

**Firm Brochure**  
(Part 2A of Form ADV)

**Fountainhead Capital Management, LLC**

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July 18, 2016

This brochure provides information about the qualifications and business practices of Fountainhead Capital Management, LLC (“**Fountainhead**” or the “**Firm**”). If you have any questions about the contents of this brochure, please contact Marc B. Rock at: (732) 346-1900, or by email at: [marc@fountainhead-advisors.com](mailto:marc@fountainhead-advisors.com). We will provide you with a new brochure per request or as necessary based on material changes to the required disclosure, without charge. Our brochure may be requested by contacting Robert Renshaw Chief Compliance Officer (“**CCO**”) at or by calling the Firm at 732-346-1900.

The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (the “**SEC**”), or by any state securities authority. Additional information about the Firm is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). Registration as an investment adviser does not imply a certain level of skill or training.

## **Introduction**

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This brochure represents the Firm's Form ADV Part 2A filing (this "**Brochure**"). This Brochure describes the business of Fountainhead with certain sections describing the activities of supervised persons. Supervised persons are any of Fountainhead's 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 Fountainhead's behalf and is subject to Fountainhead's supervision or control (collectively, "**Supervised Persons**").

## **Item 2 - Material Changes**

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The following material changes have been made since the last update of this Brochure – March 30, 2016.

- **Cover Page:**
  - The Firm has moved and is now located at 379 Thorndall Street, 9<sup>th</sup> floor, Edison, NJ.
  - Robert Renshaw has assumed the role of Chief Compliance Officer.
- **Item 4: Advisory Business:**
  - Associated Persons of the Firm are no longer registered representatives of FSIC. The disclosure regarding the former association has been removed.
- **Item 10: Other Financial Industry Activities and Affiliations:**
  - Reference to Mass Mutual Life Insurance Company has been changed to "Mass Mutual Life Insurance Company".
  - Disclosure regarding Supervised Persons/Associated Persons affiliation with FSIC has been removed.

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#### **Item 4 – Advisory Business**

Fountainhead is a SEC registered investment adviser with its principal place of business located in Edison, NJ, USA.

Fountainhead provides financial planning, investment management, and pension consulting services to its clients. The Firm has been registered as an investment adviser since March 2011 and is principally owned by Marc B. Rock, Daniel Buchsbaum, Scott Silver and Robert Klotz. As of December 31, 2015, Fountainhead had \$153,523,373 in assets under management, \$96,019,453 of which were managed on a discretionary basis and \$57,503,920 of which were managed on a non-discretionary basis.

Prior to engaging Fountainhead to provide any of the foregoing investment advisory services, the client is required to enter into one or more written agreements with Fountainhead setting forth the terms and conditions under which Fountainhead renders its services (collectively, the “**Agreements**”).

A copy of this Brochure for Fountainhead, shall be provided to each client prior to, or contemporaneously with, the execution of an Agreement. Any client who has not received a copy of Fountainhead’s Brochure at least forty-eight (48) hours prior to executing the Agreement shall have five (5) business days subsequent to executing such client’s Agreement to terminate Fountainhead’s services without penalty.

#### Financial Planning Services

Fountainhead may provide its clients with a broad range of comprehensive financial planning services. The Firm’s financial planning is tailored to the individual needs of the client, but may include retirement planning, education planning, budgeting, cash flow and business planning, review of insurance, or recommendations for portfolio customization.

In performing its services, Fountainhead is not required to verify any information received from the client or from the client’s other professionals (e.g., attorney, accountant, etc.) and is expressly authorized to rely on such information. Fountainhead may recommend clients engage the Firm for additional related services, its Supervised Persons in their individual capacities as registered representatives of a broker-dealer and/or other professionals to implement its recommendations. Clients are advised that a conflict of interest exists if Fountainhead recommends its own services. The client is under no obligation to act upon any of the recommendations made by Fountainhead under a financial planning engagement or to engage the services of any such recommended professional, including Fountainhead itself. The client retains absolute discretion over all such implementation decisions and is free to accept or reject any of Fountainhead’s recommendations. Fountainhead ensures that clients’ investments are suitable for their investment needs, goals, objectives and risk tolerance.

Clients are advised that it remains their responsibility to promptly notify Fountainhead if there is ever any change in their financial situation or investment objectives for the purpose of reviewing, evaluating or revising Fountainhead’s previous recommendations and/or services. Clients may impose reasonable restrictions or mandates on the management of their account (e.g., require that a portion of their assets be invested in socially responsible funds) if, in Fountainhead’s sole

discretion, the conditions will not materially impact the performance of a portfolio strategy or prove overly burdensome to its management efforts.

#### Investment Management Services

Clients can engage Fountainhead to manage all or a portion of their assets on a discretionary or non-discretionary basis.

- Discretionary. Fountainhead has separately managed accounts with full discretion to invest a client's assets subject to any guidelines or special instructions that may be expressly set forth in the Agreement, inclusive of delegating discretionary authority to third party investment managers as further described below.
- Non-Discretionary. Fountainhead may also provide advisory services to separately managed accounts of clients on a non-discretionary basis, including to the IRA and 401K accounts of individuals. With respect to its non-discretionary asset management services, Fountainhead generally maintains ongoing responsibility to make recommendations, based upon the needs of the client, as to the specific securities the account may purchase or sell. The final decision on investment selection rests with the client in this arrangement and the client always maintains asset control.

