

Item 1. Cover Page

**Brochure of
Niemann Capital Management, Incorporated**

**5615 Scotts Valley Drive
Suite 200
Scotts Valley, CA 95066**

www.ncm.net

March 27, 2013

This brochure provides information about the qualifications and business practices of Niemann Capital Management, Incorporated (“NCM”). If you have any questions about the contents of this brochure, please contact us at (800) 622-1626. 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. Although NCM is an SEC-registered investment adviser, that registration does not imply a certain level of skill or training.

Additional information about NCM also is available on the SEC’s website at www.adviserinfo.sec.gov.

Item 2. Material Changes

As of December 31, 2012, NCM had total discretionary assets under management of approximately \$219,349,520.

NCM's Equity Plus Strategy is now named "Global Opportunity" to more accurately reflect the objective of this strategy. The strategy itself has not changed, however.

Item 3. Table of Contents

	Page
Item 1. Cover Page	1
Item 2. Material Changes	2
Item 3. Table of Contents	3
Item 4. Advisory Business	4
Item 5. Fees and Compensation	5
Item 6. Performance-Based Fees and Side-By-Side Management	6
Item 7. Types of Clients	7
Item 8. Methods of Analysis, Investment Strategies and Risk of Loss	7
Item 9. Disciplinary Information	11
Item 10. Other Financial Industry Activities and Affiliations	11
Item 11. Code of Ethics, Participation or Interest In Client Transactions and Personal Trading	12
Item 12. Brokerage Practices	13
Item 13. Review of Accounts	16
Item 14. Client Referrals and Other Compensation	16
Item 15. Custody	17
Item 16. Investment Discretion	17
Item 17. Voting Client Securities	17
Item 18. Financial Information	18
Privacy Policy	18

Item 4. Advisory Business

NCM is a California corporation that has been in business since 1991. It serves as the investment adviser to individually managed accounts and is the sub-adviser to other investments advisers. NCM's founder, controlling owner and Chief Investment Officer is Donald Niemann. As of December 31, 2012, NCM had total discretionary assets under management of approximately \$219,349,520. NCM only manages assets on a discretionary basis. Its discretionary authority is limited, however, as described in Item 16.

NCM invests principally, but not solely, in exchange-traded funds (ETFs) and mutual funds on behalf of client accounts, but it also may invest in individual equity securities and manages variable annuities and variable life insurance products that are already held in clients' accounts when they become clients. NCM is authorized, however, to enter into any type of investment transaction that it deems appropriate under the terms of the client's account agreement.

To tailor its services to the needs of each individually managed account, the Solicitor (as defined in Item 14) that refers a client to NCM interviews the client as to the client's investment experience, liquidity requirements, tolerance for risk and general financial information. On the basis of that interview, NCM allocates investments to the client in the client's chosen investment strategy. NCM also:

- Manages each client account based on the client's financial situation and investment objectives and in accordance with any restrictions that the client imposes on managing the account.
- At least annually, NCM contacts each client to ask about any changes in the client's financial situation or investment objectives and whether the client desires to impose or modify any restrictions on managing the account.
- Notifies each client quarterly in writing to contact NCM if there are any changes in the client's financial situation or investment objectives, or if the client desires to impose or modify any restrictions on managing the account.
- NCM makes itself reasonably available to clients for consultation.

NCM also manages accounts through the Investment Management Services program sponsored by Morgan Stanley Smith Barney ("MSSB accounts"). Only NCM's Global Opportunity strategy is available through this program. Otherwise, MSSB accounts are managed in the same manner as NCM's other client accounts. MSSB accounts compensate MSSB and NCM separately. The fees that MSSB accounts pay to NCM are described in Item 5 and NCM's brokerage practices applicable to MSSB accounts are described in Item 12.

Item 5. Fees and Compensation

Management Fees

NCM charges each client account an annual fee based on the amount of assets in the account. NCM typically calculates annual fees according to the following schedule for the Risk Managed, Risk Managed Sector, Global Opportunity, Dynamic, Dynamic Sector and Dynamic International strategies:

<i>Assets Managed</i>	<i>Annual Percentage Rate</i>
First \$500,000	2.30%
Second \$500,000	1.65%
Next \$2,000,000	1.10%
Amounts Over \$3,000,000	1.00%

For the Risk Managed GEMS strategy the annual fees are 1.95% and for the Tactical Global Bond strategy the annual fees are 1.80%. These two strategies do not offer tiered fee breaks.

