to cross trade all bonds and will look for opportunities on a best efforts basis.

### **Item 13**

#### **Review of Accounts**

Accounts under Birch Hill's management are monitored and managed by the primary portfolio manager, with a backup portfolio manager assigned. The primary portfolio manager is responsible for working with the client in determining the account objective and appropriate level of risk, using Birch Hill's investment ideas to construct a portfolio that best meets the needs of the client, and monitoring and maintaining the portfolio to ensure it continues to meet the client's needs and goals. The Birch Hill internal accounting systems are used by portfolio managers to track client accounts. Investment changes are made when appropriate, as changing objectives, the financial markets, and individual account holdings might dictate. The backup portfolio manager is familiar with the client account.

Each client account is subject to a formal review at least once each year. The primary portfolio manager presents the account to the review group that includes the backup portfolio manager and other portfolio managers. Included in the review are materials to help ensure the client portfolio is properly aligned with the objectives and the appropriate level of risk.

### **Item 14**

#### **Client Referrals and Other Compensation**

Birch Hill does not currently use the services of any non-employee to solicit client accounts and does not pay third parties for referrals. Any such arrangement would need to comply with Rule 206(4)-3 of the Advisors Act which prohibits an investment advisor from sharing its fee or making a cash payment for recommending the advisor unless certain conditions are met. Birch Hill has adopted procedures to follow to ensure compliance with Rule 206(4)-3 of the Advisors Act should it ever engage such a person.

Compensation received by Birch Hill employees, including bonuses, if any, is based upon a variety of factors. One such factor that may be considered is whether an employee has assisted in the development of new accounts. Compensation paid to these employees does not affect the fees paid by the client.

Birch Hill provides office space and some clerical assistance to retirees and former colleagues of Birch Hill employees. These individuals may provide new business leads to Birch Hill, in addition to guidance in dealing with clients, some of whom were their clients at a point in time.

Birch Hill works with custodians, attorneys, accountants and other professionals in providing a service to our clients. In response to an inquiry from a client, we may refer a client to one or more of these professionals if we believe the professional will provide the service sought by the client. These individuals and firms may also occasionally refer clients to Birch Hill. No referral fees are paid to these individuals.

## **Item 15**

### **Custody**

All client accounts are held in custody by a qualified custodian retained by the client. Birch Hill is deemed to have custody of these assets due to its ability to have its management fee paid directly from the client account, with advice to the client. Birch Hill is also considered to have custody of the assets in certain accounts because a Birch Hill principal serves as Trustee. Clients receive reports of assets and transactions directly from the custodian not less than quarterly.

In order to meet the needs of certain clients, a Principal of Birch Hill may serve as a trustee of client accounts. If a Principal is a trustee, Birch Hill must note in its ADV Part I filing with the SEC that it has custody of these client assets, and these accounts are subject to a surprise audit by an independent accounting firm retained by Birch Hill. Birch Hill may also have additional potential liability regarding these trust accounts, due to the trustee's exercise of discretion and other responsibilities that are beyond the scope of the normal investment advisory role. Accordingly, Birch Hill may seek additional annual compensation of up to  $\frac{1}{4}$  of 1% of the market value of the trust when a principal serves as trustee.

Portfolio managers provide clients with various other written reports from the Birch Hill internal portfolio management accounting system, as appropriate, as a part of a communication plan that meets the needs of each individual client. While every effort is made to reconcile these reports with the record of the qualified custodian (bank or brokerage firm) that holds the assets of the account, the official record of the account is the statement received from the custodian. Clients are encouraged to compare appraisals provided by Birch Hill with the account statement they receive from the qualified custodian that holds the assets. Internal reports have a legend at the bottom of the page urging clients to make that comparison.



## **Item 16**

### **Investment Discretion**

Almost all clients sign an investment advisory agreement that grants Birch Hill investment discretion over their account, allowing Birch Hill to make investment changes without prior approval of the client. Some clients may require prior consultation before investment decisions are made, but Birch Hill discourages this practice.