Non-discretionary investment management services can negatively impact client accounts if Fountainhead is unable to contact clients during sudden negative market conditions

Fountainhead may also render non-discretionary investment management services to clients relative to variable life/annuity products that they may own, their individual employer-sponsored retirement plans, and/or 529 plans or other products. In so doing Fountainhead recommends the allocation of client assets among the various investment options that are available with the product. Client assets are maintained at the specific insurance company or custodian designated by the product.

Depending on the client status as a discretionary or non-discretionary account, Fountainhead will either recommend (discretionary) or allocate (non-discretionary) the allocation of clients' investment management assets among Independent Managers (as described below), mutual funds and exchange-traded funds ("**ETFs**"). Fountainhead may also incorporate other types of securities in its management strategy and may provide advice about any type of legacy investment held in clients' portfolios.

Fountainhead tailors its advisory services to the individual needs of clients. Fountainhead consults with clients initially and on an ongoing basis to determine risk tolerance, time horizon and other factors that may impact the clients' investment needs. Clients are advised to promptly notify Fountainhead if there are changes in their financial situation or investment objectives and or if they wish to impose any reasonable restrictions upon Fountainhead's management services.

### Use of Third Party Financial Institutions

#### *Envestnet Asset Management, Inc. (“**Envestnet**”)*

For certain client accounts, Fountainhead will engage Envestnet, to provide certain advisory and non-advisory administrative, accounting and technological services to the Firm and its clients (“**Envestnet Service Platform**”). Founded in 1999, Envestnet provides investment management and investment advisory services through independent investment advisors. Envestnet is a registered as an investment adviser with SEC. Further information on its activities may be found on its’ Form ADV.

Certain client accounts of Fountainhead may be suitable for participation in the Envestnet Service Platform inclusive of the services set forth below. A full description of each service may be found in Envestnet’s Form ADV.

- Separately Managed Accounts Solution.
- Unified Managed Accounts Solution.
- Advisor as Portfolio Manager Solution
- Fund Strategist Portfolio Program
- SRI Personal conviction Overlay Screen
- Envestnet Tax Transition Services.
- Envestnet Tax Management Services.
- Plan Horizons Program – Time Segmented Distribution Services.
- Plan Horizons Program – Annuities
- Manager Research, Performance Analysis and Due Diligence
- Account Aggregation, Reconciliation and Reporting
- Account Billing and Fee Administration
- Advisor Professional Services
- Marketing Support

#### *Pershing Advisory Services, Inc.*

Pershing Advisory Solutions, LLC, an introducing broker and affiliate of Pershing, LLC (the broker dealer and the custodian recommended to clients by the Firm) (“**PAS**”). The Firm engages PAS via a tri party agreement to provide certain clearing services to clients on behalf of sub-advisers sourced directly by the Firm or introduced to the Firm by PAS (“**PAS Platform**”). Each sub-manager is engaged separately by the Firm or client pursuant to an investment advisory agreement. PAS fees will be paid by the client and separately from any custody or advisory fees charged to the client.

### Use of Independent Managers

As mentioned above, and based on the based upon the stated investment objectives of the client, Fountainhead may, (if discretionary account), authorize or (if non-discretionary account), recommend that clients authorize the active discretionary management of a portion of their assets by and/or among certain independent investment managers (“**Independent Managers**”) independently, or via the Envestnet Service Platform or PAS Platform. The terms and conditions under which the client engages the Independent Managers are set forth in a separate written agreement between Fountainhead or the client and the designated Independent

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Managers. Fountainhead also monitors and reviews the account performance and the client's investment objectives. Fountainhead receives an annual advisory fee which is based upon a percentage of the market value of the assets being managed by the designated Independent Managers.

When selecting an Independent Manager for a client, Fountainhead reviews information about the Independent Manager such as its Brochure and/or material supplied by the Independent Manager or independent third parties for a description of the Independent Manager's investment strategies, past performance and risk results to the extent available. Factors that Fountainhead considers in recommending an Independent Manager include the client's stated investment objectives, management style, performance, reputation, financial strength, reporting, pricing, and research. The investment management fees charged by the designated Independent Managers, together with the fees charged by the corresponding designated broker- dealer/custodian of the client's assets, may be exclusive of, and in addition to, Fountainhead's investment advisory fee set forth above. As discussed herein, the client may incur additional fees than those charged by Fountainhead, the designated Independent Managers, and corresponding broker-dealer and custodian.

In addition to Fountainhead's Brochure, the client also receives the written Brochure of the designated Independent Managers. Certain Independent Managers may impose more restrictive account requirements and varying billing practices than Fountainhead. In such instances, Fountainhead may alter its corresponding account requirements and/or billing practices to accommodate those of the Independent Managers.

#### Pension Consulting

Fountainhead offers pension consulting services to employers. The Firm will assist employers in developing defined benefit retirement plan solutions, which may include an evaluation of the qualified retirement plan's fiduciary compliance program, recordkeeping and third party administrative services, development of an investment policy statement, employee communication and education program, and retiree consulting services. Fountainhead may also provide investment management services to retirement plans, which includes the implementation and management of the plan assets.

#### Sponsor / Manager of Wrap Program

Fountainhead is not the sponsor or manager of a wrap fee program. The Firm may select certain wrap fee investment products for clients via the Envestnet service platform.

### **Item 5 – Fees and Compensation**

Fountainhead offers its services on a fee basis, which may include fixed fees as well as fees based upon assets under management. Additionally, certain of Fountainhead's Supervised Persons, in their individual capacities, may offer securities brokerage services and/or insurance products under a separate commission-based arrangement.