Management fees are calculated and accrued daily. Each day, 1/365 of the annual management fee rate applicable to a client is accrued based on the value of the client's assets under management on that day. Fees are payable in arrears quarterly on the last day of each March, June, September, and December. If a client opens an account on a day that is not the first business day of a calendar quarter, fees for the quarter in which the account is opened are prorated.

Management Fees Paid by MSSB Accounts

NCM charges each MSSB account an annual fee equal to 0.45% of the net market value of the assets in the account. This fee is payable quarterly in advance at the beginning of each calendar quarter based on the net market value of the assets in the account at the close of trading on the last business day of the previous quarter. If an MSSB account is opened on any day other than the first day of a calendar quarter or closed on any day other than the last day of a calendar quarter, the fee for that quarter is prorated.

Performance Fees

Instead of annual fees, NCM offers any qualified client (a client with a net worth that exceeds \$2,000,000, excluding the fair market value of a natural person's primary residence and with certain exceptions, indebtedness secured by that residence) the option of a performance fee equal to 20% of "New High Profits" generated in the client's account. New High Profits are calculated by subtracting the higher of the beginning account value or the highest account value on which a performance fee previously was charged from the current account value at the time the performance fee is charged, is adjusted for additions to and withdrawals from the account and includes both realized and unrealized gains and losses. Clients choosing to pay a performance

fee understand that this fee arrangement may create an incentive for NCM to make investments that are riskier or more speculative than would be the case in the absence of a performance-based fee. NCM complies with Rule 205-3 under the Investment Advisers Act of 1940, to the extent required by applicable law.

General Information on Fees

Mutual funds (including ETFs) and variable annuities charge various fees, all of which are disclosed in those funds' and annuities' prospectuses. Such fees are paid by investors and are reflected in the net asset values of the funds and annuities. Some mutual funds also charge short-term redemption fees that are billed to investors at the time of the event causing the fee. Clients pay all of these fees in addition to NCM's advisory fees and any fees the account custodian may charge. In selecting ETFs and mutual funds for clients, NCM considers the nature and size of the fees charged by the ETFs and mutual funds. NCM selects an ETF or mutual fund for a client only if NCM believes that its performance, after all fees, will meet NCM's performance standards. Consequently, NCM may select ETFs and mutual funds that have higher or lower fees than other similar ETFs and mutual funds that charge redemption fees. When deciding whether to liquidate a mutual fund position, NCM considers any redemption fee that the mutual fund may charge. NCM may decide to sell a mutual fund even though it will result in the client being required to pay a redemption fee. NCM manages variable annuities that are already in clients' accounts when the client becomes NCM's client, but NCM does not invest client assets in variable annuities or sell them out of client accounts.

NCM deducts its fees directly from each client's custodial account. In certain circumstances, fees may be negotiable. NCM believes that its fees are competitive with fees charged by other investment advisers for comparable services, but comparable services may be available from other sources for lower fees than those charged by NCM.

Except as may be negotiated in particular cases, NCM or the client may terminate NCM's services on fifteen days' written notice. Unless instructed otherwise, terminated account investments are liquidated and held in a money market fund. In all cases, expenses, the pro rata portion of the annual fee or the performance fee through the date of termination are charged to the client. All prepaid but unearned advisory fees are refunded to the client on termination of an account.

Each account is responsible for its own costs and expenses, including trading costs and expenses (such as brokerage commissions, and clearing and settlement charges). NCM bears its own operating, general, administrative and overhead costs and expenses, other than the expenses described above. All or part of these costs and expenses may be paid, however, by securities brokerage firms that execute clients' securities trades, as discussed in Item 12 below.

Item 6. Performance-Based Fees and Side-By-Side Management

NCM manages accounts that pay performance-based fees as described in Item 5 and accounts that do not pay performance-based fees. Typically, an account that does not pay performance-based fees pays a higher asset-based fee. NCM has a conflict of interest if, in any time period, one fee structure would cause higher fees to be paid to NCM than the other fee structure, because

NCM would have an incentive to favor the account that would pay the higher fees. To address this conflict, NCM typically allocates all investment opportunities within each strategy that it manages on a pro rata basis, based on the assets of each account managed according to that strategy. In addition, NCM has policies and procedures to review client account investment allocations on a regular basis.