Birch Hill manages investment portfolios to attain the investment goals and objectives for each client. Birch Hill professionals work with each client to define their investment horizon, to understand how much they will spend and when, and to assess an acceptable level of volatility. The articulated investment strategy incorporates portfolio growth objectives and expected financial needs.

Birch Hill manages some client portfolios with significant investment restrictions, where it is appropriate to reach the right risk profile. For example, with some clients we may construct and manage a portfolio that meets their social responsibility concerns. Other clients may be actively engaged in a business or venture, and Birch Hill will tailor their investment portfolio to reduce exposure to other companies in the same industry, or construct a portfolio focused on lower risk and volatility to offset some of the risk in the client's business.

## **Item 17**

### **Voting Client Securities**

Proxies are an asset of a client account, which should be treated by Birch Hill with care and diligence. In accordance with its fiduciary duty to its clients and Rule 206(4)-6 of the Investment Advisors Act, Birch Hill has adopted and implemented written policies and procedures governing the voting of client securities. The Birch Hill Investment Advisory Agreement, executed by every client and by a representative of Birch Hill, allows a client to delegate to Birch Hill the authority to vote proxies. If the client retains the authority to vote proxies, Birch Hill directs the qualified custodian (bank or broker) to mail to the client, or such other person as the client designates, any proxy materials received by it.

Birch Hill employs the services of an independent third party proxy service firm to make voting recommendations and vote proxies in accordance with general guidelines approved by Birch Hill. Policy guidelines and procedures of the third party firm are reviewed to assure they are consistent with Birch Hill's own internal philosophies regarding corporate governance and other proxy issues. If the third party proxy service firm does not provide a recommendation for a specific security, the proxy will be voted in accordance with the management's recommendations. Even though a third party firm is retained for these purposes, Birch Hill retains final authority for all proxy voting.

Birch Hill may have a conflict of interest in voting a particular proxy. A conflict of interest could arise, for example, as a result of a business relationship with a company, or a direct or indirect business interest in the matter being voted upon, or as a result of a personal

relationship with corporate directors or candidates for directorships. Whether a relationship creates a material conflict of interest will depend upon the facts and circumstances. The Chief Compliance Officer shall document the manner in which proxies involving a material conflict of interest have been voted as well as the basis for any determination that Birch Hill does not have a material conflict of interest in respect of a particular matter. Such documentation shall be maintained with the records of Birch Hill.

Birch Hill has not identified any material conflicts of interest in connection with past proxy votes.

We will send you a copy of the Birch Hill Proxy Voting Policies and Procedures if you would like one. In addition, upon written request, Birch Hill will provide to any client information regarding how their proxies were voted. A best effort will be made to accommodate client requests to vote in a particular manner at any time upon written notice.

In addition to voting of securities, Birch Hill may also receive notice of class actions for securities held in client accounts. When a recovery is achieved in a class action, investors who owned shares in the company subject to the action have the option to either: (1) opt out of the class action and pursue their own remedy; or (2) participate in the recovery achieved via the class action. Participating in the recovery involves the completion of a Proof of Claim form which is submitted to the Claims Administrator. After the Claims Administrator receives all Proof of Claims, it dispenses the money from the settlement fund to those persons and entities with valid claims.

Birch Hill has retained a third party firm to handle all class actions for securities held in client accounts. For their services, this third party receives 15% of the proceeds of the claim as a contingency fee, subtracted from the award to the client. Birch Hill believes it is in the interests of our clients to retain this firm. Birch Hill will benefit as well, as we will no longer have to try to track these class actions, assemble documentation, collect statements from prior custodians and advisory firms, prepare claims and send them to clients for signature and forwarding. More claims are being filed, including smaller ones and others of which we otherwise would not likely be aware. This third party provider will not be required to provide as much documentation as we have in the past, making the effort easier and more likely to result in receiving the award.

## **Item 18**

### **Financial Information**

This section does not apply, as Birch Hill does not require or solicit prepayment of client fees.