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Financial Planning and Pension Consulting Fees

Fountainhead generally charges a fixed fee for financial planning or pension consulting services. These fees are negotiable, but generally range from \$1,000 to \$50,000 on a fixed fee basis, depending upon the level and scope of the services and the professional rendering the financial planning or pension consulting services. If the client engages Fountainhead for additional investment advisory services, Fountainhead may offset all or a portion of its fees for those services based upon the amount paid for the financial planning or pension consulting services.

Prior to engaging Fountainhead to provide financial planning or pension consulting services, the client is required to enter into a written agreement with Fountainhead setting forth the terms and conditions of the engagement. Generally, Fountainhead requires one-half of the fee payable upon entering the written agreement. The balance is generally due upon delivery of the financial plan or completion of the agreed upon services.

Investment Management Fee

Fountainhead provides investment management services for an annual fee based upon a percentage of the market value of the assets being managed by Fountainhead. Fountainhead's annual fee is exclusive of, and in addition to brokerage commissions, transaction fees, and other related costs and expenses which are incurred by the client. Fountainhead does not, however, receive any portion of these commissions, fees, and costs.

Fountainhead's annual fee is prorated and charged quarterly, in advance, based upon the market value of the assets being managed by Fountainhead on the last day of the previous quarter. The annual fee varies depending upon the market value of the assets under management and the type of investment management services to be rendered (including whether the assets are managed directly by Fountainhead or through Independent Managers) as follows:

1. Discretionary Asset Management Fees: Depending on the services provided, Fountainhead will generally charge a discretionary asset management fee in the range of .25% to 1.25%.
2. Non-discretionary Asset Management Fees: Depending on the services provided, Fountainhead will generally charge a non-discretionary asset management fee in the range of .25% to 1.25%.

For both discretionary and non-discretionary clients, Fountainhead, in its sole discretion, may negotiate to charge a lesser management fee based upon certain criteria (i.e., type of account, anticipated future earning capacity, anticipated future additional assets, dollar amount of assets to be managed, related accounts, account composition, pre-existing client, account retention, *pro bono* activities, etc.

Fees Charged by Financial Institutions

As further discussed in response to Item 12, Fountainhead recommends that clients utilize the brokerage and clearing services of PAS for investment management accounts.



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Fountainhead may only implement its investment management recommendations after the client has arranged for and furnished Fountainhead with all information and authorization regarding accounts with appropriate financial institutions. Financial institutions include, but are not limited to Pershing or any other broker-dealer recommended by Fountainhead, broker-dealer directed by the client, trust companies, banks etc. (collectively referred to herein as the **“Financial Institutions”**).

As discussed herein, such fees are outside of the investment management fee and will be charged to the client separately.

**Platform Fees**

On behalf of certain client accounts, the Firm will engage Envestnet to perform certain services as set forth in Item 4. For those client accounts on the Envestnet Service Platform, Envestnet will, calculate and automatically deduct the Advisory Fee, administration fee and any fee for a third party sub-manager on the Envestnet Service Platform, directly from client accounts. In such cases, the administration fee is the service fee charged by Envestnet pursuant to the services selected for the client by the Firm.

Certain fees charged to clients may not be included in the Advisory Fee, including (but not limited to) miscellaneous fees or charges by the custodian for services such as wiring fees, fees for portfolio transactions executed away from the custodian or not pursuant to an asset-based brokerage fee, dealer mark-ups, electronic fund and wire transfers, spreads paid to market-makers and exchange fees.

**Third Party Sub-Manager Fees**

As previously described herein, the Firm may, independently or via third party Envestnet Service Platform or PAS Platform, engage third party sub-managers to provide discretionary asset management services to its clients. All third party sub-manager fees are charged separate and in addition from the Firm's advisory fees. For those third party sub-managers on the Envestnet Service Platform, Envestnet will deduct the Third party sub-manager fee from the client account. For those third party sub-managers not on the Envestnet Service Platform, and engaged directly by the Firm or through PAS Platform, the Firm will deduct the fee directly from the client account.

**Other Fees**

The Firm's advisory fees are exclusive of and in addition to brokerage commissions, transaction fees, and other related costs and expenses which shall be incurred by the client. Clients may incur certain charges imposed by the Financial Institutions and other third parties such as fees charged by Independent Managers (as defined below), custodial fees, charges imposed directly by a mutual fund or ETF in the account, which are disclosed in the fund's prospectus (e.g., fund management fees and other fund expenses), deferred sales charges, odd-lot differentials, transfer taxes, wire transfer and electronic fund fees, and other fees and taxes on brokerage accounts and securities transactions. Clients are responsible for the payment of these costs and expenses. Fountainhead will not receive any portion of these commissions, fees, or costs.

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Fee Debit

The Agreement and a separate agreement with any Financial Institution may authorize Fountainhead (through a third party inclusive of Envestnet) or Independent Managers to debit a client's account for the amount of Fountainhead's fee and to directly remit that management fee to Fountainhead or the Independent Managers. Any Financial Institutions recommended by Fountainhead have agreed to send a statement to the client, at least quarterly, indicating all amounts disbursed from the account including the amount of management fees paid directly to Fountainhead.

Alternatively, clients may elect to have Fountainhead send an invoice for payment. For Non-discretionary clients in which Fountainhead does not have debit arrangements in place (including but not limited to 401K and IRA clients' accounts), clients will be invoiced 30 days in advance of due date.

As further discussed in response to Item 15, clients receive a copy of a statement directly from the custodian of the account indicating all amounts disbursed from clients' accounts, including the investment management fee. For clients who are residents in the State of Florida, Fountainhead sends clients and the custodian a copy of its fee statement, including the specific manner in which the investment management was calculated.