Item 7. Types of Clients

NCM generally requires a minimum from \$25,000 up to \$100,000 to open an individually managed account, depending on the strategy that the client selects, but may waive this minimum. NCM's separate account clients may include individuals, trusts, pension plans and small businesses.

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

Investment Strategy

NCM uses an active asset allocation methodology. NCM collects and evaluates market data, and performs its proprietary quantitative analysis of that data daily. Through this methodology, NCM gauges the overall health of the market and identifies areas that are performing well on a risk-adjusted basis. NCM then invests to take advantage of themes with favorable risk/reward relationships. In adverse market conditions, or in the absence of a prevailing trend or theme, NCM takes a defensive or cash position or rotates out of a weakening investment into one that is showing greater strength. By taking advantage of market opportunities as they present themselves, NCM strives to position clients for the greatest potential for long-term success.

To implement its asset allocation methodology, NCM currently offers several separately managed account strategies that use ETFs, mutual funds and individual equity securities. Each is designed to act differently throughout a market cycle.

Risk Managed

Risk Managed is NCM's most conservative strategy, emphasizing capital preservation over investment return. The objective of this strategy is to reduce portfolio risk while seeking to achieve superior relative returns over a complete market cycle. Risk Managed typically allocates among 10 to 20 positions from a broad universe of U.S. ETFs and mutual funds, and uses money market, cash or inverse funds (including funds that sell securities short) during adverse market conditions. Risk Managed can be fully invested, partially in cash, completely in cash, or partially invested in inverse funds as a hedge against existing long positions. While Risk Managed may limit the overall losses suffered during major declines, it may also limit returns in advancing markets.

Risk Managed Sector

NCM's Risk Managed Sector strategy seeks to identify and focus portfolio assets into industry sectors expected to perform best in the current market cycle by using an approach designed to moderate risk exposure. Sectors can be volatile and the securities used for this strategy often dominate the lists of largest gainers and losers. To mitigate this volatility, the Risk Managed

Sector strategy emphasizes capital preservation over investment return and will rotate to cash in adverse market conditions. The Risk Managed Sector strategy typically allocates among 5 to 10 positions from a variety of both U.S. and international sector ETFs and mutual funds. This is a moderate risk strategy that seeks to reduce volatility.

Risk Managed GEMS

Utilizing an approach designed to moderate risk exposure, the objective of the Risk Managed GEMS strategy is to identify and focus portfolio assets into Global Emerging Market Sectors (GEMS) expected to perform the best on a risk adjusted basis in the current market conditions. Risk Managed GEMS is designed to deliver market-like total returns over the course of a complete market cycle while working to limit losses during volatile periods through the use of risk management controls. The strategy strives to accomplish this goal through the use of quantitative tools designed to monitor the risk/return characteristics of the markets overall as well as each of the emerging sectors available to the strategy. This is a moderate to high risk strategy.

Tactical Global Bond

Utilizing an approach designed to moderate risk exposure, the objective of the Tactical Global Bond Strategy is to identify and focus portfolio assets into fixed income securities expected to perform the best on a risk adjusted basis in the current market environment. The strategy is designed to deliver total returns that approximate the iShares Barclay's Aggregate Bond Index Fund and the Lipper Global Income Funds Index over the course of a complete market cycle. NCM strives to accomplish this goal by monitoring risk levels of current positions and prospective investments against various fixed income categories, using a risk adjusted scoring algorithm to rank each security relative to all other securities held or considered for investment. The strategy seeks to keep assets focused in top ranking securities. The collection of ETFs and mutual funds considered for investment cover maturity lengths of all time frames, U.S. treasuries, investment grade corporates, high yield corporates and numerous international fixed income securities. The Tactical Global Bond Strategy is a conservative to moderate investment tool that provides income and the potential for moderate capital growth through a balanced mix of fixed income investments. Cash levels could build during adverse fixed income environments.

Global Opportunity

NCM's Global Opportunity strategy seeks to exploit intermediate trends in both international and U.S. markets while seeking to limit risk. Global Opportunity typically allocates among 10 to 20 positions from a broad universe of U.S. and international ETFs and mutual funds, encompassing a variety of asset classes and sectors. Global Opportunity can also use money market, cash, bond, or inverse funds (including funds that sell securities short) in adverse market conditions, in an attempt to reduce portfolio volatility. Global Opportunity may be long, short or hedged in U.S. and international equity and bond funds. Portfolios managed using this strategy can be net short. Often, portfolios managed using this strategy will not follow U.S. stock market trends. This is a moderate-risk strategy that is most suitable for clients with a higher risk tolerance seeking capital appreciation in various market conditions.