Fees for Management During Partial Quarters of Service

For the initial period of investment management services, the fees are calculated on a *pro rata* basis. If assets are deposited into or withdrawn from an account after the inception of a quarter that exceed \$10,000, the fee payable with respect to such assets will be prorated based on the number of days remaining in the quarter.

The Agreement between Fountainhead and the client will continue in effect until terminated by either party pursuant to the terms of the Agreement. Fountainhead's fees are prorated through the date of termination and any remaining balance is charged or refunded to the client, as appropriate.

Clients may make additions to and withdrawals from their account at any time, subject to Fountainhead's right to terminate an account. Additions may be in cash or securities provided that Fountainhead reserves the right to liquidate any transferred securities or decline to accept particular securities into a client's account. Clients may withdraw account assets on notice to Fountainhead, subject to the usual and customary securities settlement procedures. However, Fountainhead designs its portfolios as long-term investments and the withdrawal of assets may impair the achievement of a client's investment objectives. Fountainhead may consult with its clients about the options and ramifications of transferring securities. However, clients are advised that when transferred securities are liquidated, they are subject to transaction fees, fees assessed at the mutual fund level (*i.e.*, contingent deferred sales charge) and/or tax ramifications).

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

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Fountainhead does not provide any services for performance-based fees. Performance-based fees are those based on a share of capital gains on or capital appreciation of the Assets of a client.

## **Item 7 - Types of Clients**

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Fountainhead provides its services to individuals, investment pension and profit sharing plans, individual IRA and 401K accounts, trusts, estates, charitable organizations, corporations and business entities.

### Minimums Imposed By Independent Managers

Fountainhead does not impose a minimum portfolio size or minimum annual fee. Certain Independent Managers may, however, impose more restrictive account requirements and varying billing practices than Fountainhead. In such instances, Fountainhead may alter its corresponding account requirements and/or billing practices to accommodate those of the Independent Managers.

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

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### Methods of Analysis and Investment Strategy

Fountainhead primarily uses a strategic approach with a tactical overlay as its primary method of analysis, but may also incorporate aspects of fundamental and technical analysis. As a general philosophy, Fountainhead looks to protect client portfolios against the downside over capturing an upside swing.

Fundamental analysis involves the fundamental financial condition and competitive position of a company. Fountainhead will analyze the financial condition, capabilities of management, earnings, new products and services, as well as the company's markets and position amongst its competitors in order to determine the recommendations made to clients. The primary risk in using fundamental analysis is that while the overall health and position of a company may be good, market conditions may negatively impact the security.

Technical analysis involves the analysis of past market data rather than specific company data in determining the recommendations made to clients. Technical analysis may involve the use of charts to identify market patterns and trends which may be based on investor sentiment rather than the fundamentals of the company. The primary risk in using technical analysis is that spotting historical trends may not help to predict such trends in the future. Even if the trend will eventually reoccur, there is no guarantee that Fountainhead will be able to accurately predict such a reoccurrence.

For accounts invested directly by Fountainhead, the Firm primarily utilizes mutual funds and ETFs, but may also incorporate individual equity securities. When selecting these securities, Fountainhead incorporates a variety of factors, including the fund manager's tenure, investment strategy, and/or overall career performance.

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As part of its investment strategy, Fountainhead may allocate all or a portion of a client's portfolio to one or more Independent Managers (as further discussed in response to Item 4). When selecting an Independent Manager for a client, the Firm examines the performance of the Independent Manager during down markets, focusing on the flexibility of the Independent Manager to change strategies as market conditions dictates.

Mutual Funds and Exchange Traded Funds (ETFs)

An investment in a mutual fund or ETF involves risk, including the loss of principal. Mutual fund and ETF shareholders are necessarily subject to the risks stemming from the individual issuers of the fund's underlying portfolio securities. Such shareholders are also liable for taxes on any fund-level capital gains, as mutual funds and ETFs are required by law to distribute capital gains in the event they sell securities for a profit that cannot be offset by a corresponding loss.

Shares of mutual funds are generally distributed and redeemed on an ongoing basis by the fund itself or a broker acting on its behalf. The trading price at which a share is transacted is equal to a fund's stated daily per share net asset value ("**NAV**"), plus any shareholders fees (e.g., sales loads, purchase fees, redemption fees). The per share NAV of a mutual fund is calculated at the end of each business day, although the actual NAV fluctuates with intraday changes to the market value of the fund's holdings. The trading prices of a mutual fund's shares may differ significantly from the NAV during periods of market volatility, which may, among other factors, lead to the mutual fund's shares trading at a premium or discount to NAV.

Shares of ETFs are listed on securities exchanges and transacted at negotiated prices in the secondary market. Generally, ETF shares trade at or near their most recent NAV, which is generally calculated at least once daily for indexed-based ETFs and more frequently for actively managed ETFs. However, certain inefficiencies may cause the shares to trade at a premium or discount to their pro rata NAV. There is also no guarantee that an active secondary market for such shares will develop or continue to exist. Generally, an ETF only redeems shares when aggregated as creation units (usually 50,000 shares or more). Therefore, if a liquid secondary market ceases to exist for shares of a particular ETF, a shareholder may have no way to dispose of such shares.

Use of Independent Managers

Fountainhead may recommend the use of Independent Managers for certain clients. Fountainhead will continue to do ongoing due diligence of such managers, but such recommendations relies, to a great extent, on the Independent Managers ability to successfully implement their investment strategy. In addition, Fountainhead does not have the ability to supervise the Independent Managers on a day-to-day basis other than as previously described in response to Item 4, above. There may be other third-party money managers that may be suitable for a client that may be more or less costly.

General Risk of Loss

Investing in securities involves the risk of loss. Clients should be prepared to bear such loss. All investment programs have certain risks that are borne by the investor. No guarantees can be made that a client's financial goals or objectives will be achieved. Further, no guarantees of

performance can be offered. Our investment approach constantly keeps the risk of loss in mind. Investors face the following investment risks:

- Interest-rate Risk: Fluctuations in interest rates may cause investment prices to fluctuate. For example, when interest rates rise, yields on existing bonds become less attractive, causing their market values to decline.
- Market Risk: The price of a security, bond, or mutual fund may drop in reaction to tangible and intangible events and conditions. This type of risk is caused by external factors independent of a security's particular underlying circumstances. For example, political, economic and social conditions may trigger market events.
- Inflation Risk: When any type of inflation is present, a dollar today will not buy as much as a dollar next year, because purchasing power is eroding at the rate of inflation.
- Currency Risk: Overseas investments are subject to fluctuations in the value of the dollar against the currency of the investment's originating country. This is also referred to as exchange rate risk.
- Reinvestment Risk: This is the risk that future proceeds from investments may have to be reinvested at a potentially lower rate of return (i.e. interest rate). This primarily relates to fixed income securities.
- Business Risk: These risks are associated with a particular industry or a particular company within an industry. For example, oil-drilling companies depend on finding oil and then refining it, a lengthy process, before they can generate a profit. They carry a higher risk of profitability than an electric company, which generates its income from a steady stream of customers who buy electricity no matter what the economic environment is like.
- Liquidity Risk: Liquidity is the ability to readily convert an investment into cash. Generally, assets are more liquid if many traders are interested in a standardized product. For example, Treasury Bills are highly liquid, while real estate properties are not.
- Financial Risk: Excessive borrowing to finance a business' operations increases the risk of profitability, because the company must meet the terms of its obligations in good times and bad. During periods of financial stress, the inability to meet loan obligations may result in bankruptcy and/or a declining market value.
- Third Party Risk: It is not uncommon for companies to maintain myriad third-party relationships in an effort to reduce costs, increase efficiency and focus more intently on core competencies. However, while businesses seek to gain a competitive and operational advantage through these relationships, they are also exposing themselves to an increasing level of risk. At the same time, however, it is becoming increasingly difficult for businesses to maintain the necessary controls for mitigating the risks associated with these relationships. Failure to manage these risks can expose a business to regulatory action, financial loss, litigation, and reputational damage, and may even impair the institution's ability to establish new or service existing customer relationships.

For those clients choosing to invest in alternative investments, such securities come with additional substantial risks as they are speculative in nature. They may not be registered or regulated under any laws, should be considered illiquid investments, are not freely transferable, may be highly leveraged, may be volatile, and may involve higher fees and expenses than other types of investments. Alternative investments may not be immediately redeemable. Alternative investments such as hedge funds only permit redemptions at specified time periods and in specified advanced notice. As a result, the client may be required to hold alternative investments in its account after termination of this or the Agreement.

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

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Fountainhead is required to disclose the facts of any legal or disciplinary events that are material to a client's evaluation of its advisory business or the integrity of management. Fountainhead does not have any required disclosures to this Item.

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

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Fountainhead is required to disclose any relationship or arrangement that is material to its advisory business or to its clients with certain related persons.

#### Receipt of Insurance Commission

Certain of Fountainhead's Supervised Persons, in their individual capacities, are licensed insurance agents with various insurance companies, and in such capacity, may recommend, on a fully-disclosed commission basis, the purchase of certain insurance products. While Fountainhead does not sell such insurance products to its investment advisory clients, Fountainhead does permit its Supervised Persons, in their individual capacities as licensed insurance agents, to sell insurance products to its investment advisory clients. A conflict of interest exists to the extent that Fountainhead recommends the purchase of insurance products where Fountainhead's Supervised Persons receive insurance commissions or other additional compensation. A further conflict of interest exists to the extent that Fountainhead recommends the purchase of insurance products with Mass Mutual Life Insurance Company where the Firm receives certain benefits including health benefits and office space. As a result Fountainhead has procedures in place to ensure that any recommendations made by such Supervised Persons are in the best interest of its clients. In addition, clients have the option to purchase investment products that the Firm recommends through other brokers or agents that are not affiliated with the Firm.

#### Outside Investment Related Ventures

Marc Rock has up to 1% ownership on an ETF startup company called Exceed Investments. Fountainhead may utilize certain client accounts to invest in Exceed Investments. Investing in ETF carries the risk of capital loss (sometimes up to a 100% loss in the case of stock holding bankruptcy). A conflict of interest exists to the extent Fountainhead's Supervised Persons recommend an investment in the Fund due to Marc Rock's affiliation therewith. Fountainhead seeks to ensure that any such recommendations are provided on a fully-disclosed basis and only when aligned with its clients' best interests.

For those of Fountainhead's Supervised Persons that are licensed insurance agents, such Supervised Persons currently devote up to approximately thirty-five percent (35%) of their time to insurance sales.

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

Fountainhead and persons associated with Fountainhead ("**Associated Persons**") are permitted to buy or sell securities that it also recommends to clients consistent with Fountainhead's policies and procedures.

Fountainhead has adopted a code of ethics that sets forth the standards of conduct expected of its associated persons and requires compliance with applicable securities laws (the "**Code**"). The Code contains written policies reasonably designed to prevent the unlawful use of material non-public information by Fountainhead or any of its associated persons. The Code also requires that certain of Fountainhead's personnel (called "**Access Persons**") report their personal securities holdings and transactions and obtain pre-approval of certain investments such as initial public offerings and limited offerings.