Dynamic

NCM's Dynamic strategy seeks to exploit intermediate trends in U.S. markets by being fully invested in U.S. ETFs and mutual funds. As a result, Dynamic takes an aggressive approach, seeking to out-perform U.S. benchmarks over a complete market cycle. Dynamic typically allocates among 10 to 20 positions encompassing a variety of asset classes and sectors. This is a high-risk strategy emphasizing investment return over capital preservation by generally keeping portfolio assets actively invested.

Dynamic Sector

NCM's Dynamic Sector strategy is similar to Dynamic but focuses portfolio assets in industry sectors expected to perform best within current market conditions. Dynamic Sector typically allocates among 5 to 10 positions from a variety of both U.S. and international sector ETFs and mutual funds. Dynamic Sector can be volatile and, as is the case with the Risk Managed Sector strategy, the securities used for this strategy will often dominate the lists of largest gainers and losers. This is a high-risk strategy emphasizing investment return over capital preservation by generally keeping portfolio assets actively invested in sector funds.

Dynamic International

NCM's Dynamic International strategy is similar to Dynamic but exploits intermediate trends in international markets by being fully invested in international ETFs and mutual funds. As a result, Dynamic International takes an aggressive approach, seeking to out-perform international benchmarks over a complete market cycle. Dynamic International typically allocates among 5 to 10 positions encompassing a variety of asset classes and sectors. This is a high-risk strategy emphasizing investment return over capital preservation by generally keeping portfolio assets actively invested in international equities.

The investment strategies summarized above represent NCM's current methods and intentions, are general in nature and are not exhaustive. There are no limits on the types of securities in which NCM may take positions on behalf of its clients, the types of positions that it may take, the concentration of its investments or the amount of leverage that it may use. NCM may use any trading or investment techniques, whether or not contemplated by the expected investment strategies described above. In addition, there are limitations in describing any investment strategy due to its complexity, confidentiality and indefinite nature. Depending on conditions and trends in securities markets and the economy generally, NCM may pursue any objectives or use any techniques that it considers appropriate and in clients' interests.

Risk Factors

Investing in securities involves risk of loss that clients should be prepared to bear. Below are some of the risks that clients should consider before investing in any account that NCM manages. Any or all of such risks could materially and adversely affect investment performance, the value of any account or any security held in an account, and could cause clients to lose substantial amounts of money. Below is only a brief summary of some of the risks that a client may encounter. A potential client should discuss with NCM's representatives any questions that such person may have before opening an account.

- Client accounts may not achieve their investment objectives. A strategy may not be successful and clients may lose some or all of their investment.
- Investor sentiment on the market, an industry or an individual security is not predictable and can adversely affect an account's investments.
- An account may hold, or may hold ETFs or mutual funds that hold, securities that disappoint earnings expectations and decline, and may hold inverse funds that short securities that beat earnings expectations and rise.
- Changes in economic conditions can adversely affect investment performance. In recent years, economic conditions in the U.S. and elsewhere have deteriorated significantly, resulting in recession, volatile securities markets and large investment losses. Government actions responding to these conditions could lead to inflation and other negative consequences to investors.
- NCM may not be able to obtain complete or accurate information about an investment and may misinterpret the information that it does receive. NCM also may receive material, non-public information about an issuer that prevents it from trading securities of that issuer for a client when the client could make a profit or avoid loss.
- NCM may engage in hedging, which may reduce profits, increase expenses and cause losses. Price movement in a hedging instrument and the security hedged do not always correlate, resulting in losses on both the hedged security and the hedging instrument. NCM is not obligated to hedge a client's portfolio positions, and it frequently may not do so.
- Client accounts that are managed using NCM's Global Opportunity strategy invest in ETFs and inverse funds that sell securities short, resulting in a theoretically unlimited risk of loss if the prices of the securities sold short increase.
- An account may have higher portfolio turnover and transaction costs than a similar account managed by another investment adviser. These costs reduce investments and potential profit or increase loss.
- NCM causes clients to invest in securities of non-U.S. issuers or ETFs or mutual funds that invest in non-U.S. issuers. The risks of these investments include political risks; economic conditions of the country in which the issuer is located; limitations on foreign investment in any such country; currency exchange risks; withholding taxes; limited information about the issuer; limited liquidity; and limited regulatory oversight.
- An account's investments may not be sufficiently diversified. Therefore, a loss in any one position, industry or sector in which a fund has invested may cause significant losses.
- Counterparties such as brokers, dealers, custodians and administrators with which NCM does business on behalf of clients may default on their obligations. For example, a client

may lose its assets on deposit with a broker if the broker, its clearing broker or an exchange clearing house becomes bankrupt.

- NCM and its affiliates and agents generally are not responsible to any client for losses incurred in an account unless the conduct resulting in such loss breached NCM's fiduciary duty to the client.
- If the assets that NCM and its affiliates manage grow too large, it may adversely affect performance, because it is more difficult for NCM to find attractive investments as the amount of assets that it must invest increases.
- Federal, state and other governments may increase regulation of investment advisers, which may increase the time and resources that NCM must devote to regulatory compliance, to the detriment of investment activities.
- NCM's activities could cause adverse tax consequences to clients, including liability for interest and penalties.
- NCM's activities may cause an account that is subject to the Employee Retirement Income Security Act of 1974 to engage in a prohibited transaction under that Act.
- NCM may provide some clients more frequent or detailed reports than it provides to other clients.

Item 9. Disciplinary Information

Not applicable.

Item 10. Other Financial Industry Activities and Affiliations

Niemann Analytics, Inc.

Donald Niemann, NCM's founder, controlling owner and Chief Investment Officer, is also the sole owner of Niemann Analytics, Inc., an SEC-registered investment adviser that acts as a sub-adviser to NCM.

Online Advisors Inc.

Donald Niemann and Richard West, a shareholder of NCM and its Chief Compliance Officer, are owners of Online Advisors Inc., a software development company created specifically to provide technology development to be used by money managers, financial advisers and broker/dealers. NCM uses the services of Online Advisors Inc.

NCM's relationships with Niemann Analytics, Inc. and Online Advisors Inc. create a conflict of interest with NCM's clients because Mr. Niemann and Mr. West have an interest in causing NCM to do business with these entities instead of other service providers that might provide better services that are more beneficial to clients. Nevertheless, clients do not pay higher fees to

NCM as a result of its use of these service providers instead of, or in addition to, other service providers. NCM addresses these conflicts by disclosing them.

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

NCM has adopted a Code of Ethics in compliance with Rule 204A-1 under the Investment Advisers Act of 1940, that establishes standards of conduct for NCM's supervised persons. The Code of Ethics includes general requirements that NCM's supervised persons comply with their fiduciary obligations to clients and applicable securities laws, and specific requirements relating to, among other things, personal trading, insider trading, conflicts of interest and confidentiality of client information. It requires supervised persons to comply with the personal trading restrictions described below and periodically to report their personal securities transactions and holdings to NCM's Compliance Officer, and requires the Compliance Officer to review those reports. It also requires supervised persons to report any violations of the Code of Ethics promptly to the Compliance Officer. Each supervised person of NCM receives a copy of the Code of Ethics and any amendments to it and must acknowledge in writing having received those materials. Annually, each supervised person must certify that he or she complied with the Code of Ethics during the preceding year. Clients and prospective clients may obtain a copy of NCM's Code of Ethics by contacting NCM.

Under NCM's Code of Ethics, NCM and its access persons¹ may personally invest in securities of the same classes as NCM purchases for clients and may own securities of issuers whose securities NCM subsequently purchases for clients. This practice creates a conflict of interest in that any access person can use his or her knowledge about actual or proposed securities transactions and recommendations for a client account to profit personally by the market effect of such transactions and recommendations. To address this conflict, NCM and its access persons must obtain pre-approval before engaging in most securities transactions. In addition, an access person typically may not buy or sell a security for his or her own account until after orders for client accounts in that security have been filled and there is no buying or selling program in progress. NCM and its shareholders, directors, officers and employees may also buy or sell specific securities for their own accounts based on personal investment considerations aside from company or industry fundamentals, which NCM does not believe appropriate to buy or sell for clients.