When Fountainhead is engaging in or considering a transaction in any security on behalf of a client, no Access Person may effect for themselves or for their immediate family (i.e., spouse, minor children, and adults living in the same household as the Access Person) a transaction in that security unless:

- the transaction has been completed;
- the transaction for the Access Person is completed as part of a batch trade (as defined below in Item 12) with clients; or
- a decision has been made not to engage in the transaction for the client.

These requirements are not applicable to: (i) direct obligations of the Government of the United States; (ii) money market instruments, bankers' acceptances, bank certificates of deposit, commercial paper, repurchase agreements and other high quality short-term debt instruments, including repurchase agreements; (iii) shares issued by mutual funds or money market funds; and (iv) shares issued by unit investment trusts that are invested exclusively in one or more mutual funds.

This Code has been established recognizing that some securities trade in sufficiently broad markets to permit transactions by Access Persons to be completed without any appreciable impact on the markets of such securities. Therefore, under certain limited circumstances, exceptions may be made to the policies stated above.

Clients and prospective clients may contact Fountainhead to request a copy of its Code.

It is the Firm's policy that the Firm will not affect any principal or agency cross securities transactions for client accounts. The Firm will also not cross trades between client accounts. Principal transactions are generally defined as transactions where an adviser, acting as principal for its own account or the account of an affiliated broker-dealer, buys from or sells any security to any advisory client. A principal transaction may also be deemed to have occurred if a security is crossed between an affiliated hedge fund and another client account. An agency cross transaction is defined as a transaction where a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlled by or under common control with the investment adviser, acts as broker for both the advisory client and for another person on the other side of the transaction. Agency cross transactions may arise where an adviser is dually registered as a broker-dealer or has an affiliated broker-dealer.

## **Item 12 - Brokerage Practices**

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As discussed above, in Item 5, Fountainhead generally recommends that clients utilize the brokerage and clearing services of Pershing.

### Clearing Services

Fountainhead generally recommends clients utilize Pershing, LLC for broker dealer as well as custodial services. Factors which Fountainhead considers in recommending Pershing or any other broker-dealer to clients include their respective financial strength, reputation, execution, pricing, research and service. Pershing may enable the Firm to obtain many mutual funds without transaction charges and other securities at nominal transaction charges. The commissions and/or transaction fees charged by Pershing may be higher or lower than those charged by other Financial Institutions.

The commissions paid by Fountainhead's clients to Pershing comply with the Firm's duty to obtain "best execution." Clients may pay commissions that are higher than another qualified Financial Institution might charge to effect the same transaction where Fountainhead determines that the commissions are reasonable in relation to the value of the brokerage and research services received. In seeking best execution, the determinative factor is not the lowest possible cost, but whether the transaction represents the best qualitative execution, taking into consideration the full range of a Financial Institution's services, including among others, the value of research provided, execution capability, commission rates and responsiveness. Fountainhead seeks competitive rates but may not necessarily obtain the lowest possible commission rates for client transactions.

Consistent with obtaining best execution, brokerage transactions may be directed to certain broker/dealers in return for investment research products and/or services which assist Fountainhead in its investment decision-making process. Such research generally will be used to service all of the Firm's clients, but brokerage commissions paid by one client may be used to pay for research that is not used in managing that client's portfolio. The receipt of investment research products and/or services as well as the allocation of the benefit of such investment research products and/or services poses a conflict of interest because Fountainhead does not have to produce or pay for the products or services.



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Fountainhead periodically and systematically reviews its policies and procedures regarding its recommendation of Financial Institutions in light of its duty to obtain best execution.

Introducing Brokerage Services

Pershing Advisory Solutions, LLC, an introducing broker and affiliate of PAS. The Firm engages PAS to provide certain clearing services to clients on behalf of sub-advisers introduced to the Firm by PAS (and separately engaged by the Firm under a separate investment advisory agreement).

Software and Support Provided by Financial Institutions

Fountainhead may receive without cost from Pershing computer software and related systems support, which allow Fountainhead to better monitor client accounts maintained at Pershing. Fountainhead may receive the software and related support without cost because the Firm renders investment management services to clients that maintain assets at Pershing. The software and support is not provided in connection with securities transactions of clients (*i.e.*, not “soft dollars”). The software and related systems support may benefit Fountainhead, but not its clients directly. In fulfilling its duties to its clients, Fountainhead endeavors at all times to put the interests of its clients first. Clients should be aware, however, that Fountainhead’s receipt of economic benefits from a broker/dealer creates conflict of interest since these benefits may influence the Firm’s choice of broker/dealer over another that does not furnish similar software, systems support or services.

Specifically, Fountainhead may receive the following benefits from Pershing:

- Receipt of duplicate client confirmations and bundled duplicate statements;
- Access to a trading desk that exclusively services its institutional traders;
- Access to block trading which provides the ability to aggregate securities transactions and then allocate the appropriate shares to client accounts; and
- Access to an electronic communication network for client order entry and account information.

Brokerage for Client Referrals

Fountainhead does not consider, in selecting or recommending broker/dealers, whether the Firm receives client referrals from the Financial Institutions or other third party.

Directed Brokerage

The client may direct Fountainhead in writing to use a particular financial institution to execute some or all transactions for the client. In that case, the client will negotiate terms and arrangements for the account with that financial institution and the Firm will not seek better execution services or prices from other Financial Institutions or be able to “batch” client transactions for execution through other financial institutions with orders for other accounts managed by Fountainhead (as described above). As a result, the client may pay higher

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commissions or other transaction costs, greater spreads or may receive less favorable net prices, on transactions for the account than would otherwise be the case. Subject to its duty of best execution, Fountainhead may decline a client's request to direct brokerage if, in the Firm's sole discretion, such directed brokerage arrangements would result in additional operational difficulties.