Because NCM manages more than one account, there may be conflicts of interest over its time devoted to managing any one account and allocating investment opportunities among all accounts that it manages. For example, NCM selects investments for each client based solely on investment considerations for that client. Different clients may have differing investment strategies and expected levels of trading. NCM may buy or sell a security for one type of client but not for another, or may buy (or sell) a security for one type of client while simultaneously selling (or buying) the same security for another type of client. NCM may give advice to, and

¹ "Access person" generally means a person who (1) (a) is an NCM shareholder, director, officer or employee, or any person who provides advice to client accounts on NCM's behalf and (b) (i) has access to non-public information about securities purchases or sales by client accounts, or (ii) is involved in making securities recommendations to clients or has access to such recommendations that are non-public, or (2) or has any interest in an organization other than NCM that is engaged in any securities or financial business.

take action on behalf of, any of its clients that differs from the advice that it gives or the timing or nature of action that it takes on behalf of any other client. NCM is not obligated to acquire for any account any security that NCM or its shareholders, directors, officers or employees may acquire for its or their own accounts or for any other client, if in NCM's absolute discretion, it is not practical or desirable to acquire a position in such security for that account.

Item 12. Brokerage Practices

Each client's investment advisory agreement provides that NCM has discretion over selecting the broker to be used for client transactions. NCM typically purchases mutual funds through their affiliated distributors.

NCM suggests that clients select either Fidelity Brokerage Services ("Fidelity"), a subsidiary of Fidelity Investments, or Schwab Institutional ("Schwab"), a division of Charles Schwab & Co., as the custodian for accounts that NCM manages. Fidelity & Schwab prepare trade confirmations and monthly statements for each account.

Each NCM client account held in custody at Fidelity or Schwab pays that custodian a flat asset-based fee (the "ABP Fee") that is generally based on the amount of assets in that account, in lieu of transaction-based commissions, for most brokerage services that Fidelity or Schwab, as the case may be, provide to that account. The ABP Fee schedules of Fidelity and Schwab are below.

Fidelity

Account Assets:

From 0.00	To 500,000.00	0.20% Plus
From 500,000.01	To 1,000,000.00	0.15% Plus
From 1,000,000.01	To 2,000,000.00	0.10% Plus
From 2,000,000.01	To 3,000,000.00	0.07% Plus
From 3,000,000.01	To 5,000,000.00	0.05% Plus
Amounts over 5,000,000		0.01%

Fidelity does not charge a minimum ABP Fee.

Schwab

Account Assets:

From 0.00	To 500,000	0.20% Plus
From 500,001	To 1,000,000	0.15% Plus
From 1,000,001	To 2,000,000	0.10% Plus
From 2,000,001	To 3,000,000	0.07% Plus
From 3,000,001	To 5,000,000	0.05% Plus
Amounts over 5,000,000		0.03%

Schwab charges a minimum annual ABP Fee of \$250.

The appropriateness of ABP Fees for any client account depend on, among other things, the frequency of trading and the number and size of the trades in that account. NCM believes that ABP Fees benefit all clients, but if the number of transactions in a client account is low enough

during any ABP Fee billing period, the ABP Fee that such account pays to Fidelity or Schwab may exceed the commissions that the account would otherwise pay for transactions in that billing period if the account paid Fidelity or Schwab transaction-based commissions rather than a flat ABP Fee. NCM monitors trading activity in client accounts to determine whether the ABP Fees that clients pay to Fidelity and Schwab remain appropriate. These reviews include an assessment of all relevant fees, such as custodial fees, commissions and ticket charges a client would have paid on an unbundled basis compared to ABP Fees.

MSSB accounts are held in custody at MSSB. Except for transactions in mutual funds, in most cases, NCM executes through Schwab trades for client accounts held in custody at Schwab, executes through Fidelity trades for client accounts held at Fidelity and executes through MSSB trades for MSSB accounts.

In cases where a desired security for an account held in custody at Fidelity, Schwab or MSSB is not available for purchase or sale through that custodian, a transaction in that security typically may be made at a different broker-dealer. These firms may include Wallach Beth Capital and The Benchmark Company. When transactions are made through one of these other brokers, clients who pay ABP Fees pay transaction fees to these brokers in addition to the APB Fee, and MSSB account clients pay transaction fees in addition to the compensation that they pay MSSB. Therefore, NCM has an incentive to execute most trades for a client account held in custody at Fidelity through Fidelity, for a client account held in custody at Schwab through Schwab and for an MSSB account through MSSB. By using Schwab, Fidelity and MSSB to execute client brokerage transactions in this manner, NCM may not be able to achieve the most favorable execution for certain client transactions, and this practice may cost the client more money than if NCM were to select other brokers for those transactions. In addition, not all investment advisers direct client brokerage to clients' custodians in this manner.

Fidelity or Schwab may charge short- or long-term redemption fees or sales charges in connection with mutual fund shares (including ETFs) that NCM purchases or sells for clients' accounts. NCM does not receive any of these short- or long-term redemption fees or charges. Clients pay all of these fees in addition to NCM's advisory fees and any other fees that Fidelity or Schwab may charge.

When NCM selects a broker for any securities transaction or series of transactions, NCM may consider a number of factors, including, for example:

- net price, clearance, settlement and reputation;
- financial strength and stability;
- efficiency of execution and error resolution;
- block trading and block positioning capabilities;
- willingness to execute related or unrelated difficult transactions in the future;
- special execution capabilities;
- order of call;
- offering to NCM on-line access to computerized data regarding clients' accounts; and
- computer trading systems.

NCM may also purchase from a broker or allow a broker to pay for the following (each a “soft dollar” relationship):

- research reports, services and conferences, including third-party research fees;
- technical data;
- periodical subscription fees;
- consultations;
- performance measurement data;
- on-line pricing;
- news wire and data processing charges; and
- quotation services.

NCM may receive soft dollar credits based on principal, as well as agency, securities transactions with brokers or direct a broker that executes transactions to share some of its commissions with a broker that provides soft dollar benefits to NCM.

NCM may pay a brokerage commission in excess of that which another broker might charge for effecting the same transaction in recognition of the value of the brokerage, research, other services and soft dollar relationships provided by the broker. In such a case, however, NCM determines in good faith that such commission is reasonable in relation to the value of brokerage, research, other services and soft dollar relationships provided by the broker, viewed in terms of either the specific transaction or NCM’s overall responsibilities to the portfolios over which it exercises investment authority. An account may, however, pay higher brokerage commissions than are otherwise available or may pay more brokerage commissions based on account trading activity. Nevertheless, the research and other benefits resulting from the brokerage relationship benefit all accounts managed by NCM or NCM’s operations as a whole, including accounts that direct NCM to use a broker that does not provide soft dollar benefits to NCM. NCM does not allocate soft dollar benefits to client accounts proportionately to the soft dollar credits that the accounts generate.

NCM’s relationships with brokerage firms that provide soft dollar services influence its judgment and create conflicts of interest in allocating brokerage business between firms that provide soft dollar services and firms that do not. NCM has an incentive to select or recommend a broker based on NCM’s interest in receiving soft dollar services rather than clients’ interest in receiving the most favorable execution. These conflicts of interest are particularly influential to the extent that NCM uses soft dollars to pay expenses it would otherwise be required to pay itself.

NCM addresses these conflicts of interest by quarterly evaluating the trade execution services that it receives from the brokers that it uses to execute trades for clients. Such evaluation includes comparing those services to the services available from other brokers. NCM considers, among other things:

- alternative market makers and market centers;
- the quality of execution services;
- the value of continuing with various soft dollar services;
- adding brokers to, or removing them from, the lists of approved brokers that NCM uses;

- increasing or decreasing targets for each broker; and
- the appropriate level of commission rates.

NCM may aggregate securities sale and purchase orders for a client with similar orders being made contemporaneously for other accounts that NCM manages or with accounts of its affiliates. In such event, NCM may charge or credit a client the average transaction price of all securities purchased or sold in such transactions. As a result, however, the price may be less favorable to the client than it would be if NCM were not executing similar transactions concurrently for other accounts. NCM may also cause a client to buy or sell securities directly from or to another client, if such a cross-transaction is in the interests of both clients.

Item 13. Review of Accounts

Managed accounts are reviewed as transactions occur in those accounts. Reviewers for all managed accounts include: NCM's research staff, trading staff and operations staff. All reviews are supervised by appropriate officers or staff. Clients receive confirmations and monthly statements from the custodians that hold their accounts. Clients who have insurance contracts receive statements directly from the carrier. NCM sends quarterly reports to each client describing the value and performance of the client's account. NCM also provides clients with confidential internet access that shows daily account valuations, performance, current holdings and transactions. NCM can prepare additional reports at the request of clients.