Trade Aggregation

Transactions for each client generally will be effected independently, unless Fountainhead decides to purchase or sell the same securities for several clients at approximately the same time. Fountainhead may (but is not obligated to) combine or "batch" such orders to obtain best execution, to negotiate more favorable commission rates or to allocate equitably among the Firm's clients differences in prices and commissions or other transaction costs that might not have been obtained had such orders been placed independently. Under this procedure, transactions will generally be averaged as to price and allocated among Fountainhead's clients pro rata to the purchase and sale orders placed for each client on any given day. To the extent that the Firm determines to aggregate client orders for the purchase or sale of securities, including securities in which Fountainhead's Supervised Persons may invest, the Firm generally does so in accordance with applicable rules promulgated under the Advisers Act and no-action guidance provided by the staff of the SEC. Fountainhead does not receive any additional compensation or remuneration as a result of the aggregation.

In the event that the Firm determines that a prorated allocation is not appropriate under the particular circumstances, the allocation will be made based upon other relevant factors, which may include: (i) when only a small percentage of the order is executed, shares may be allocated to the account with the smallest order or the smallest position or to an account that is out of line with respect to security or sector weightings relative to other portfolios, with similar mandates; (ii) allocations may be given to one account when one account has limitations in its investment guidelines which prohibit it from purchasing other securities which are expected to produce similar investment results and can be purchased by other accounts; (iii) if an account reaches an investment guideline limit and cannot participate in an allocation, shares may be reallocated to other accounts (this may be due to unforeseen changes in an account's assets after an order is placed); (iv) with respect to sale allocations, allocations may be given to accounts low in cash; (v) in cases when a pro rata allocation of a potential execution would result in a *de minimis* allocation in one or more accounts, the Firm may exclude the account(s) from the allocation; the transactions may be executed on a pro rata basis among the remaining accounts; or (vi) in cases where a small proportion of an order is executed in all accounts, shares may be allocated to one or more accounts on a random basis.

Best Execution

The Firm acknowledges its duty to seek best execution of trades for client accounts and it has implanted policies and procedures reasonably designed in such pursuit.

All client accounts are currently held in custody at third party custodians – generally Pershing, LLC. In some instances additional brokers may be used.

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The Firm will review Pershing, LLC as well as other third party brokers providing brokerage service to reasonably determine that “best execution” is in effect. In seeking best execution, the determinative factor is not the lowest possible commission cost but whether the transaction represents the best qualitative execution, taking into consideration the full range of a broker-dealer’s services including the value of research provided, execution capability, commission rates, and responsiveness. Accordingly, although the Firm will seek competitive commission rates, it may not necessarily obtain the lowest possible commission rate for client account transactions.

Bunched Trades

Transactions for each client account generally will be effected independently, unless the Firm decides to purchase or sell the same securities for several clients at approximately the same time. The Firm may (but is not obligated to) combine or “batch” such orders to obtain best execution, to negotiate more favorable commission rates or to allocate equitably among its clients differences in prices and commissions or other transaction costs that might have been obtained had such orders been placed independently. Under this procedure, transactions will be averaged as to price and will be allocated among the Firm’s clients in proportion to the purchase and sale orders placed for each client account on any given day. To the extent that the Firm determines to aggregate client orders for the purchase or sale of securities, including securities in which the Firm’s principal(s) and/or associated person(s) may invest, the Firm shall generally do so in accordance with the parameters set forth in SEC No-Action Letter, SMC Capital, Inc. The Firm shall not receive any additional compensation or remuneration as a result of the aggregation.

The client may direct the Firm to use a particular broker-dealer (subject to the Firm’s right to decline and/or terminate the engagement) to execute some or all transactions for the client’s account. In such event, the client will negotiate terms and arrangements for the account with that broker-dealer, and the Firm will not seek better execution services or prices from other broker-dealers or be able to “batch” the client’s transactions for execution through other broker-dealers with orders for other accounts managed by the Firm. As a result, client may pay higher commissions or other transaction costs or greater spreads, or receive less favorable net prices, on transactions for the account than would otherwise be the case. In the event that transactions for client accounts are effected through a broker-dealer that refers investment management clients to the Firm, the potential for conflict of interest may arise.

Custodian

Each client must have its own custodian. The Firm recommends a client utilize Pershing as its custodian. Other than the information set forth in this Item, 12, the Firm receives no benefit of any kind from these custodians, nor does it require any account be maintained at these custodians.

The client will enter into a separate custodial/clearing agreement with its selected custodian. The custodian’s custodial/clearing agreement may authorize the custodian to debit the account for the amount of the Firm’s fee and to directly remit that fee to the Firm in accordance with required SEC procedures.

The custodial/clearing agreement will also give the Firm clients the choice as to how they wish to be charged for custodial services. Generally, clients can choose either a fee based model, in which they pay a flat fee to the custodian for unlimited trading, or they can choose a commission based

model and pay the custodian for each trade or transaction. The appropriate custodial fee arrangement depends on the type of account and the anticipated trading frequency. The fees and/or commissions are debited directly by the custodian and are retained by the custodian.

The Firm will help clients review and select custody payment options and further acknowledges that it is often beneficial for a client with multiple accounts to use a combination of fee based pricing and commission based pricing. The Firm does not receive remuneration from the custodian in either format.