Item 14. Client Referrals and Other Compensation

NCM may from time to time enter into written agreements with certain individuals and entities that act as Solicitors for NCM. These individuals and entities are called "Solicitors" in this Brochure and in written materials that NCM provides to clients and potential clients. NCM pays Solicitors cash or a portion of the advisory fees paid by clients that the respective Solicitors refer to NCM. In such cases, this practice is disclosed in writing to the client, and NCM complies with the other requirements of Rule 206(4)-3 under the Investment Advisers Act of 1940.

When a Solicitor who is a registered investment adviser or Solicitor person of an investment adviser or broker recommends that a client retain NCM to manage the client's account, the Solicitor is responsible for obtaining information from the client about the client's financial condition and investment goals to determine that it is suitable for the client to engage NCM. After the client engages NCM, NCM is responsible for selecting particular investments that are appropriate for the investment strategy selected by the client. When a Solicitor is not so registered, NCM is responsible for determining that an NCM trading strategy is suitable for the client. NCM may consult with Solicitors from time to time on marketing and sales ideas.

Some Solicitors receive commissions or other compensation in connection with the sale of variable insurance policies or variable annuity contracts to their clients' accounts and subsequently refer the accounts to NCM to manage the policies or contracts. NCM cannot prevent a Solicitor from receiving such compensation and NCM does not receive any of such compensation. In all cases, any such variable annuity or variable insurance product has already been purchased for the account by the time it is referred to NCM for management. NCM does not recommend or sell, or have any influence or control over or participate in the

recommendation or sale of, variable annuity or variable insurance products. NCM does not receive any compensation from the sale or recommendation of such products. NCM receives only the account management fees that it subsequently receives for managing accounts holding any such products.

Item 15. Custody

The custodian of each individually managed account sends account statements at least quarterly to the client. Each client should carefully review those statements and compare them to the statements that the client receives from NCM.

Richard West, a shareholder of NCM and its Chief Compliance Officer, is the trustee of NCM's employee 401(k) program.

Item 16. Investment Discretion

NCM has discretionary authority to manage investment accounts on behalf of clients pursuant to a limited power of attorney in each client's account agreement. Such discretion is limited by the requirement that clients advise NCM of:

- the investment objectives of the account;
- any changes or modifications to those objectives; and
- any specific investment restrictions relating to the account.

A client must promptly notify NCM in writing if the client considers any investments recommended or made for the account to violate such objectives or restrictions. A client may at any time direct NCM to sell any securities or take such other lawful actions as the client may specify to cause the account to comply with the client's investment objectives. In addition, a client may notify NCM at any time not to invest any funds in the client's account in specific securities or specific categories of securities.

Item 17. Voting Client Securities

NCM votes all proxies on behalf of each account over which it has proxy voting authority based on its determination of such account's best interests. In determining whether a proposal serves an account's best interests, NCM considers a number of factors, including:

- the proposal's economic effect on shareholder value;
- the threat that the proposal poses to existing rights of shareholders;
- the dilution of existing shares that would result from the proposal;
- the effect of the proposal on management or director accountability to shareholders; and
- if the proposal is a shareholder initiative, whether it wastes time and resources of the company or reflects the grievance of one individual.

NCM abstains from voting proxies when NCM believes that it is appropriate to do so.

If a material conflict of interest over proxy voting arises between NCM and a client, NCM will vote all proxies in accordance with the policy described above. If NCM determines that this policy does not adequately address the conflict of interest, it will notify the client of the conflict and request that the client consent to NCM's intended response to the proxy solicitation. If the client consents to NCM's intended response or fails to respond to the notice within a reasonable time specified in the notice, NCM will vote the proxy as described in the notice. If the client objects in writing to NCM's intended response, NCM will vote the proxy as the client directs.

A client can obtain a copy of NCM's proxy voting policy and a record of votes that it has cast on behalf of the client by contacting NCM.

Item 18. Financial Information

Not applicable.

Privacy Policy

- NCM collects non-public personal information about its clients from the following sources:
 - information received from clients on applications or other forms, and
 - information about clients' transactions with NCM, its affiliates or others.
- NCM does not disclose any non-public personal information about its clients or former clients to anyone, except as permitted by law.
- NCM restricts access to non-public personal information about its clients to its employees who need to know that information to provide services to clients.
- NCM maintains physical, electronic and procedural safeguards that comply with federal standards to guard clients' personal information.

7829\002\1710928.6