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

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#### Account Reviews

For those clients to whom Fountainhead provides investment management services, Fountainhead monitors those portfolios as part of an ongoing process while regular account reviews are conducted on at least a quarterly basis. For those clients to whom Fountainhead provides financial planning and/or consulting services, reviews are conducted on an “as needed” basis. Such reviews are conducted by one of Fountainhead’s investment adviser representatives. All investment advisory clients are encouraged to discuss their needs, goals, and objectives with Fountainhead and to keep Fountainhead informed of any changes thereto. Fountainhead contacts ongoing investment advisory clients at least annually to review its previous services and/or recommendations and to discuss the impact resulting from any changes in the client’s financial situation and/or investment objectives.

#### General Reports and Account Statements

Unless otherwise agreed upon, clients are provided with transaction confirmation notices and regular summary account statements directly from the broker-dealer or custodian for the client accounts. Those clients to whom Fountainhead provides investment advisory services will also receive a report from Fountainhead that may include such relevant account and/or market-related information such as an inventory of account holdings and account performance on a quarterly basis. Clients should compare the account statements they receive from their custodian with those they receive from Fountainhead.

#### Financial Planning/Consulting Reports

Those clients to whom Fountainhead provides financial planning and/or pension consulting services will receive reports from Fountainhead summarizing its analysis and conclusions as requested by the client or otherwise agreed to in writing by Fountainhead.

#### Account Statements and Supplemental Reports

Unless otherwise agreed upon, clients are provided with transaction confirmation notices and regular summary account statements directly from the broker-dealer or custodian for the client accounts. Those clients to whom the Firm provides investment advisory services may engage the Firm to provide them with a supplemental report including relevant account and/or market-related information such as an inventory of account holdings and account performance from time to time.

The Firm charges an additional fee for such reports, as discussed in response to Item 5 – Fees and Compensation.

Clients should compare the account statements they receive from their custodian with those they receive from the Firm.

#### Financial Planning and/or Consulting Reports

Those clients to whom the Firm provides financial planning and/or consulting services will receive reports from the Firm summarizing its analysis and conclusions as requested by the client or otherwise agreed to in writing by the Firm.

#### Review Triggers

Other conditions that may trigger a review are changes in the tax laws, new investment information, and changes in a client's own situation.

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

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#### Client Referrals

In the event a client is introduced to Fountainhead by either an unaffiliated or an affiliated solicitor, the Firm may pay that solicitor a referral fee in accordance with applicable federal and state securities laws. Unless otherwise disclosed, any such referral fee is paid solely from Fountainhead's investment management fee and does not result in any additional charge to the client. If the client is introduced to the Firm by an unaffiliated solicitor, the solicitor is required to provide the client with Fountainhead Capital Management's Brochure(s) and a copy of a solicitor's disclosure statement containing the terms and conditions of the solicitation arrangement. Any affiliated solicitor of Fountainhead is required to disclose the nature of his or her relationship to prospective clients at the time of the solicitation and will provide all prospective clients with a copy of the Firm's Brochure(s) at the time of the solicitation.

#### Other Economic Benefit

Fountainhead may receive an economic benefit from a third party (non-client) for providing investment advice to the Firm's advisory clients. This type of relationship poses a conflict of interest, as discussed in Item 12 – Brokerage Practices.

#### Solicitor's Compensation

The Firm has engaged third party solicitors to conduct solicitation of clients on its behalf. To date no compensation has been paid.

### **Item 15 - Custody**

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The Agreement as well as and a the separate agreement between Fountainhead and certain Financial Institutions authorizes Fountainhead, or as applicable the Financial Institution, on behalf of Fountainhead to debit the client's account for the amount of management fee directly remitting any the appropriate portion of management fee to Fountainhead in accordance with applicable custody rules. As such, Fountainhead is deemed to have custody under SEC Rule 206(4)2 (the "**Custody Rule**").

To comply with Fountainhead's obligation under the Custody rule, the Financial Institutions recommended by Fountainhead have agreed to send a statement to the client, at least quarterly, indicating all amounts disbursed from the account including the amount of management fees paid directly to Fountainhead. In addition, as discussed in Item 13, Fountainhead also sends periodic supplemental reports to clients. Clients should carefully review the statements sent directly by the Financial Institutions and compare them to those received from Fountainhead.

As previously disclosed in Item 5 - Fees and Compensation, and the client may agree to authorize and arrange for the direct deduction of the Firm's fees from a client's accounts.

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

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In the event Fountainhead is given the authority to exercise discretion on behalf of clients, the Firm will be permitted to effect transactions for the client without first having to seek the client's consent. Fountainhead is given this authority through a power-of-attorney included in the Agreement. Clients may request a limitation on this authority (such as certain securities not to be bought or sold). Fountainhead takes discretion over the following activities:

- The securities to be purchased or sold;
- The amount of securities to be purchased or sold;
- When transactions are made; and
- The Independent Managers to be hired or fired.

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

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Fountainhead is required to disclose if it accepts authority to vote client securities. Fountainhead does not vote client securities on behalf of its clients. Clients receive proxies directly from their Financial Institutions and may contact Fountainhead using the contact information on the cover of this Brochure with any questions.

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

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Fountainhead is not required to disclose any financial information pursuant to this Item because: (1) the Firm does not require or solicit the prepayment of more than \$1,200 in fees six months or more in advance; (2) the Firm does not have a financial condition that is reasonably likely to impair its ability to meet contractual commitments to clients; and (3) the Firm has not been the subject of a bankruptcy petition at any time during the past ten years.